



# POST-WAR IRAQ: ARE WE READY?

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Cover Photo: Displaced refugees wait for aid on the Iraqi-Jordanian border shortly after the invasion of Kuwait by Iraq.

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## I. Security

Task	Current Planning and Preparation	Gaps, Shortcomings, and Concerns
<i>Create a Transitional Security Force</i>	* Indications that combat forces will also handle stabilization duties, although they do not appear to have been specially trained or mandated to do so.	* No signs of U.S. forces being trained to handle post-conflict, civil security needs, in addition to normal combat functions.
<i>Find, secure, and eliminate weapons of mass destruction</i>	* Elaborate plans are in place. * Mobile labs and teams of weapons experts have been deployed to Kuwait to help the military find, secure, and eliminate weapons. * Teams will also interview Iraqi weapons scientists. * Teams will include former international weapons inspectors.	* Lack of cooperation with UN weapons inspectors could undermine needed transparency and legitimacy of disarmament efforts.
<i>Parole, Retrain, and Reintegrate the Iraqi Regular Army</i>	* Plan to use Iraqi soldiers to help rebuild Iraqi infrastructure.	* No signs of adequate plans with respect to parole and vetting of Iraqi soldiers before they are put to work on reconstruction projects. * No signs of longer term plans with respect to reintegration of soldiers into civilian life. * Little discussion of need to create a new, defensively sized Iraqi army.
<i>Protect Iraq's oil infrastructure</i>	* Contracts to protect Iraqi oil wells in event of oil fires. * Plans to position light infantry troops early on during combat to seize oil fields.	* Outstanding question about plans for troops to protect oil fields during and after conflict, and whether this will (or should) be a task for U.S. troops.
<i>Other critical post-conflict security missions</i>	* Plans seem to be in place for military to address immediate humanitarian needs until civilians can safely enter Iraq.	* Little public discussion of other issues such as protection of Iraq's territorial integrity and borders. * Almost no discussion of need to demilitarize and eliminate the Iraqi special forces and intelligence and security apparatus. * No public discussion of need to secure Ba'ath party headquarters and Saddam's palaces.

## II. Governance and Participation

Task	Current Planning and Preparation	Gaps, Shortcomings, and Concerns
<i>Establish a transitional administration</i>	<ul style="list-style-type: none"> <li>* Creation of Office of Reconstruction and Humanitarian Assistance to coordinate and oversee reconstruction and humanitarian assistance and civil administrative affairs.</li> <li>* Plan to keep most of Iraq’s existing bureaucracy intact and to continue paying government salaries.</li> <li>* Plan to hire 100 “free Iraqis” to act as advisers to the U.S. civil administrators and liaisons between Iraqi government ministries and provincial governments and the U.S. presence.</li> <li>* Plans to create an Iraqi Interim Authority that would take over authority of Iraqi ministries and government functions on a “rolling basis.”</li> <li>* Vague plans to vet or “de-Ba’athify” Iraqi government ministries and institutions.</li> </ul>	<ul style="list-style-type: none"> <li>* Remaining confusion over whether Iraq will be run by a U.S. military official, a U.S. civilian administrator, an international civilian administrator, or an interim Iraqi government, and what the civil administrative timeline will look like.</li> <li>* Inadequate coordination with the United Nations over its potential role in post-conflict governance of Iraq.</li> <li>* Outstanding question of how governance activities will be funded.</li> <li>* Unreasonable timelines being suggested – turnover to Iraqi self-rule within months.</li> <li>* Unclear how local governance capacity will be developed and whether there will be local administration that parallels national administration.</li> </ul>
<i>Establish a National Dialogue process</i>	<ul style="list-style-type: none"> <li>* None known.</li> </ul>	<ul style="list-style-type: none"> <li>* Inadequate description of plans to set up a process for developing a political, democratic culture in Iraq and for involving Iraqis in defining their future political and governance systems.</li> </ul>

## III. Justice and Reconciliation

Task	Current Planning and Preparation	Gaps, Shortcomings, and Concerns
<i>Deploy international justice teams</i>	<ul style="list-style-type: none"> <li>* State Department work with Iraqi expatriates to propose needed changes to Iraq’s existing criminal and civil codes.</li> <li>* Plans in place to form commissions to advise the interim government on the judicial system and drafting a new Iraqi constitution.</li> </ul>	<ul style="list-style-type: none"> <li>* No signs of recruitment of international justice sector specialists – judges, prosecutors, defense attorneys, and corrections officers – to work with and train national justice sector personnel and fill in any gaps as needed.</li> <li>* No clear plan to salvage existing Iraqi capacity.</li> <li>* No clear plan to vet existing police, judges, prosecutors, defense attorneys, or corrections officers.</li> </ul>
<i>Deploy an international civilian police force</i>	<ul style="list-style-type: none"> <li>* None known.</li> </ul>	<ul style="list-style-type: none"> <li>* No signs of planning or preparation to recruit</li> </ul>

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		international – or U.S. – civilian police to assist in civil security needs and help train and monitor Iraq’s civilian police.
<i>Address war crimes and crimes against humanity</i>	* Two thousand top Iraqi officials have been identified, and certain officials have been marked for possible war crimes trials or truth and reconciliation commission.	* Limited discussions of need for a truth and reconciliation process to begin process of reconciliation among Iraqis.

**IV. Economic and Social Well-Being**

<b>Task</b>	<b>Current Planning and Preparation</b>	<b>Gaps, Shortcomings, and Concerns</b>
<i>Resolve Iraq’s financial burden</i>	* None known.	* No discussion of need for a debt restructuring conference. * No discussion of need to suspend or halt consideration of remaining unsettled claims related to the Gulf War. * No public discussion of setting up mechanism to assess validity of existing contracts in the energy and telecommunications sector.
<i>Review and lift U.S. and UN sanctions</i>	* Limited number of licenses have been issued by OFAC. * Recent OFAC revision of some regulations to allow certain humanitarian groups to enter Iraq.	* Significant delay by U.S. government in granting licenses to humanitarian groups, needed under U.S. sanctions regime in order to allow those groups to enter Iraq to preposition supplies and people to prepare for humanitarian needs related to war. * President Bush has announced that sanctions will be lifted once the war is over but no signs that preparations are being made to enable this to occur quickly. * No signs that the United Nations has begun discussions of lifting UN sanctions.
<i>Pay for the reconstruction</i>	* The Administration is expected to submit a request for supplemental funding of \$74.7 billion to pay for the first several months of war, homeland security initiatives, and foreign aid for several U.S. allies. The request includes about \$3 billion for humanitarian relief and reconstruction.	* Refusal by Bush Administration to discuss or estimate the likely costs of the war or postwar needs in Iraq. * Experts estimate very high costs to cover reconstruction tasks outlined by Administration. * <b>Exclusion of international partners and</b>

