FOREWORD: IRAQ AND THE MAKING OF STATE MEDIA POLICY

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

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

This Foreword introduces two reports. One is a paper written by Ibrahim Al-Marashi, one of the few scholars systematically

tracking media developments within Iraq. Dr. Al-Marashi was a Visiting Scholar at the Annenberg School for Communication at the University of Pennsylvania in 2006 and has, for the last year, been an Open Society Institute (OSI) Policy Scholar. He has recently joined the faculty at Koç University in Istanbul. The other report was commissioned by the Republic of Iraq Communications and Media Commission (CMC),[1] the agency established first under the Coalition Provisional Authority (CPA) then maintained by the Iraqi governing authorities, and presented at a conference at UNESCO in fall 2006. The report is the result of a contract between the CMC and the Stanhope Centre for Communications Policy Research in London.[2] The principal contributors to the fulfilling of this contract and the writing of the draft report were, in addition to me, Douglas Griffin, a Fellow of the Stanhope Centre and subsequently a Director of Albany Associates, and Al-Marashi. Siyamend Othman, the Chief Executive Officer of the CMC, authorized the study and determined the version published here.

I.

My own involvement with Iraq media policy started through a request from Internews—the large international media NGO—to conduct a survey of media laws and policies in the Arab Middle East.[3] Ultimately this study became part of the input for a June 2003 conference in Athens that had the goal of providing a

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[1] Alternately referred to as the INCMC or NCMC.

[2] A few words about Stanhope would help. Stanhope, www.stanhopecentre.org, is what might be called a virtual center for the conducting of policy research and training. I founded Stanhope and have served as its chair. One of its original functions was to focus on media in conflict zones and it was involved in a study with the Crisis States Research Centre at the London School of Economics. *See* JAMES PUTZEL & JOOST VAN DER ZWAN, WHY TEMPLATES FOR MEDIA DEVELOPMENT DO NOT WORK IN CRISIS STATES, *available at* http://www.crisisstates.com/download/publicity/FINAL.MEDIA.REPORT.PDF (last visited May 18, 2007). Stanhope became the home of the *Iraq Media Newsletter*, a collection of materials about emerging Iraq media. That material is archived at http://www.stanhopecentre.org/2007/index.php?option=com_content&task=view&id=31 &Itemid=9 (last visited May 18, 2007).

In 2002-2003, I helped prepare materials about media law and policy in the Middle East for Internews, the major media-related NGO, and later worked with them in preparing a conference—the Athens Conference discussed in the Foreword—from which came a group, financed by the British Foreign and Commonwealth Office, that worked (and still works) in Iraq on these questions. I advised them informally and even made a one-week trip to Baghdad in March 2004. I pretty much stayed in the highly protected Green Zone. I was there in what now seems like a bit of a golden era: before Falluja, before the real bite of the insurgency, but at a time when safety was already a dominant and fearful concern. Of course, nothing here has the blessing or involvement of the Media Development Group or other entities involved.

[3] For references to literature on participation, media and governance in the Arab Middle East, see Initiative on Good Governance for Development in the Arab Countries, http://www.arabgov-initiative.org/english/publications/index.asp?tid=6 (last visited Mar. 17, 2007).

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

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

- The period of preparation for the invasion and preparation for the government that would succeed that

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[4] Monroe E. Price, *Information Intervention: Bosnia, the Dayton Accords and the Seizure of Broadcasting Transmitters,* 33 CORNELL INT'L L.J. 67 (2000).

of Saddam Hussein;

- The stage of actual war and the selection of targets;

- The initial post-war period—during the period of the United States Office of Reconstruction and Humanitarian Assistance (ORHA) and Civil Administrator Jay Garner;

- The CPA period and the making of CPA Orders 65 and 66, establishing the regulator and seeking to transform Iraq state media into a public service broadcaster;

- The increase in insurgency and the handover to the Interim Iraqi Government and Prime Minister Allawi; and,

- Finally, the elections and successive governments and the rising sectarian conflict or emerging civil war.

