From Totalitarianism to Democracy: Reconciliation and Accountability in Iraq - Creating a Space for Consultation

Concept Note

Introduction

During this transitional period in Iraq, No Peace Without Justice (NPWJ) and the International Alliance for Justice (IAJ) have played key roles in ensuring concrete steps are taken to secure the effective implementation of a sound constitutional framework as a basis for Iraq’s progress towards a more stable and democratic future. A solid legal and constitutional framework is however a necessary but not sufficient condition to secure such a future. Iraq cannot move forward while it remains burdened by the past. The limited transitional justice efforts that have been undertaken in Iraq to date have been wholly insufficient as a means of offering its victims recognition and redress, and so there remains a pressing need across the country for a comprehensive process of reconciliation and accountability. Such a process can however only be successful where there is careful planning and a clear articulation of objectives. As such, it is crucial that a space be created within which Iraqis are given the opportunity to discuss and decide how their accountability and reconciliation needs can best be met.

This project is the continuation of a NPWJ and IAJ Iraq programme that began in 2006 with the first conference on Practical Federalism in Iraq. Several further conferences have since been organised in Iraq (Baghdad and Erbil) and in Italy (Rome and Venice), each addressing aspects of the implementation of the Iraqi Federal Constitution, including article 65 (the creation of a second chamber) and article 140 (the “disputed areas”).

Each conference that forms part of the NPWJ and IAJ Iraq Programme has concluded with the drafting of a set of final recommendations, which in turn have paved the way for further initiatives related to the implementation of the federal constitution in Iraq. The success and effectiveness of each event has been guaranteed by high-level participation from all the main components of Iraqi society.

At the 2006 Venice Conference on “Practical Federalism in Iraq”, participants agreed in their final recommendations to:

“Support the initiation of national reconciliation suggested by the Iraqi Government, including national dialogue, transparency and support for national reconciliation to create mutual trust.”
between the constituent parts of Iraqi society. Participants recommended that efforts be taken to avoid all racial and religious conflicts in Iraq, to build the basis for unity of Iraq.”

With this Conference NPWJ and IAJ intend to begin the process of implementing this recommendation by holding the first international conference on reconciliation and accountability in Iraq. The event will make use of the methodologies that have made previous events a success, and represent an important step on Iraq’s path towards democracy.

Objectives

The aim of the project is to create the conditions for reconciliation by providing a space within which Iraq’s needs and objectives can be discussed by all parts of Iraqi society. Any successful reconciliation and accountability mechanism must be anchored in the affected population: they must understand it, engage with it, and be in a position to accept the legitimacy of its outcomes. The organisers believe this is best achieved when the population are engaged both with the mechanism’s design and its work. This requires both extensive consultation and discussion of what the Iraqi people expect and desire from their reconciliation and accountability process, and careful consideration of how the process can best be designed to meet these goals.

There are many perspectives on the past, particularly one characterised by repression, criminality, and human rights abuses. An important first step towards reconciliation is airing these perspectives and recognising that others have legitimate concerns and complaints. This must form the foundation of a discussion of what Iraqis want to achieve through their accountability and reconciliation process.

An accountability and reconciliation programme consists of many components, necessitating a number of important policy decisions as Iraq articulates the details of its own process. The Conference therefore does not aim to advocate any one model in particular, but rather to identify and address each of these components, including the economic, political, and social dimensions of accountability and reconciliation. A careful examination of the various forms each component might take will offer Iraqi policy makers the opportunity to craft a comprehensive model best suited to their own particular situation and objectives.

As Iraq is not alone in facing the challenges of a transition from totalitarianism to democracy, the Conference will offer Iraqi policy makers the opportunity to draw on the tools and experience of those who have engaged with this process elsewhere. International experts will form an important part of the Conference, anticipating potential difficulties and giving Iraqi participants the opportunity to consider the full range of options and experiences that might be adapted to the context of a federal and democratic Iraq.

These objectives will all be reflected in the structure of the Conference, with parallel working groups ensuring the full range of questions and components are addressed and discussed by as broad a range of participants as is possible.
**Project activities**

The project activities are divided into two phases, both designed to facilitate the establishment of an open space for consultation with the full range of Iraqi society. A preparatory phase is now approaching completion, and will be followed by a consultation phase in the form of a major international conference scheduled for 6 - 9 May 2009.

The preparatory phase has set the stage for the Conference through advocacy work with major Iraqi policy-makers that have involved articulating the conference framework and, at their request, researching background materials that outline the major policy choices that have faced other post-conflict or post-totalitarian transitions to democracy.