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	<ul style="list-style-type: none"> <li>* USAID and U.S. Army Corps of Engineers have bid out major contracts to U.S. firms for initial reconstruction activities.</li> </ul>	<p><b><i>firms in initial reconstruction bids.</i></b></p> <ul style="list-style-type: none"> <li>* Reported contracts indicate a heavy infrastructure emphasis that may not maximize an Iraqi role nor attain desired systemic reform in other reconstruction areas, such as governance and democratization efforts.</li> <li>* Concern that oil revenues will not be available to pay for reconstruction needs in short-term.</li> <li>* No call for a donors' conference to solicit funds from others for reconstruction needs despite enormous costs.</li> </ul>
<p><i>Revitalize and utilize the oil industry</i></p>	<ul style="list-style-type: none"> <li>* Plans to modify Oil-for-Food program so that United Nations will have oversight over collection and disposition of oil revenue, in order to avoid too much disruption to humanitarian assistance.</li> </ul>	<ul style="list-style-type: none"> <li>* Oil infrastructure will need major investment to increase production levels to help generate funds for reconstruction needs.</li> <li>* Uncertainty over longer term plans for oversight of oil industry.</li> </ul>
<p><i>Prepare for humanitarian relief</i></p>	<ul style="list-style-type: none"> <li>* Bush Administration claims to be well prepared for humanitarian needs, having pre-positioned food rations and other supplies in the region.</li> <li>* UN and other humanitarian agencies have pre-positioned some food and emergency supplies in the region and inside Iraq.</li> <li>* Request that Oil-for-Food program be revamped to authorize UN to spend oil revenues for immediate humanitarian needs.</li> </ul>	<ul style="list-style-type: none"> <li>* United Nations humanitarian agencies have stated that they are not adequately prepared for likely humanitarian needs.</li> <li>* Humanitarian relief organizations have complained that the Bush Administration has provided limited funding for humanitarian needs, has failed to coordinate fully with them on humanitarian planning, and has held up the issuance of required licenses.</li> <li>* Apparent lack of planning and preparation for need to assist Iraqi civilians if Saddam uses WMD against his own population.</li> <li>* Continuing uncertainty about whether the United States or the United Nations will be given the ultimate lead in coordinating humanitarian responses after a war.</li> </ul>

## INTRODUCTION

The Bush Administration has done considerable planning for the postwar phase in Iraq, and comprehensive preparations on many fronts have been made in advance. Nonetheless, significant gaps remain. This document sets forth a “scorecard” of the Administration’s preparations for the post-conflict reconstruction phase thus far, drawing on all available information the Administration has chosen to make public. The issues addressed below draw and build upon the recommendations in “A Wiser Peace: An Action Strategy for a Post-Conflict Iraq,” published by the Center for Strategic and International Studies (CSIS) in mid-January 2003.<sup>1</sup> Overall, this scorecard gives the Administration a mixed grade on its planning and preparations, which have been significant in certain areas but are still seriously lagging in others.

Before addressing specific reconstruction tasks, however, three general points bear mention. First, a continuing and serious criticism of the Administration’s postwar plans has been the secrecy and lack of public discussion of such plans. Many aspects of the plans remain unknown, and it is not clear whether this is due to a perceived need to keep certain information classified or to troubling under-preparedness in certain areas. As one example of what some regard as frustrating stonewalling by the Administration, retired Army Lieutenant General Jay Garner, head of the Pentagon’s Office of Reconstruction and Humanitarian Assistance, canceled his scheduled appearance before the Senate Foreign Relations Committee on March 11, 2003 at the last minute, causing considerable consternation to the Committee and others. More critically, humanitarian relief organizations complain that the Administration’s secrecy and refusal to coordinate fully with outside organizations about its postwar plans have resulted in “woefully inadequate” preparations for the inevitable humanitarian crisis that will be faced during and after any war in Iraq. Similarly, the Administration has not consulted widely enough with the United Nations about post-conflict plans, and is being very secretive about its discussions – if any – with other countries about their possible participation in the reconstruction efforts. This secrecy hampers coordination with potential partners, which will be crucial to the effectiveness and efficiency of postwar efforts. The Administration has also been widely criticized for its continued failure to discuss possible costs related to the war and postwar efforts.

Second, the problems on the diplomatic front leading up to the war could seriously impact the post-conflict reconstruction efforts. The Administration expects other countries to help shoulder the burdens of reconstruction, in terms of money, troops, and other resources. Although some other countries have indicated a willingness to participate in the postwar efforts, continued bad relations between the United States and its friends and allies could result in less cooperation from other countries than the United States needs. Further, the Administration has been vague at best about what it sees as the likely post-conflict role for the United Nations, saying only that it expects the United Nations to participate on the humanitarian front and perhaps to bless the U.S. plans with respect to the Oil-for-Food program, oversight of the oil industry, and the civil administration in Iraq. It seems evident that far more coordination and cooperation – and perhaps a good deal of smoothing over of

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<sup>1</sup> *A Wiser Peace: An Action Strategy for a Post-Conflict Iraq* and other supplementary reports on post-conflict Iraq can be found at <http://www.csis.org>.

relations – will be needed to ensure that the United States and the United Nations are on the same page with respect to the UN's role after a war. This need has become even more apparent with recent reports that France – and the European Union – has vowed to oppose any proposal by the United States and Britain for a UN Security Council resolution that would approve U.S. and British civil authority in a post-Saddam Iraq.

