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Post-Conflict Justice in Iraq: An Appraisal of the Iraq Special Tribunal

M. Cherif Bassiouni†

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IHRLI, under the direction of this writer, has been involved in Iraq for over one year with an in-country team working on restructuring legal education under a United States Agency for International Development ("USAID") contract. The project includes the physical rebuilding of the law libraries at the Universities of Baghdad, Sulaimaniya, and Basra. The first two were inaugurated in February 2005. Five conferences on the rule of law took place in-country, curricular reform is underway, and training for over half of all law professors has been ongoing. In addition, IHRLI, working with the American Bar Association's Central European and Eurasian Law Initiative ("ABA-CEELI") and the National Democratic Institute, working under a USAID contract, will provide technical assistance to the new legislative body elected on January 30, 2005.

The author acknowledges the assistance of Mr. Sermid Al-Sarraf, Project, Manager of the IHRLI "Raising the Bar—Legal Education Reform in Iraq" Initiative, Legal Consultant to the Coalition Provisional Authority ("CPA") in Baghdad, and former member of the State Department's "Future of Iraq" and "Working Group on Transitional Justice" projects; Judge Mohammed Abdel-Aziz, Egyptian Ministry of Justice and IHRLI Senior Research Fellow; and Mr. Martin Cinnamond, IHRLI Research Fellow, Ph.D. Candidate, University of Leeds.

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Introduction

Notwithstanding present political and security issues, the Iraqi people are desirous of establishing a new system of government based on pluralistic democracy and the rule of law.

Iraq consists of several civilizations, and its history dates back several millennia.[1] Its legal tradition goes back to one of the world's oldest codifications, the Code of Hammurabi, promulgated some 3750 years ago.[2]

Iraq, as it is known today, was unified in 1918 by the British Empire after the defeat of the Turkish Ottoman Empire in World War I.[3] Britain

1. *See* JEAN BOTTÉRO, MESOPOTAMIA: WRITING, REASONING, AND THE GODS 55-200 (Zainab Bahrani & Marc van de Mieroop trans., 1995); GEORGE ROUX, ANCIENT IRAQ 66-84 (3d ed. 1993). The older civilizations that comprised what is now Iraq are the Sumerians, who go back to 5000 BCE and whose capital Ur was Abraham's place of birth; the Amorites, who founded the cities of Babylon and Akkad and whose empire lasted from 1900 to 1600 BCE; the Hittites, from 1600 to 1100 BCE; the Assyrians, from 1200 to 612 BCE; and the Chaldeans, from 612 to 539 BCE. *Id.* at 66, 104, 179-94, 377-79 tbls. IV-VIII.

2. JOHN HENRY WIGMORE, A PANORAMA OF THE WORLD'S LEGAL SYSTEMS 86-93 (1936).

3. DAVID FROMKIN, A PEACE TO END ALL PEACE: THE FALL OF THE OTTOMAN EMPIRE AND THE CREATION OF THE MODERN MIDDLE EAST 449-55 (2d ed. 1989). The region, which comprises Iraq and which is generally described in note 4, has also been referred to as "Iraq" throughout history. Some archeological remains going back before the Com-