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

As far as preplanning, we do not yet know specifically what was considered for post-conflict media efforts. In April 2005, *The Washington Post* reported a RAND study more or less condemning the planning process for civil administration after gaining control over Iraq.[6] The study concluded that stabilization and reconstruction issues "'were addressed only very generally.'"[7] Planning for the invasion's aftermath rested with the Defense

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

[6] Bradley Graham & Thomas E. Ricks, *Pentagon Blamed for Lack of Postwar Planning in Iraq*, WASH. POST, Apr. 1, 2005, at A03.

[7] *Id.* (quoting the RAND study).

Department rather than with the State Department or the National Security Council, and the report further concluded, "'Overall, this approach worked poorly.'"[8] The Pentagon lacked the expertise, funding authority and contacts with civilian aid organizations for the job. When the insurgency arose, the RAND report concluded, U.S. authorities failed to understand its nature and implications, and how it differed from past "'wars of national liberation" or from a "classical guerrilla-type campaign.'"[9] I have not seen the volumes prepared by the Iraq Planning Group, but the consensus is that they were probably inadequate and, at any rate, were more or less ignored by those implementing policy. The overall expectation of what post-conflict Iraq would be like— what it would mean to be liberators—must have affected media policy planning just as significantly as it affected the entire creation of a civil administration.

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

During the invasion itself, there were slightly conflicting strategies with respect to facilities and bombing patterns: one goal was to maintain facilities that could serve as the basis of post-war administration, but another was to restrict Saddam's ability to use broadcasting outlets for "command and control" functions or to have a medium that would encourage resistance during the war. The Coalition adopted the now-customary approach of trying to put the existing stations out of service and then broadcast over their frequencies through a Commander Solo aircraft circling over Baghdad and the rest of Iraq. As it happened, many domestic Iraqi terrestrial transmitters were destroyed in the April 2003 bombing campaign. I have heard, informally, that these transmitters made easy targets and increased the statistical success rate for pilots, so that when the war ended, much of the infrastructure for transmission lay in ruins.

Two other immediate facts affected the capacity to develop

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[8] *Id.* (quoting the RAND study).
[9] *Id.* (quoting the RAND study).

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

In May 2003, the U.S. Civil Administrator in Iraq, Retired Lieutenant General Jay Garner, suggested his disappointment with the lack of progress made in establishing a television and radio broadcast system for Iraq. "We haven't done a good job. . . . I want TV going to the people, with a soft demeanour—programmes they want to see."[10] A Radio Netherlands observer stated:

> Somebody needs to get a grip and set up an interim regulatory authority, otherwise it will be anarchy on the Iraqi airwaves. The regulators need to include people with technical, administrative and programming backgrounds as well as those who understand the political and ethnic complexities involved. You won't create a democratic broadcasting system by allowing 20 or 30 groups of people with different agendas to have a station each. People will only listen to the ones that reflect their own views. Nor is it satisfactory to fill the airwaves with non-Iraqi voices, however well-intentioned these efforts are. It would make much more sense to me if the Iraqi journalists currently working for Radio Sawa, Radio Free Iraq and other such stations were to go to Iraq and teach fellow Iraqis how to make good quality radio programmes. Then they would be making a real and lasting contribution to Iraqi society. Otherwise, instead of discussion and debate you'll get a lot of people shouting into the ether, to very little positive effect.[11]

Very little of this order happened.

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[10] *Iraqi Leaders Expected Mid-May*, BBCNEWS, May 5, 2003, http://news.bbc.co.uk/2/hi/middle_east/3000845.stm.

[11] World of Radio, DX Listening Digest, May 6, 2003, http://www.worldofradio.com/dxld3078.txt (remarks of Andy Sennitt, Strategic Adviser, Clandestineradio.com).