Third, notwithstanding countless lessons from previous post-conflict situations, the Administration seems to be setting completely unrealistic timelines for its reconstruction plans. Administration planning documents suggest that it believes private U.S. companies, under contract with the U.S. government, can accomplish a massive reconstruction of Iraq – everything from road rebuilding, to rehabilitating Iraq's school system, to a complete overhaul of Iraq's health system – within one year. Given the extremely lofty goals the President has outlined for the future of Iraq, it seems unlikely at best that the post-conflict reconstruction phase will be as short as a year. The tasks that the Administration has said the United States will accomplish in Iraq place this effort on a par with American efforts in Germany and Japan post-World War II. Experts predict the need for a U.S. presence in Iraq for at least several years, if not a decade or more. Setting unrealistically low timetables – whether for the benefit of a U.S. domestic audience or for the Iraqi people – seems ill advised; it will be particularly important in this case for the United States to demonstrate that it has the staying power and commitment to see its promises through to fruition.

On the other hand, however, the fact that Administration is already contracting for certain initial reconstruction tasks (as discussed further below) is positive, as it should enable certain activities to get underway more quickly. This could alleviate problems typically seen in other post-conflict situations associated with a long delay in starting basic infrastructure rebuilding and addressing other reconstruction needs.

## SECURITY

### ***Transitional Security Force***

There has been no public discussion by the Administration of whether U.S. military forces have been trained and prepared to handle the mission of civil security – or maintaining public security – to avoid a dangerous security vacuum in postwar Iraq. In fact, it is clear that there continues to be serious disagreement among Administration officials and between civilian and military officials over the number of troops that will be required to maintain security in Iraq after a war. The Army's Chief of Staff Eric Shenseki has proffered that as many as several hundred thousand troops may be needed as a postwar occupation force; Defense Department officials have dismissed this estimate as “wildly off the mark”, estimating instead that fewer than 100,000 troops will be needed. Uncertainty over what size force will be needed is understandable given outstanding questions such as how the war itself will progress, whether chemical or biological weapons will be unleashed, whether Iraq's oil fields will be burned or taken over by some other military faction, any potential military activity by Iraq's neighbors, and the extent of ethnic strife and score-settling violence that takes place. Nonetheless, the serious disagreements even over possible troop numbers – as well as over estimates as to how long any occupying force would remain in Iraq – is troubling at this late stage, as the need for stabilization forces to start rolling into Iraq is becoming evident even in the initial stages of the conflict.

Because the U.S. military does not have standby constabulary capacity, it is essential that U.S. post-conflict stabilization forces have been properly trained, equipped, and mandated to perform constabulary duties in order to ensure greater stability and security on the streets of Iraq's towns and cities after the war. This will be particularly important if continued diplomatic troubles mean that U.S. forces are not joined in the peacekeeping effort by troops from U.S. friends and allies that are trained specifically to handle civil security tasks, such as the Italian Carabinieri and the French Gendarmerie. Nonetheless, it seems that the plan is for U.S. combat troops to handle civil security tasks – such as preventing or otherwise handling revenge violence among Iraqis – and there is some indication that such troops have not been properly trained or mandated to handle such tasks.<sup>2</sup> One recent report suggests that there may be a plan to use the Iraqi regular army to carry out constabulary duties.<sup>3</sup>

***Finding, securing and eliminating weapons of mass destruction.***

In recognition of the importance to the United States of securing and eliminating Iraq's weapons of mass destruction (WMD), the Bush Administration appears to have elaborate plans and preparations in train for this task. The Administration has deployed mobile teams of disarmament experts, intelligence officials and mobile labs to help the U.S. military find, secure, and destroy Iraq's WMD. These teams will reportedly include former international weapons inspectors. In addition, reports indicate that the U.S. military intends to find and interview hundreds of Iraqi scientists involved with Iraq's WMD programs.

It will be essential that efforts by the U.S. military during and after a conflict to track down and secure Iraq's WMD be as transparent as possible, to avoid any doubts as to its legitimacy or that evidence was planted. This will require continued, close cooperation and coordination with the UN weapons inspectors as well as assistance from other countries or an international consortium, which could lend much needed credibility. Reports indicate, however, that the Administration has decided against participation by the U.N. Monitoring, Verification and Inspection Commission (UNMOVIC) and the International Atomic Energy Agency (IAEA) in the disarmament process.<sup>4</sup>

***Parole, Retraining and Reintegration of the Iraqi regular army, or Disarmament, Demobilization and Reintegration (DDR)***

As of early March 2003, there had been little discussion about the Administration's plans for DDR of the Iraqi regular army, and the Pentagon was reported to have only "a rudimentary plan" for rehabilitating the bulk of Iraq's standing army.<sup>5</sup> Similarly, there has been little discussion of the need to create a new, defensively sized Iraqi army. The Administration has, however, announced plans to employ the bulk of Iraq's regular army to rebuild Iraq's critical infrastructure, such as roads and bridges, after a conflict. The United States would pay the salaries of Iraqi soldiers to perform this work, thereby ensuring – at least in the

<sup>2</sup> Peter Baker, *Top Officers Fear Wide Civil Unrest*, WASHINGTON POST, March 19, 2003, at A18.

<sup>3</sup> Alan Beattie, Guy Dinmore, Stephen Fidler, and Henry Hamman, *Debating How to Put Iraq Back Together Again*, FINANCIAL TIMES, March 22, 2003, at 15.

<sup>4</sup> Barton Gellman, *U.S. Reaps New Data on Weapons*, WASHINGTON POST, March 20, 2003, at A1.

<sup>5</sup> Johanna McGeary, *Looking Beyond Saddam*, TIME MAGAZINE, March 2, 2003.

immediate term – against their return to civilian life without any gainful employment. There are outstanding questions about the Administration’s plans to parole, vet, and disarm Iraq’s armed forces before putting them to work on reconstruction projects. Depending on the speed of any surrender by Iraqi troops, these may be imminent issues and therefore must be addressed in U.S. plans immediately. Moreover, in the longer term it will be necessary to have in place a plan with respect to reintegration of Iraqi armed forces members into civilian life.

### ***Protecting Iraq’s oil infrastructure***

The Administration has identified the protection of Iraq’s oil infrastructure as a priority task and seems to be preparing accordingly, although – as has already been seen – it is difficult to protect against oil fires that may be set immediately. The Pentagon has contracted with Kellogg, Brown & Root to put out oil fires and handle emergency repairs to Iraq’s oil infrastructure. The U.S. military also has plans to drop light infantry troops into parts of Iraq early on in the military campaigns to seize Iraq’s oil fields. Nonetheless, the question of how many troops will remain in Iraq as peacekeepers will affect the success of efforts to protect Iraq’s oil infrastructure. Further, Turkey’s refusal to allow U.S. troops to be based on its soil will delay or diminish the ability of the U.S. military to protect Kirkuk and other Iraqi fields. It is also questionable whether U.S. troops should be the ones to protect Iraq’s oil fields, given suspicion of U.S. motives regarding Iraqi oil. Although there had been some discussion of British troops being used to protect the oil fields for precisely this reason, current plans suggest that U.S. troops will assume this role.