**Summary of the preparatory work undertaken (August 2008 to May 2009)**

The project started with advocacy and discussions with Iraqi policy-makers based on the reconciliation and accountability experiences in transitional periods around the world. The preparatory phase consisted of three main initiatives:

1) to build a consensus among Iraqi policy-makers on the need for an open space to discuss their different positions on issues of reconciliation and accountability as part of a wider national consultative process, with an international conference providing the main opportunity for discussion and consultation;

2) to frame the questions of debate carefully in such a way that affords the consultation process the best chance of producing useful outcomes that can quickly be carried forward and into practice. This includes the research and drafting of a conference background document offering concrete options for the various components of an accountability process, all based on the policy choices that have affected other transitional experiences.

3) to identify and involve major international personalities and expertise in a way that can bring focus and cohesion to the Conference through the contribution of first hand information and experience of transitional periods in other countries.

The first initiative has already met considerable success, with both the Iraqi Council of Representatives and the Kurdistan Parliament in Iraq deciding to reserve the Conference dates in their respective parliamentary agendas so as to facilitate the full participation to their Members and political groups. During the Conference both Parliaments will also offer the their own views on the transitional and accountability mechanisms that have already been put in place in Iraq. Although Members of Parliament will be only one of the components of a wider representation of Iraqi society, it is of considerable importance that Iraq’s primary legislators have acknowledged the importance of the IAJ and NPWJ initiative in this way.
The second initiative has resulted in a comprehensive background document prepared with the assistance of senior international experts on reconciliation and accountability. The document analyses various accountability and reconciliation processes from around the world, including; non-judicial, quasi-judicial, and neo-traditional accountability mechanisms; the work and structure of truth and reconciliation commissions; as well as other truth-telling and reconciliation mechanisms. These are presented in a way that will facilitate Iraqi policy-makers make the difficult determination of how international experiences can be combined and adapted to suit the objectives and challenges of the Iraqi people.

The third initiative remains ongoing, and intends to involve high-level policy-makers who have faced similar issues of transition, accountability and reconciliation, either in their own countries or in third countries. International participants will primarily be political leaders who have themselves faced the challenges of transitional periods, considered the same range of policy options, and worked to adapt the same experiences to their country and its objectives. Their contributions will be focused on providing policy experience and lessons from other transitional processes, rather than offering ready-made models or blueprints.

The international conference (6 – 9 May 2009):

“No Peace Without Justice” and the “International Alliance for Justice”, led by Bakhtiar Amin, in cooperation with “Tolerancy International,” and with support from the Iraqi Council of Representatives, the Kurdistan Parliament in Iraq, the Kurdistan Regional Government, the Foundation for the Future, and the governments of Italy and Greece, are organizing an International Conference on “From Totalitarianism to Democracy: Reconciliation and Accountability in Iraq - Creating a Space for Consultation” in Erbil from 6 to 9 May 2009.

The conference is not intended as a theoretical discussion of the principles of accountability, but as a concrete dialogue on the challenges of making the transition from totalitarianism to democracy. This will include questions of how to manage the economic, political, and cultural aspects of a transition to democracy; which periods and actors fall within the scope of the process; how to recognise and compensate the victims of atrocity; and what institutions must be created to ensure the implementation of the accountability process as well as how rights and responsibilities are to be distributed across existing political institutions on both national and regional levels. Tools and expertise from international participants, as well as material from the background documents, will complement and support these discussions, ensuring the full range of policy options available to Iraqi policy-makers is always in plain view.
The Conference will engage the highest level of government and civil society representatives; traditional and institutional leaders; victims and vulnerable groups, including women and youth; and representatives of the broadest geographic, political, and professional spectrum from across Iraq. Through the International Alliance for Justice the Conference is expected to engage around 150 selected participants from across Iraq and abroad.

Through multiple parallel sessions the Conference will also ensure that the largest possible number of participants are given an opportunity to present and articulate their views on the issues that are of particular concern to them, and facilitate the discussion of the full range of policy decisions and options that must form part of constructing a comprehensive accountability process.

The international conference will be a major international event and represent a major step on the path towards democracy in Iraq. It will serve both as an important consultation exercise for Iraqi policy-makers, and give all participants a unique opportunity to strengthen their knowledge of the details of an accountability and reconciliation process. Most importantly, the conference will give Iraqi participants their first opportunity to work together in pursuit of the solutions best suited to Iraq’s challenges and objectives. The recommendations that emerge from the Conference will serve as a crucial foundation for further discussions and provide much needed impetus towards confronting the burdens of Iraq’s past and consolidating its democratic advances to date.