In the post-war chaos, there were areas of self-help, some protean broadcasters that emerged spontaneously, versions of what might be called pirate radio or slightly better. Groups, sometimes city governments, sometimes clusters of interest, found parts of transmitters and other equipment and began to send signals into the ether. Undoubtedly, in this moment, entities that later become more significant—as indicated in the Al-Marashi paper—began media operations. This chaos had its creative element, and perhaps should have been encouraged. Some was tolerated, but at one point, the Administrator announced that all old equipment, property of the Ministry of Information, had automatically become property of the CPA; in a few instances, soldiers went out to reclaim equipment from rogue groups that were using pieces of old transmitters to launch their enterprises. Other developments in the vacuum included Al-Alam, an Iranian government channel, which established a transmitter near the Iraqi border and beamed a signal that reached Baghdad. For a while, it was said to be the most watched terrestrial signal in Iraq. And, of course, people, starved for information, began to buy satellite dishes and watch Al-Jazeera and other satellite channels.

In May 2003, the first restrictive move against a television station took place, illustrating another little-recognized aspect of emerging media policy. In addition to the policy made in Baghdad by the Coalition, particular military commands had the authority to develop policy. The British had a media policy in Basra in the south of the country; the 101st Airborne had a media policy in the northwest. There the Army issued orders concerning Mosul's only television station. The directive came from the 101st Airborne Division's commander, actually one of the great and distinguished figures of the war, Major General David Petraeus, who in early 2007 was elevated to Commander of Multinational Forces, Iraq. When a local officer raised questions about the Army's dedication to free speech in postwar Iraq and refused to execute the order, she was relieved of duty. Because of General Petraeus' now key role in Iraq, and because the Mosul station raised such interesting questions, it is useful to refer to a contemporary account of events by Walter Pincus in *The Washington Post*, under the headline "U.S. General May Censor Iraqi TV Station's Programs."[12]

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[12] Control over the content of a television station in Mosul has become a sensitive issue for the commanding general of the 101st Airborne Division who is running that part of northern Iraq. The station, which broadcasts as many as five hours a night to the city of 1.8 million, lost its cameras to looters and was forced to turn to outside programming sources to fill its broadcasts. That content now ranges from Arab-language Al-Jazeera news reports, talks and speeches by local

The action was interesting particularly because of part of the justification: concern over rebroadcasting the news channel Al-Jazeera. Al-Jazeera had already become a *bete noir* for the Coalition, and even in these early months the characterization of Al-Jazeera was being set in bureaucratic stone. In May 2003, Ahmad Chalabi, the oft-discredited head of the Iraqi National Congress and a close adviser to the Department of Defense, said that "Al-Jazeera is completely infiltrated by Iraqi intelligence."[13]

In addition to the interventions by the military by ORHA and then CPA and others, policy towards emerging media was also made through large-scale government contract, part of the reconstruction effort. Future scholars should look at the actual contracts entered into by the Department of Defense to reboot the old Iraq state conglomerate. The first contractor for this phase was Science Applications International Corporation (SAIC),[14] which in March 2003 was given the task of reshaping the Iraq State Television channel into the Iraqi Media Network (IMN). This was a more than $80 million contract that would run for approximately a year. As it turned out, the operation of the contract was pretty much a disaster.[15] By December 2003, it became clear that an alternate contractor would have to be found. A complex process of announcement and bidding led to the selection of Harris Corp., as part of a consortium including the Lebanese Broadcasting Corp. (LBC). Administration under

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personalities and interviews with the newly elected mayor to U.S. military announcements about avoiding unexploded shells or arranging plans for the wheat harvest.

Fearing that local politicians and returning exiles have bullied their way onto the air, often to promote themselves and sometimes to incite violence, the 101st commander, Maj. Gen. David H. Petraeus, said yesterday in a telephone interview from his Mosul headquarters that he is considering putting a U.S. Army officer and a translator in the station to monitor what goes on the air.
    . . . .
"I want to be certain that nothing is shown that would incite violence in a city that was extremely tense when we took over two-and-one-half weeks ago, and which still has folks who are totally opposed to what we're doing and are willing to do something about it," Petraeus said.
    . . . .
"Yes, what we are looking at is censorship," he said, "but you can censor something that is intended to inflame passions."
Walter Pincus, *U.S. General May Censor Iraqi TV Station's Programs*, WASH. POST, May 9, 2003, at A24.
    [13] *Chalabi: Iraq Agents Work at Al-Jazeera*, ASSOCIATED PRESS, Apr. 29, 2003.
    [14] SAIC is a contractor that does a wide range of large-scale military contracts. It describes itself as "[a] leading systems, solutions and technical services company . . . , [that] offers a broad range of expertise in defense modernization efforts, intelligence, homeland security, logistics and product support, health and life sciences, space and earth sciences and global commercial services." SAIC, Corporate Fact Sheet, http://www.saic.com/news/pdf/corporatefactsheet.pdf (last visited Mar. 22, 2007).
    [15] An account of the SAIC involvement appears in *Vanity Fair*. Donald L. Bartlett & James B. Steele, *Washington's $8 Billion Shadow*, VANITY FAIR, Mar. 2007.