### ***Other critical post-conflict security missions***

There has been little public discussion of the U.S. plans regarding other critical post-conflict security missions. U.S. Army leaders have identified protection of Iraq’s territorial integrity and borders as one likely task that U.S. forces will undertake after a war. But there has been scant discussion of the need to demilitarize and eliminate Saddam’s special forces – the Republican Guards and the Special Republican Guards – or Iraq’s extensive internal security and intelligence apparatus, which may be made even more difficult if they are, as reports suggest, being folded into regular Army units. Nor has there been any discussion of the need to secure Ba’ath party headquarters and Saddam’s palaces in order to protect against destruction of valuable evidence related to WMD and war crimes.

The military appears to be planning to address humanitarian needs until this role can be transferred over to humanitarian relief organizations. By necessity, the military will have to perform this role until the environment is safe and secure enough for civilian relief workers to enter Iraq. The Administration has said repeatedly that it intends to turn this function over to non-governmental organizations (NGOs) and other relief agencies as soon as possible. But such organizations are concerned about the U.S. government’s inadequate coordination with them, which has hindered planning and could lead to serious problems in addressing emergency needs, and worried about the symbolism of civilian relief workers being seen as too closely tied to the U.S. military.

## GOVERNANCE AND PARTICIPATION

***Transitional administration***

In late January 2003, the Administration announced the creation of an Office of Reconstruction and Humanitarian Assistance, to be based at the Pentagon and led by retired Army Lieutenant General Jay Garner. The Administration's plan calls for this office – which currently has about 200 employees from various U.S. government agencies and the military – to be deployed into Iraq once it is safe to do so, to coordinate and oversee reconstruction and humanitarian assistance and civil administrative affairs. Although Garner will oversee these efforts, it appears that he will report to General Tommy Franks, the head of U.S. Central Command (CENTCOM), who will be the ultimate executive authority in Iraq, at least in the immediate term. There are still conflicting reports about whether U.S. military rule will continue in Iraq and for how long; whether Franks' authority will be turned over to Garner – or some other American civilian administrator – after some period of time; or whether the Administration intends to request the United Nations (or some respected international figure not under UN auspices) to take over the civilian administration role at some point. This ambiguity appears to be driven by deep divisions among U.S. government agencies as to the desired outcome, with the State Department reportedly pushing for a large UN role and the Defense Department and Vice President's office pushing for a relatively rapid turn-over to an Iraqi interim government, perhaps led by outside opposition figures.

Although it is encouraging that the Administration has set up structures to handle post-conflict governance needs immediately, this continuing confusion over who will govern Iraq after the first few months, and whether the United States is planning for an extended military occupation or a civilian-led interim government is unfortunate, in part because of likely widespread opposition to the idea of a U.S. military occupation of Iraq. Moreover, to the extent the Administration intends the United Nations to take part in the civilian administration of Iraq after a conflict, it should have been coordinating with the United Nations far more closely to ensure consistency of goals and plans. General Garner met with UN officials for the first time on March 3, 2003, and it has since become apparent that the UN's plans for its possible role in the civilian administration of Iraq might not coincide with the role certain parts of the Bush Administration hope the United Nations might play.

Advocates within the Administration of a large UN role reportedly want the United Nations to appoint an executive administrator to oversee the rebuilding of Iraq and a UN civil administrator to develop the architecture for a new Iraqi government. But a United Nations confidential plan instead calls for the creation of a UN Assistance Mission to Iraq – similar to the UN's mission in Afghanistan – rather than a full-scale UN administration in Iraq, and cautions against the United Nations becoming involved in vetting Iraqi officials or staging elections in the event of a U.S. military occupation.<sup>6</sup> UN Secretary-General Kofi Annan has made clear that the United Nations has no plan to govern Iraq.<sup>7</sup> Recent reports of a proposed UN Security Council resolution that would give the United States and Britain civilian administration authority in Iraq have met with strong opposition from France and other European countries. Whether or not there are meaningful differences between what

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<sup>6</sup> James Bone, *UN Leaders Draw Up Secret Blueprint for Postwar Iraq*, LONDON TIMES, March 5, 2003.

<sup>7</sup> David R. Sands, *Annan Disavows Any U.N. Blueprint for Governing Iraq*, WASHINGTON TIMES, March 6, 2003.

the United States and the United Nations might be planning, further clarity as to those plans – as well as ongoing, close cooperation and coordination – is needed.

Certain other aspects of the Administration's governance and civil administration plans bear further discussion.

*Structure of Garner's office*

General Garner will reportedly oversee three operational and three functional teams. The operational teams will be based in Iraq's northern, central, and southern districts, respectively. It has been announced that former U.S. Ambassador to Yemen Barbara Bodine will administer central Iraq, including Baghdad, and reported that retired Ambassador William Eagleton will administer northern Iraq and retired Brigadier General Buck Walters will administer the south.<sup>8</sup> Although the Pentagon has stated that these administrative districts should not be seen to imply any future division of Iraq,<sup>9</sup> the decision to administer Iraq according to these geographic divisions seems questionable given widespread agreement among experts that Iraq's south-central-north distinctions should not be overplayed or formalized in any future political structure.

There will also be a reconstruction coordinator – reportedly Lew Lucke, a USAID official – who will oversee demining, energy and power, roads, rails and waterways, water services and the environment; a civil administration coordinator – Michael Mobbs, a State Department official – who will oversee the political aspects of the reconstruction effort, such as public health, law enforcement, agriculture, banking, education, indigenous media, labor, commerce, immigration, foreign affairs, economic development, and the justice system; and a humanitarian coordinator –former U.S. Ambassador George Ward – who will oversee civil affairs, emergency relief, humanitarian assistance, refugees and displaced persons, resettlements, and relations with humanitarian relief agencies and organizations.

