

## SECTION 11.2

### CONCLUSIONS: DE-BA'ATHIFICATION

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## Introduction and key findings

1. This Section contains the Inquiry's analysis, conclusions and lessons in relation to the de-Ba'athification of the Iraqi public sector, the evidence for which is set out in Section 11.1.

### Key findings

- Early decisions on the form of de-Ba'athification and its implementation had a significant and lasting negative impact on Iraq.
- Limiting de-Ba'athification to the top three tiers of the party, rather than extending it to the fourth, would have had the potential to be far less damaging to Iraq's post-invasion recovery and political stability.
- The UK's ability to influence the decision by the Coalition Provisional Authority (CPA) on the scope of the policy was limited and informal.
- The UK chose not to act on its well-founded misgivings about handing over the implementation of de-Ba'athification policy to the Governing Council.

## Conclusions

2. Although the US and UK had discussed and recognised the need for it, de-Ba'athification was one of many areas of post-invasion activity in Iraq for which objectives and plans had not been agreed between the two Governments before the invasion (see Section 6.5). Consequently, no detailed preparations for implementation of a shared de-Ba'athification policy were put in place.

3. The UK lacked the deep understanding of which levels of the Iraqi public sector were highly politicised that would have been desirable in developing a de-Ba'athification policy, but did recognise that party membership was likely to have been a matter of expediency rather than conviction for many Iraqi citizens. Since the UK's planning assumption was that a large proportion of the Iraqi civil service would continue to function under new leadership post-invasion, the main UK concern was that a light-touch de-Ba'athification process should protect administrative capacity for the reconstruction of the country.

4. Measures to prevent a resurgence of the Ba'ath Party were important both to ordinary Iraqi citizens and to Iraqi politicians. The UK recognised the psychological importance of reassuring both groups that the Ba'athists would not return to power, but did not fully grasp the extent to which de-Ba'athification might have consequences for the relationship between the Shia and Sunni communities. The Coalition did not have a plan to deal with the tensions which inevitably rose as result. This placed at risk the UK's objective that Iraq would become a stable and united state.

5. Recognition of the symbolic importance of de-Ba'athification is clear from its inclusion in General Franks' Freedom Message of 16 April 2003, and from the fact that it was the subject of the first Order issued by the CPA in May 2003.

- 6.** The UK did have advance sight of the text of the Freedom Message, which “disestablished” the Ba’ath Party, but did not succeed in having its drafting changed to reflect concerns raised by lawyers in the FCO.
- 7.** In the post-conflict phase, Secretary Rumsfeld and the Department of Defense in Washington, and Ambassador Bremer in Baghdad, became the driving forces of de-Ba’athification policy.
- 8.** The UK’s absence from formal decision-making within the CPA (see Section 9.8) meant that its input to discussion of de-Ba’athification policy in May 2003 was dependent on the influence of one particular individual: Mr John Sawers, the Prime Minister’s Special Representative to Iraq. The key policy choice at that point was centred on whether the top three, or the top four, tiers of the Ba’ath Party should be brought into scope.
- 9.** The CPA Order No.1 signed by Ambassador Bremer differed from the UK policy position on the best approach to de-Ba’athification. In particular, the decision to bring the fourth tier<sup>1</sup> of Ba’ath Party members into scope – which increased the number of individuals potentially affected from around 5,000 to around 30,000 – was considered by the UK to be disproportionate and likely to deprive Iraqi institutions of much-needed capacity.
- 10.** The Inquiry agrees with the UK’s view, and considers that limiting de-Ba’athification to the top three tiers would have had the potential to be far less damaging to Iraq’s post-invasion recovery and political stability.
- 11.** As Order No.1 was being finalised, UK officials did not propose any attempt at Ministerial level to influence the policy via Washington. The effect of such an approach may in any case have been limited as significant policy choices appear to have been made before Ambassador Bremer deployed to Iraq. Not unreasonably, Mr Sawers advised against lobbying Washington in the face of a strong desire by the Iraqi Leadership Group, comprised largely of Shia and Kurdish politicians, for a stringent approach to de-Ba’athification.
- 12.** However, the UK’s informal acceptance of Order No.1 helped to set the tone for its relationship with the CPA which persisted throughout the lifespan of the organisation. Informal consultation with the UK, usually through Mr Sawers and subsequently Sir Jeremy Greenstock, became the norm.
- 13.** The Order had consequences. It made the task of reconstructing Iraq more difficult, both by reducing the pool of Iraqi administrators and by adding to the pool of the unemployed and disaffected, which in turn fed insurgent activity.