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

> [C]ontradictions fly everywhere. Having invested $20 million dollars over three months in the rebuilding of Iraqi state TV radio . . . , the US officials in charge of the [SAIC] contract began balking at the new network's news output immediately after it went on air.
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> Managers were told to drop the readings from the Koran, the "vox-pop" man-in-the-street interviews (usually critical of the US invasion) and even to run their content past the wife of a US-friendly Iraqi Kurdish leader for a pre-broadcast check.[16]

The first director resigned, and now runs a talk radio station.

In those complex early months, the need for an improved "rule of law" approach also became clear. On June 10, 2003, Coalition Order 14—an "Order" derived from the President as Commander and the Coalition as Occupier—was invoked.[17] As in early missteps in the wake of conflict in Kosovo, the clumsy invocation of power to stifle speech generated outrage and passion against those engaged in the suppression. The Order's failure to provide a sufficient process for determining whether there was an actionable violation, and the means of its execution, would

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[16] Rohan Jayasekera, *US Military Hesitates over Free Speech*, INDEX ON CENSORSHIP, Nov. 6, 2003, http://www.indexonline.org/en/news/articles/2003/2/gives-with-one-hand-takes-away-with-the-othe.shtml.

[17] The Freedom House report summarizes related developments:

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

LIBERATED AND OCCUPIED IRAQ: NEW BEGINNINGS AND CHALLENGES FOR PRESS FREEDOM, FREEDOM HOUSE (2004), http://www.freedomhouse.org/uploads/special_report/34.pdf.

become a ground for changing media policies. The history of these developments is covered in the background provided in the CMC document that is published following this Foreword.

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

Both the United Kingdom and the United States saw broadcasting and media policy through the prism of their own experiences. "Models" or ideologies were influential, though chaos and personality conflicts were at least as powerful in getting in the way of shaping policies to specific needs. The United States seemed to emphasize independent players; the United Kingdom seemed to foresee a strong public service version of Iraqi's state broadcaster, though this is a bit too reductionist. There were few means of fitting broadcasting policy to the political realities in Iraq, such as the Kurdish autonomy issue. For good and sufficient reasons, complex solutions, such as the Dutch pillarized or Lebanese confessional approach, with assured representation in media control for specific groups in society, were rejected.[18]

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[18] Dutch society between the beginning of the twentieth century and the mid-1960s (and notably the first twenty years after the Second World War) was a principal example of "segmented pluralism," with social movements, educational and communications systems, voluntary associations and political parties organized vertically (and often cross cutting through social strata) along the lines of religions and ideological cleavages.

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

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

Out of this process came Order 65 and Order 66 (which the Media Committee had a hand in as well). The Order 65 structure—for the Communications and Media Commission— provided for nine commissioners, with power lodged largely in the hands of a Chief Executive Officer. Very little was provided in

DANIEL C. HALLIN & PAOLO MANCINI, COMPARING MEDIA SYSTEMS: THREE MODELS OF MEDIA AND POLITICS 152 (2004) (quoting KEES BRANTS & DENIS MCQUAIL, *The Netherlands, in* THE MEDIA IN WESTERN EUROPE, THE EUROMEDIA HANDBOOK (Euromedia Research Grp. ed., 1997)). "Broadcasting was run directly by associations rooted in diverse religious and ideological subgroups." *Id.* at 31.