*Using existing Iraqi capacity*

The Bush Administration is planning to keep most of Iraq's bureaucracy intact, at least initially, in order to keep basic services such as schools, hospitals, and electricity operational. This will help ensure that Iraqis play a role in their country's reconstruction and that key services are less disrupted. It is also promising that the Administration intends to pay the salaries of two million Iraqi government employees, from heads of ministries to teachers and nurses, as well as the operating budgets of government ministries. A key outstanding question is how this will be funded. Secretary Rumsfeld mentioned that frozen Iraqi assets or donor contributions could be used to fund these activities, but this deserves further clarification because the funds will be needed immediately. Keeping Iraq's workforce employed during the reconstruction phase will be critical to minimizing further disruption to the economy.

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<sup>8</sup> There are some reports that a British civilian will instead administer the southern part of Iraq.

<sup>9</sup> Neil King, Jr., *U.S. to Assign Administrators, Use Iraqi Soldiers After a War*, WALL STREET JOURNAL, March 12, 2003.

Another open issue is how government ministries will be vetted in order to rid them of Saddam cronies and senior Ba'ath party officials. Although Administration officials agree on the need for such vetting, they are still debating how deep any de-Ba'athification should reach, and there has been no public discussion of its plans in this regard, although it will be an immediate task. (The UN contingency plan specifically notes that the United Nations should not play a role in vetting Iraqi officials.) The Bush Administration has apparently assembled a list of 2,000 top Iraqi officials, including some who are thought to secretly oppose the government and support the United States or those who would be needed to help run a postwar government in Iraq.<sup>10</sup>

### *Using "outside" Iraqis*

The United States government reportedly is recruiting around 100 expatriate Iraqis – so-called “free Iraqis” – to act as advisers to the U.S. civil administrators in Iraq and as liaisons between Iraqi government ministries and provincial governments and the U.S. presence. The idea is to hire two to three Iraqis to advise each of the 21 to 22 Iraqi government ministries as well as another 14 to work in the non-Kurdish provinces to help determine reconstruction needs and concerns. The Administration also plans to assign American civilians as “shadow ministers” in each of Iraq’s ministries. The free Iraqis would be hired on a three to six month basis to help smooth the transition period but would then be expected to leave their positions. In addition, there has been some discussion of Iraqi exile figures and leaders making up 50 percent of an advisory council of Iraqis that would advise the U.S. presence on political matters until new political leaders and parties emerged and elections are held. (This idea may be subsumed by plans to create an Iraqi Interim Authority, discussed below.)

Although it will be useful to capitalize on the extremely talented Iraqi diaspora, it will be equally important to ensure that any advisory council – and that Iraqi government ministries – include Iraqis from inside the country itself, in order not to undercut the legitimacy of the reconstruction efforts.

### *Transition to Iraqi rule*

The Administration has announced plans to create an “Iraqi Interim Authority,” made up of representatives of all of Iraq’s religious, tribal, and ethnic groups as well as Iraqis from outside the country. Bush Administration officials have said that the Iraqi Interim Authority would take over authority of Iraqi ministries and government services from U.S. or international administrators on a rolling basis, starting with civilian ministries; certain “power ministries” – including the police, military, and the intelligence services – would be turned over to Iraqi self-rule last, after they have been dismantled, reformed, and reconstituted. The Administration has not yet determined the timetable or mechanism for turning over power to the Iraqi Interim Authority. Ongoing divisions among Iraqi opposition groups about their role in an interim government – and within the Bush Administration over how much authority should be ceded and when – could delay the formation of an interim Iraqi government.

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<sup>10</sup> Thom Shanker and David Johnston, *U.S. Lists Iraqis to Punish, or to Work With*, NEW YORK TIMES, Feb. 26, 2003, at A1.

Senior Pentagon officials have stated that Garner's office might turn over control to an interim Iraqi government within a matter of months. It is premature at best to predict a timetable for hand-over to self-rule. If the Administration is serious about democratizing Iraq, that effort will take far longer than a few months. And although it will be crucial to ensure that Iraqis play a central role in governing the country until it is turned over to full Iraqi rule, such a transition should not be forced. Doing so in other post-conflict situations – through rushed elections or otherwise – has not led to success in terms of instilling a democratic political culture and in fact has tended to entrench leaders or parties that work against that goal.

### ***National Dialogue process***

The Administration's plans for setting up a process to determine Iraq's future governance system have not been adequately described. The plans reportedly call for U.S. reconstruction teams to work with Iraqis to develop a system of governance. There has also been vague mention of an international body – perhaps appointed by the United Nations – taking over the political aspects of the reconstruction process. Other reports, however, indicate that the Administration does not want the United Nations to be involved in the post-war political process in Iraq. The United Nations, for its part, has suggested that it would not want to be asked to stage elections in Iraq under the auspices of a U.S. military occupation.

These plans must be fleshed out and put into action now. It will be important from the start to give all Iraqis a tangible role and stake in the formulation of their country's future. "A Wiser Peace" called for the development of a national dialogue or constitutional assembly process to address issues related to Iraq's future political and governance systems. Whatever process is ultimately chosen, it will be key that it be run by Iraqis and that it begin immediately, so as to avoid concern that the United States seeks to dictate Iraq's future.

## JUSTICE AND RECONCILIATION

### ***International justice teams***

One of the lessons from recent post-conflict reconstruction efforts that remains "unlearned" is the need to recruit standby teams of justice sector specialists – international judges, prosecutors, defense attorneys, and corrections officers – to work with and train national justice sector personnel and to fill in gaps as needed. The Administration does not appear to be recruiting or training justice sector experts, although there will clearly be a need to augment Iraqi capacity in this sector in the immediate term – ideally by judges and lawyers from regional countries and the Iraqi expatriate community; it is expected that at least some of Iraq's 500 existing justices would be removed as part of a vetting process. The failure to address needs in the justice sector will undermine attempts to build a rule of law culture in Iraq, causing both short- and long-term difficulties for transforming Iraq into a peaceful, democratic state.

It does appear that the Administration has started to address the need to vet and reform Iraq's existing laws, a crucial step in order to ensure there is a workable body of interim law

that can be applied in the post-conflict period in Iraq. Through its “Future of Iraq” working groups, the State Department has worked with Iraqi expatriate lawyers to propose 600 pages of changes to Iraq’s existing criminal and civil codes. (The working groups have also addressed proposed reforms to Iraq’s police force, courts, and prisons.) It is not clear whether there is a follow-on commitment to use these proposed changes as an interim body of law. The Administration also plans to ask Iraqi expatriates to form a commission to advise the interim government on the judicial system and drafting a new Iraqi constitution.