Structure of the international conference

The conference is designed with the specific project objectives in mind. Much of the programme will be devoted to discussion in parallel sessions, each of which will be given a specific thematic focus and guided by a number of questions provided in advance by the organisers. The organisers hope these parallel sessions will ensure the greatest possible number of participants are given an opportunity to articulate their views, and that each of the many components of the accountability and reconciliation process will be discussed in the necessary detail. To ensure the importance of integrating each of these components in a comprehensive and coherent model is not neglected however, each thematic parallel session will be followed by a plenary session. These plenary sessions will begin with brief reports form each of the preceding parallel sessions, aided by the questions that guided their discussions, and summarising the main areas of both agreement and disagreement. These reports will be followed by a broader discussion and overview of next topics for discussion across parallel sessions. The organisers hope this structure will both give momentum to proceedings, and emphasise the links that exist between the range of topics that will be discussed during the Conference.

The Conference programme will move participants through a number of issues that will be central to establishing a process of accountability and reconciliation in Iraq.

An assessment of existing accountability mechanisms in Iraq
Iraqi participants will provide a foundation for further discussions by identifying what has already been achieved with respect to accountability and reconciliation. This will include a frank assessment of both their successes and failures, identifying in the process what work remains to be done and what achievements can be built upon further.

*Experiences of transition from totalitarianism to democracy*

Although Iraq’s transition from totalitarianism is unique in many respects, a number of other countries have faced a range of similar challenges. Through the expertise and first hand experience of international participants, as well as the extensive background documents prepared ahead of the Conference, participants will be given an opportunity to consider what lessons can be learnt from other transitional periods and what solutions might be adapted to form part of a model suitable to Iraq’s own objectives. As the Conference does not intend to advocate any particular model, discussions will not focus on any single country’s experience, but rather consider the question of how various countries have responded with varying degrees of success to the many economic, political, and cultural questions that arise during a transitional period. Particular attention will be given to the question of how other countries have supported their reconciliation process by the careful distribution and allocation of political powers and economic resources across various regional and national institutions.

*Iraqi objectives*

Central to the process of articulating an accountability and reconciliation process that speaks to the needs of the full range of the Iraqi population will be to identify their various expectations and objectives for such a process. Participants from across Iraqi society’s many components will therefore be given an opportunity to express their views on what an Iraqi process should look like, including its range, priorities, and objectives.

*Policy decisions and the components of an accountability and reconciliation process*

Even with clear objectives in mind, there is no single best way of securing reconciliation and accountability during a transitional period. Policy makers are faced with a number choices with respect to which institutions they chose to involve or establish; what powers they allocate to the various involved actors; what strategies they utilise in the pursuit of truth and evidence; how economic, educational, and security policy can support the reconciliation process; what role cultural and religious institutions might play in the reconciliation process; and what weight they give to various possible objectives such as truth, prosecutions, lustration, and redress. A series of parallel thematic session will ensure participants are able to consider the full range of policy options available so as to best determine which are most suitable to the Iraqi context.
Strategies for accountability and reconciliation in Iraq

While it is important to recognise the range of policy options that available to an accountability and reconciliation process, it is equally important to ensure that these decisions are coordinated in such a way that produces an inclusive and coherent model suitable to Iraq’s objectives. Participants will therefore also be given an opportunity to consider how the various components of Iraq’s process can best be integrated and coordinated. This will again involve careful consideration of how political and economic powers and responsibilities are best allocated and distributed across the full range of its national and regional institutions.

Procedure, outcomes and outreach

Key speakers and Rapporteurs will be identified in advance of each session, with the possibility of appointing additional Co-Chairs and Respondents further to the needs of the discussion. A list of key questions, provided by the organisers ahead of each session, will help steer and focus discussions and facilitate short reports of both agreement and disagreement to plenary sessions.

All the sessions will be translated and reported in Kurdish, Arabic and English, with key points of the discussion recorded and distributed each day through the coordination of NPWJ. This will allow participants to consolidate progress quickly, and move effectively towards a draft of final recommendations. To this end, a drafting committee will be selected to summarise discussions and their outcomes, with a particular focus on identifying areas of consensus upon which further negotiations can be based. A final report will be provided in Kurdish, Arabic and English, along with all other relevant documents from the conference, ensuring the widest possible dissemination of its results. This final Conference Report will be a valuable tool for further consultation programmes across the country as Iraq continues its progress towards reconciliation and accountability.