In Lebanon, broadcasting policy and practice parallels the country's confessional approach to governance, in which power is allocated to religious or ethnic communities according to their representation in the population. (NB: this approach was never legislated/outlined as such; it's just the way the government was, and still is, organized, despite claims to the contrary, and broadcast policy and practice has followed.)

terms of specific depiction of content standards, leaving much to the development of codes of behavior that would be self-regulatory or imposed by the CMC. Through a system of stakeholder participation, Order 65 sought to establish a "self-regulatory" and regulatory distinction between print and broadcasting; it borrowed from Kosovo the idea of a hearings board and an independent appeals board, but made it purely Iraqi as opposed to inserting an international judge. But because of the continued conflict, absence of a civil society, and problems of legitimacy of the Occupation, a new factor of significance arose: it was hard to staff these bodies. It was hard to find the requisite number of appropriate commissioners and governors for the Commission and the public service entity simultaneously created under Order 66, which established the governing entity for the "public service broadcaster." Iraq lacked an abundance of candidates satisfactory to constituencies (and to the Coalition) for the key positions, and it was difficult to achieve political consensus. This continues to plague the process until this day.

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

A critical event was the almost sudden dissolution of the CPA and the handover of authority to the Iraqi Interim Government (IIG) and Prime Minister Allawi. Soon after the handover, signs appeared that the predictable was occurring: the assertion of authority by an authoritarian government, a breaking down of the "autonomy" that the Orders sought to capture. As the IIG developed over time, there appeared an entity called the Higher

Media Council (HMC). Iyad Allawi had apparently asked Ibrahim Al-Janabi, an old friend, to be his media adviser. In July 2004, Al-Janabi sought power over both the commissions established under Order 65 and 66. The status of the members appointed by the CPA seemed to be in jeopardy.[19] In November 2004, the HMC warned news organizations to reflect the government's positions in their reporting on that month's U.S.-led attack in Falluja or face unspecified action, invoking a 60-day state of emergency declared by Iraq's U.S.-backed interim government ahead of the assault on the city. There were some quiet remonstrations by the U.K. government and the U.S. government concerning the role of the HMC. A difficult question arose, however: which was more consistent with emerging self-governance aspirations—to have somewhat thuggish Iraqi control asserted by an HMC appointed by a "democratic government" or to have autonomy and independence for an agency that was largely the creature of the CPA?

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

II.

The narrative of media policy making in Iraq is about many things. It is about the relationship between force and law, the complexity of building institutions in the midst of conflict, and issues of legitimacy and authority. Because these discussions are about media institutions, the story is also about mythmaking and storytelling. The narrative of media policy-making concerns ideas

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[19] By June 2005, there appeared to be some clarification of the issue. The Stanhope Iraq Media Developments blog, an adaptation of the earlier *Iraq Media Newsletter*, noted:

> There has been a loose resolution of the issue of a Higher Media Council and its relationship to the National Communications and Media Commission and the Iraqi Media Network. The reconstituted Council will serve, and is serving, as a senior advisory group that assists in developing policy for the government, that evaluates and assesses performance, that charts new directions, and that helps to identify opportunities. How this will work out in practice depends on the strength of the NCMC and the IMN. The NCMC, with Siyamend Othman as CEO, has recruited a deputy, held training sessions for journalists in preparation for the election, and has been preparing tenders for national channels.

Posting of Monroe E. Price to Iraq Media Developments, http://www.stanhopecentre.org/blogs/iraqmedia/archives/ncmc/index.html (Jan. 15, 2005, 15:53).

of "freedom of the media" and realization of "rights" in the midst of bitter, tough, angry combat. As a result, the story concerns that most important of issues, the relationship of words on the page and law in practice. The account of media policy in Iraq is about humans and their capabilities in an environment where the mere statement of law does not mean its absorption into reality.

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

In preparing this Foreword, I came across some of my notes of the period. They express a kind of qualified optimism (perhaps insufficiently qualified), and I look upon them nostalgically:

> The nature and control of the media following a peaceful or forceful change of regime in Iraq will signify the scope and character of the new political reality. What goes on the air in place of Iraqi state television and radio will symbolize a change in power and the end of Ba'ath Party control, while giving a transitional government the ability to communicate with the entire population.