### ***International civilian police***

There has been no mention by the Administration of the need to recruit international civilian police (CIVPOL) to assist coalition military forces in carrying out civil security needs and also to train and supervise Iraq’s civilian police force, which is expected to be utilized for regular law enforcement duties once vetted. Restoring public order and maintaining security will require that civilian police be in place immediately after the conflict ends, and it is reasonable to assume that the United States will be expected to provide such police – at least in the short term.

The Administration should address the question of civil policing generally – including any plans for an international civilian police force for Iraq – immediately. The failure to adequately plan for this need could seriously undermine the ability to create a safe and secure environment for Iraqi civilians and international civilian aid workers as soon as possible.

### ***War crimes and crimes against humanity***

The Bush Administration has publicly identified nine members of Saddam’s inner circle, including Saddam and his two sons, who would be tried for war crimes or crimes against humanity after the war.<sup>11</sup> There are an additional three or so people on the list of those likely to face prosecution although they have not been publicly identified. The Administration has not detailed its plans for how the war crimes will be conducted, although they have indicated that they are not planning for extensive war crimes tribunals like the Nuremberg trials. Instead, they appear to be planning that only the top war criminals will be tried, and that others may face justice through a truth and reconciliation process like South Africa’s. The Administration has not identified any specific plans for such a process, other than to say that Iraqis may be encouraged to develop a truth commission.

Overall, the Bush Administration has identified 2,000 members of the Iraqi elite, including those top officials who will be subject to war crimes or other trials. These 2,000 include a list of Iraqi military, security, intelligence, and government officials whose loyalties to Saddam are not known. The Administration has stated that these officials will be judged by their actions during the war, in terms of determining whether they will face prosecution or other justice proceedings.

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<sup>11</sup> Elisabeth Bumiller, *U.S. Names Iraqis Who Would Face War Crimes Trial*, NEW YORK TIMES, March 16, 2003, at A1.

## ECONOMIC AND SOCIAL WELL-BEING

***Iraq's financial burden***

Iraq's international financial burden is an estimated \$383 billion, including foreign debt, compensation claims, and pending contracts.<sup>12</sup> This crippling burden must be dealt with in the immediate term in order to maximize the potential for Iraq's economic recovery and ensure that Iraqi-generated funds can be used for the reconstruction of the country instead of paying back debts and claims.

To date, the only mention by the Administration of the need to address Iraq's debt was a passing reference to debt restructuring being a longer-term reconstruction task. In fact, it will be crucial to address this task immediately. As recommended in "A Wiser Peace," the United States should call for an immediate debt restructuring conference to address Iraq's foreign debt, and international creditors and sovereign claimants should agree to a five-year moratorium on Iraq's external debt.

Another critical issue that the Administration has not yet addressed, at least publicly, is outstanding claims against Iraq related to the Gulf War. As recommended in "A Wiser Peace," the United States should begin discussions at the Security Council about calling on the United Nations Compensation Commission (UNCC) to cease consideration of all unsettled Gulf War-related compensation claims and to halt further payment of a ready resolved claims, which are currently paid out of oil revenues as part of the Oil-for-Food program. There are currently \$172 billion in unsettled Gulf War claims before the UNCC and \$27 billion in settled claims still owed. This issue must be addressed immediately in order that Iraq's oil revenues are not tied up by paying back financial obligations.

Finally, Iraq has pending contracts in the energy and telecommunications sectors worth an estimated \$57.2 billion. Thus far, the Administration has not discussed the question of existing contracts publicly, but there is some indication that promises were made to certain countries about contracts being honored, in an attempt to win support for the war effort. Any decisions about the validity of existing contracts should instead be handled in a fully transparent and open way – perhaps under the auspices of a UN-sponsored process – to protect against charges of favoritism or unfairness.

***Review and partial lifting of U.S. and UN sanctions***

A waiver of certain U.S. and UN sanctions will be necessary in order not to delay humanitarian and reconstruction responses in Iraq, in particular by U.S.-based NGOs and companies.

Humanitarian organizations have complained vociferously about the U.S. government's delay in issuing the licenses that are required under the existing U.S. sanctions regime in order for them to enter Iraq to preposition supplies and establish presences on the ground. The International Rescue Committee first requested licenses from the Department of

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<sup>12</sup> For a complete breakdown of Iraq's international financial obligations, see *A Wiser Peace Supplement I: Background Information on Iraq's Financial Obligations*, CSIS report, Jan. 23, 2003, at <http://www.csis.org>.

Treasury's Office of Foreign Assets Control (OFAC) to enter Iraq in August 2002 and only received a license granting limited access in early March 2003.<sup>13</sup> Under-Secretary of State Grossman admitted that the "federal bureaucracy" had held up the issuance of necessary licenses to NGOs but said that the backlog has now been cleared. Humanitarian groups still insist, however, that certain sanctions must be lifted in order to allow for an effective humanitarian response, as licenses are too restrictive. They further claim that because of the delays in issuing licenses, they do not have sufficient supplies or money in the region to cope with the likely humanitarian needs.

On March 12, 2003, OFAC announced a relaxation of restrictions that would allow NGOs that register with the U.S. government to provide assistance to areas in Iraq outside Saddam's control and also allow certain humanitarian assessment missions to take place in Iraq. Under the new interim rules, aid groups would still be barred from exporting items banned under the sanctions regime to Iraq and would have to take certain steps to prevent the Iraqi government from obtaining banned items.

President Bush has stated that economic sanctions will be lifted once the conflict is over, but there are no signs of preparations underway to enable this to occur quickly. It is not clear whether the United Nations has begun discussion related to lifting UN sanctions after a conflict.