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<sup>1</sup> Down to the rank of Group Member.

- 14.** After Order No.1 was signed, the UK, having recognised the Order's potential to create a pool of disaffected individuals and to deny posts to effective public servants, urged a pragmatic approach to de-Ba'athification in its contacts with the US, including at the highest levels, but with little practical effect.
- 15.** In November 2003, the CPA decided to hand responsibility for implementing de-Ba'athification to the Governing Council (GC). There were misgivings about the decision in the FCO but, rather than act on them, it relied on assurances that the policy was to be implemented flexibly.
- 16.** Although it would have been challenging to create, a more independent oversight body than the GC would have been more appropriate. The decision to hand over responsibility for implementation to a political body of this nature was, in the Inquiry's view, a mistake which left a critically important area of policy outside the control of the CPA, with damaging consequences.
- 17.** One Iraqi interlocutor suggested to the Inquiry that it would have been preferable for judges to preside over the process but also recognised that the Iraqi court system was not in a fit state to take on additional responsibilities in 2003.
- 18.** As soon as it was appointed, the High National de-Ba'athification Commission, steered by Dr Ahmed Chalabi and Mr Nuri al-Maliki, took action to toughen the impact of de-Ba'athification. Both officials and military commanders recognised almost immediately that such action was likely to generate further instability, but the CPA's decision to hand over responsibility to the GC left the UK unable to intervene. The UK, however, remained responsible for security in the South in the face of a growing insecurity.
- 19.** The enthusiasm for de-Ba'athification felt by many Iraqi political leaders – Dr Chalabi and Mr Maliki in particular – may well have made any policy change difficult to achieve. This enthusiasm reflected a deep-seated fear within the Shia community of the resurgence of the Ba'ath Party and a return to Sunni dominance.
- 20.** After the appointment of the Interim Transitional Government in June 2004, the coalition's responsibilities in Iraq shifted, but it retained considerable influence over the development of the political process.
- 21.** By the time of Iraq's first post-invasion elections, de-Ba'athification had already been identified as a major political issue because it put a substantial barrier in the way of Sunni engagement with the political process. Although the UK placed a high premium on successful and inclusive elections, attempting to remove the barriers imposed by Order No.1 was not made a priority.
- 22.** Increasing codification of the extent of de-Ba'athification, in the Transitional Administrative Law and then the Iraqi Constitution, was one crucial way in which

sectarianism was legitimised in Iraqi political culture, helping to create an unstable foundation for future Iraqi governments.

**23.** Although it is difficult to arrive at a precise figure, the evidence suggests that the impact of de-Ba'athification was felt by tens of thousands of rank and file Ba'athists. De-Ba'athification continued to be identified as a major Sunni grievance and a source of sustenance for the insurgency in Iraq as late as 2007.

**24.** As described in Sections 9.6 and 9.7, UK influence in Iraq and its relationship with the Iraqi Government declined further from 2007. From that point, lacking influence, there was very little realistic prospect of a UK-inspired change in the approach to de-Ba'athification.

**25.** The Inquiry concludes that early decisions on the form of de-Ba'athification and its implementation had a significant and lasting negative impact on Iraq. This negative impact was soon recognised by the UK Government, but its efforts to secure a change of approach were largely ineffective. This became a persistent problem that could be traced back to both the early failure to have a settled US/UK agreement on how the big issues of post-war Iraqi reconstruction would be handled and the improvised decision-making leading up to Order No.1.

## Lessons

**26.** After the fall of a repressive regime, steps inevitably have to be taken to prevent those closely identified with that regime from continuing to hold positions of influence in public life. The development of plans which minimise undesired consequences, which are administered with justice and which are based on a robust understanding of the social context in which they will be implemented, should be an essential part of preparation for any post-conflict phase. This should include measures designed to address concerns within the wider population, including those of the victims of the old regime, and to promote reconciliation.

**27.** It is vital to define carefully the scope of such measures. Bringing too many or too few individuals within scope of measures like de-Ba'athification can have far-reaching consequences for public sector capacity and for the restoration of public trust in the institutions of government.

**28.** It is also important to think through the administrative implications of the measures to be applied and the process for their implementation.

**29.** The potential for abuse means that it is essential to have thought-through forms of oversight that are as impartial and non-partisan as possible.

**30.** For lessons related to the UK's involvement in decision-making within the CPA, see Section 9.8.