I noted some recommendations:

> A. *Plan for post-regime stability.* In the immediate wake of change, there should be a plan, easy to implement, that underscores political stability, assists in the delivery of services and provides a framework for moving forward.
>
> - To implement this, it would be important to have a reservoir of skilled journalists, managers and on-camera personalities who can immediately be brought into play. These can be drawn from existing

professionals in Iraq, from those involved in satellite broadcasting and skilled personnel now working for international broadcasters. An analysis of such a skill bank should immediately be put together.

- A mechanism should be established for a link between the U.S. military or allied forces and the civil administration responsible for post-regime change media strategy.

B.   *Develop a policy for regional satellite broadcasters.* Because the region is characterized by the presence of multiple satellite broadcasters, it should be determined, in advance, how these will be deployed or permitted.   Will there be a policy concerning distribution of satellite dishes, or the assembly of bouquet of channel services to be delivered by satellite and reflecting various sectarian needs?

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

D.   *Provide analysis and criticism of available post-conflict models*:

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

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

This loose collection of thoughts may be helpful in reading

the two reports published with this Foreword. But I should add one more point: I approach this discussion with a particular view of how to think about aspects of media intervention—purposeful entry into a market by public as well as private players to affect structures, policies and public opinion. A more limited definition would confine media intervention to capture a deliberate effort by one state (or a combination of states) to affect the way in which images are produced and circulated in a specified area. My partly idiosyncratic, partly obvious model, adapted from a book I published a few years ago called *Media and Sovereignty*,[20] suggests the following: that a fundamental of traditional media policy is that there was a "bubble of identity" coterminous with the boundaries of the state, with the state seeking to regulate images within the bubble, and restricting what images can come into the bubble from outside. I argued for a shift in thinking to reflect a shift in realities: understanding that the media in one state (let's call it, infelicitously, the "target state"), is the product not only of the state's own actions but of others, sometimes neighbors, sometimes powerful global actors. India tries to influence the media space of Pakistan, the United States seeks to influence the media space of Cuba. War is the clearest occasion for such intervention. In general, states use force, technology, law, negotiation, and subsidy, among other things, to alter the flow of images and messages in a target state. They may act unilaterally or with others, and sometimes they seek the consent of the target. Iraq is a laboratory for these kinds of interactions with the United States, Saudi Arabia, Iran, the United Kingdom, France, Turkey, and others seeming to have a stake in the emerging mix of images.

What are the goals of these intervenors? Why does one society wish to affect the flow of imagery in another state? It may be altruistic or instrumental or both. It may be to increase markets; it may be to reinforce regional alliances. It may be to produce stability or instability. It may be to further a more democratic regime. Media intervention often includes "media assistance," which I would describe as support, usually financial or expert, in creating the "enabling environment"[21]—the legal framework, technical infrastructure, production system—in a target society. In this way, media intervention and media assistance can mean involvement in the actual distribution of

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[20] MONROE E. PRICE, MEDIA AND SOVEREIGNTY: THE GLOBAL INFORMATION REVOLUTION AND ITS CHALLENGE TO STATE POWER (2002).

[21] Peter Krug & Monroe E. Price, The Enabling Environment for Free and Independent Media, Benjamin N. Cardozo School of Law Public Law Research Paper No. 27 (2000).

content or in the shaping of the political economy of the media. The CMC paper published here is an example of the product of media assistance, though in this case it was funded by the CMC itself. This process of media intervention and media assistance can be studied in a wide variety of places and contexts. In the 1940s, this process could be labeled an element of propaganda. In the 1950s and after, it was an essential part of the Cold War. In the 1990s it was a strong element of the post-Soviet transitions. But these were warm-ups for the media interventions in Bosnia-Hercegovina, in Kosovo and in Iraq. So severe a series of interventions by public and private parties as in Iraq lays the process bare. Iraq represents a pathology of media intervention, and, as with any pathology, its study helps in dealing with more healthy organisms.