### ***Paying for the reconstruction***

The Administration has not been willing to publicly discuss or estimate the likely costs of post-conflict reconstruction in Iraq, despite significant criticism over its failure to do so. The President did not request any funds for the war or postwar efforts in his fiscal year 2004 budget request to Congress. He is expected to submit a request for supplemental funding of \$74.7 billion to pay for the first several months of war, homeland security initiatives, and foreign aid for several U.S. allies. The request includes about \$3 billion for humanitarian relief and reconstruction. Estimates of reconstruction costs range from \$25 to \$100 billion overall,<sup>14</sup> to \$20 billion a year for several years,<sup>15</sup> to \$137 to over \$400 billion.<sup>16</sup> By way of comparison, the Marshall Plan cost around \$12 billion over four years, which in today's dollars is estimated to be around \$120 billion. As an indicator of initial costs for Iraq, USAID recently put a \$900 million contract out for bids to five major U.S. infrastructure-engineering firms, covering such tasks as rebuilding roads, schools, mosques, and electricity grids and providing textbooks and other supplies for schools. The U.S. Army Corps of Engineers has received bids on a \$500 million contract for renovation and construction work in the Persian Gulf region, including repairing roads and bridges in Iraq. USAID also plans to contract for five other large jobs at a cost of \$300 to \$500 million: administering Iraq's seaport and international airports; revamping Iraq's schools and health care system; and handling large scale logistical operations such as water transport.

<sup>13</sup> Susan Baer, *Iraq Humanitarian Crisis Likely if U.S. Invades, Aid Groups Say*, BALTIMORE SUN, March 10, 2003.

<sup>14</sup> William D. Nordhaus, *The Economic Consequences of a War With Iraq*, YALE UNIVERSITY, Oct. 22, 2002, at <http://www.econ.yale.edu/~nordhaus/iraq.pdf>.

<sup>15</sup> *Iraq: The Day After*, Report of an Independent Task Force on Post-Conflict Iraq, COUNCIL ON FOREIGN RELATIONS, March 2003, at 37, at <http://www.cfr.org>.

<sup>16</sup> Steven M. Kosiak, *Potential Cost of a War With Iraq and Its Post-war Occupation*, CENTER FOR STRATEGIC AND BUDGETARY ASSESSMENTS, Feb. 23, 2003, at <http://www.csbonline.org>.

In addition, there will be a need for funds to cover humanitarian needs, the payment of Iraqi civil servant salaries, the refurbishment of Iraq's oil infrastructure, and governance and political development, as well as many other activities. The contracts under discussion thus far indicate a heavy physical infrastructure emphasis and a focus on U.S. companies, but it will be important to ensure a maximum role for Iraqis, to internationalize the reconstruction process, and to focus on needed systemic reforms in other areas, such as governance and democratization efforts.

Pentagon officials have said that the costs of rebuilding Iraq will largely be covered by Iraqi frozen assets, some of Iraq's oil revenues, and other donors. President Bush has ordered the Treasury Department to seize the \$1.7 billion in Iraq's frozen assets in U.S. banks. The Administration has also asked other countries to seize another \$600 million in Iraqi frozen assets, out of a total of about \$5.5 billion such assets worldwide.

Experts contradict the Administration's claims that oil revenue could be used to pay any significant portion of reconstruction costs, at least for several years. Iraq's oil infrastructure is estimated to need around \$5 billion of investment over several years to return production even to 1990 levels. Moreover, 72 percent of oil revenues currently pay for humanitarian needs under the Oil-for-Food program. At current production levels, this would leave \$3 billion to \$4 billion a year for reconstruction needs.<sup>17</sup>

The likelihood that other countries will contribute significantly to the postwar efforts is difficult to gauge. Australia and Japan have both indicated a willingness to contribute to post-conflict reconstruction efforts in Iraq. Administration officials have stated that other friends and allies are also signaling a willingness to participate in the postwar efforts in Iraq, despite opposition to the war itself, and the United States is reportedly seeking financial commitments from other countries. The European Union's (EU) External Relations Commissioner, Chris Patten recently stated, however, that it would be difficult for the EU – the world's largest aid donor – to participate on a large scale in the postwar reconstruction of Iraq if the United Nations did not sanction the war itself. Because U.S. friends and allies remain split over the war – a split that seems to be continuing in discussions on post-conflict reconstruction – it may be unreasonable to expect that other countries will contribute to the post-conflict needs in Iraq on as large a scale as they typically have. At the very least, it is expected that the United States will bear the lion's share of the reconstruction costs, at least initially.

“A Wiser Peace” called on the United States to work with major donors and international organizations to convene a donors' conference to raise funds for emergency humanitarian needs; to start up the international civilian mission; and for immediate reconstruction projects. Although the Administration appears to be intending other donors to make significant financial contributions to the post-conflict reconstruction effort, it has not yet called for a donors' conference. Given the typical delay in funding being pledged and actually arriving in-country, the longer the Administration waits to solicit pledges from other

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<sup>17</sup> Bruce Stanley, *Iraq's Oil Revenues Won't Pay for Rebuilding After a War, Experts Say*, ASSOCIATED PRESS, March 16, 2003.

donors, the more difficult it will be to get the reconstruction effort started. (Humanitarian funding is discussed further below.)

### ***Oil industry***

Iraq has the second largest oil resources in the world, after Saudi Arabia. President Bush has pledged that Iraqi oil resources will be used for the benefit of the Iraqi people, and Administration officials have stated on numerous occasions that oil revenue will help fund reconstruction costs. The disposition of Iraq's oil revenues currently is administered through the Oil-for-Food program, under which 72 percent of oil revenue pays for humanitarian costs, about 25 percent pays for claims related to the previous Gulf War, and the remaining small percentage goes toward UN administrative costs and the weapons inspection program. Thus, as discussed above, even assuming a certain percentage of Iraq's oil revenues could be used in the short-term for reconstruction costs, this would not begin to cover the estimated needs.

Moreover, experts predict that Iraq's oil infrastructure will need major investment in order to increase production to a level where significant revenue could be used for reconstruction. Estimates vary, but they are all high. The Council on Foreign Relations-sponsored Independent Task Force on Post-Conflict Iraq estimates that a \$5 billion to \$7 billion investment over two years would be needed to return production to its 1977 peak of about 3.5 million barrels per day (bpd), and over \$20 billion in investment over several years would be needed to significantly increase production.<sup>18</sup> Other experts predict that to develop Iraq's oil reserves to their full potential over the next ten years would cost as much as \$40 billion to \$50 billion.<sup>19</sup>

Although U.S. and allied forces will have to secure and protect Iraq's oil fields during and after a conflict, given sensitivities concerning U.S. interests in Iraqi oil, it will be particularly important that the United States not be seen to take control over Iraqi oil revenues. Bush Administration officials have stated that the UN Oil-for-Food program will continue to oversee Iraq's oil industry. Others have suggested creating an international panel to oversee oil operations until control over the industry is ceded back to Iraqis. Similarly, the Council on Foreign Relations-sponsored Task Force has recommended the creation of an internationally sanctioned legal framework to assure a reliable flow of Iraqi oil; assure a level playing field for awarding oil contracts; and establish the right of a future government of Iraq to determine long-term oil development plans.<sup>20</sup>

In the short term, it seems necessary to continue the Oil-for-Food program – albeit in a modified form – to ensure humanitarian assistance to Iraqis. It may also be necessary to create an oversight board – preferably with international and Iraqi participation – to lend credibility and objectivity to issues surrounding the use of Iraqi oil revenues, unless the Oil-for-Food mechanism is altered to cover all such issues. The Administration should be discussing these questions with UN officials, and should clarify its plans with respect to the

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<sup>18</sup> *Iraq: The Day After*, at 38. Iraq's maximum oil production capacity today is 2.8 million bpd.

<sup>19</sup> Warren Veith and Elizabeth Douglass, *Gauging Promise of Iraqi Oil: Ousting Hussein Could Open the Door for U.S. and British Firms*, LOS ANGELES TIMES, March 12, 2003.

<sup>20</sup> *Iraq: The Day After*, at 39.

oil industry, both to address concerns about U.S. motives and to ensure that the industry is used to its maximum potential immediately for the benefit of Iraqis.

### ***Humanitarian preparations***

The Bush Administration has announced that it has carried out significant preparations on the humanitarian front, including moving three million daily food rations to the region and stockpiling relief supplies for one million people. A 60-person U.S. disaster assistance response team (DART) has been trained – the largest such team ever assembled. The DART will enter areas in Iraq once they are liberated, assess humanitarian needs, and act as a liaison between the military and civilian relief agencies. The military will likely be called upon initially to provide emergency humanitarian assistance because there will be some period of time before civilians can safely enter Iraq. The humanitarian coordinator in General Garner's office will oversee and coordinate humanitarian assistance. In addition, a Humanitarian Operations Center (HOC) has been set up in Kuwait City to coordinate between local and international humanitarian organizations and to facilitate the work of such organizations.

UN humanitarian agencies and the World Food Program have prepositioned some food and humanitarian supplies in the region, but the United Nations has said that it is seriously under-prepared for the likely humanitarian crisis. The United Nations suspended the Oil-for-Food program on March 18, 2003 although it has said it will restart humanitarian assistance as soon as possible. On March 20, 2003, UN Secretary-General Annan requested the Security Council to revamp the Oil-for-Food program to authorize him – rather than the Iraqi government – to spend those funds that have been generated under the program for immediate humanitarian needs resulting from the war; the UN Security Council is considering this request, which may be held up by continuing contentious diplomacy among Security Council members. Neighboring countries have begun setting up refugee camps. The International Committee of the Red Cross (ICRC) is set to monitor initial assistance problems during a conflict and the treatment of prisoners of war. ICRC has some people inside Iraq and has facilities to treat 7,000 injured; it has also stockpiled equipment to temporarily keep the water and sewage system running in several parts of the country and to feed up to 150,000 people immediately.<sup>21</sup>

One problem on the humanitarian front is that NGOs, with a few minor exceptions, have not been on the ground in Iraq and therefore do not have adequate infrastructure in place to address humanitarian needs quickly, as they did in Afghanistan. Administration officials have expressed concern that once Iraqis' food rations run out – Saddam has reportedly allowed Iraqis to stockpile from four to six weeks worth of food – there may be a serious delay in moving food into the country.

Relief agencies claim that the United States has hindered preparations for assistance through providing limited funding, failing to grant requisite licenses to allow NGOs to enter Iraq, and not coordinating adequately about plans. As a result, humanitarian organizations are concerned that they do not have sufficient supplies or money in the region to cope with the possible humanitarian needs. The United Nations requested \$123 million from donors for

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<sup>21</sup> Marc Santora, *Not Enough Supplies or Money, Relief Groups Say*, NEW YORK TIMES, March 13, 2002.

humanitarian contingency planning and preparations, of which it received only \$37 million. Relief agencies claim that government organizations and other donors have been hesitant to provide money even for humanitarian preparations because they have not wanted to be seen as supportive of the war plans. The United Nations is now putting out an emergency request for \$1 billion for humanitarian aid. The United States has given \$26 million to relief agencies, most of which has gone to UN entities. The Administration has announced a \$105 million commitment to international humanitarian organizations, including the World Food Program, the UN High Commissioner for Refugees, the ICRC, and the International Organization for Migration.

Although the Administration says the United States is well prepared on the humanitarian front, it is clear from the reactions of relief organizations that the Administration's secrecy with respect to its planning, delay in issuing necessary licenses, and failure to fully include relief agencies in its humanitarian planning could lead to inadequate humanitarian responses. In fact, for the first few days of the war, delivery of humanitarian assistance has not been possible because the environment is still not considered safe enough for humanitarian agencies to enter Iraq. In addition, the Administration does not appear to have prepared for the need to assist Iraqi civilians if chemical or biological weapons are used.<sup>22</sup> Civilian relief organizations are not fully capable of handling a WMD-related disaster, and a lack of adequate preparations in this area could prove devastating.

There also continues to be uncertainty over whether the United States or the United Nations will ultimately be given the lead in coordinating humanitarian responses. The Bush Administration has made clear that it wants the United Nations to play a major role on the humanitarian front after the conflict, and UN Secretary-General Annan has stated that the United Nations will do so. But NGOs and UN humanitarian agencies want the United Nations to be given the formal role of leading the humanitarian relief effort, rather than the U.S. military.

## CONCLUSION

The U.S. government has made far-reaching promises to the Iraqi people about their future. The post-conflict reconstruction after Operation Iraqi Freedom is crucial. The depth of the Administration's plans and preparations in some reconstruction areas provide a measure of hope, but there are significant gaps that will result in ad hoc decisions and responses that could undermine eventual success.

The Administration must continue to address outstanding questions – particularly in the areas of transitional security, civil administration, paying for the reconstruction, and oversight of the oil industry – and must do so with a view to informing the American public and Congress fully and fairly about the likely costs and time commitment that will be required to carry out its reconstruction goals. Improved coordination with U.S. friends and allies and the United Nations is necessary in order to ensure consistency of goals and efforts, and in order to maximize the prospects of freedom, democracy, and prosperity that the United States has promised the Iraqi people.

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<sup>22</sup> *Id.*