

## February 9, 2004: Iraq: USCIRF letter to Bremer on Transitional Administrative Law

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WASHINGTON - The U.S. Commission on International Religious Freedom (USCIRF) has written to Ambassador Paul Bremer expressing its concern that Iraq's draft Transitional Administrative Law does not guarantee the fundamental freedom of thought, conscience, religion, or belief for all Iraqis. Instead, a limited group right to religious freedom is expressed for non-Muslims only. The individual right to freedom of religion and belief is not mentioned as one of the fundamental freedoms or human rights. Islam is also given a privileged position as a source of legislation and the country's "official religion." "The Transitional Administrative Law is a key document in Iraq's process of establishing a new constitutional order. The Commission has made specific policy recommendations to Ambassador Bremer regarding amendments that should be to the Transitional Administrative Law to guarantee fundamental rights to individuals. Without such protections, accusations of blasphemy, apostasy, or offending Islam may be used to stifle public debate or the right to freedom of expression by all Iraqis, including members of Iraq's Muslim majority," said USCIRF Chair Michael Young. The text of the letter follows: Dear Ambassador Bremer: The U.S. Commission on International Religious Freedom, an independent bipartisan federal agency advising the Administration and Congress, is concerned that Iraq's draft Transitional Administrative Law does not guarantee the fundamental freedom of thought, conscience, religion, or belief for all Iraqis. A draft of Iraq's Transitional Administrative Law recently posted on the Internet by the Arab press indicates, in article 4, that a limited group right to religious freedom is expressed for non-Muslims only. The individual right to freedom of religion and belief is not mentioned as one of the fundamental freedoms or human rights set forth in articles 10 or 11. Islam is also given a privileged position as a source of legislation and the country's "official religion." Other sources of legislation are not identified. To correct these serious lapses, the Commission requests that the Transitional Administrative Law be amended to include provisions containing: an explicit guarantee that "everyone has the right to freedom of thought, conscience, and religion" as affirmed in article 18 of the Universal Declaration of Human Rights and specified in article 18 of the International Covenant on Civil and Political Rights, to which Iraq is a party; an explicit commitment to protect the fundamental rights and freedoms of individuals, without which the human rights of individuals, whether women or disfavored or non-conformist Muslims, will be at risk; an explicit commitment that the state shall abide by the international treaties and conventions to which Iraq is a party, including the International Covenant on Civil and Political Rights, as well as the Universal Declaration of Human Rights; and a statement that the principles of democracy, pluralism, social justice, rule of law, and Iraq's international obligations are fundamental sources for legislation, in addition to Islam or to "the basic principles of Islam," a formulation this Commission would prefer. Taking into account Islamic values and principles should be left to the legislative branch of government and not be judicially enforceable. Otherwise, judges believing in the primacy of Islamic law may use their positions to enforce positions based on their own strict interpretations that are in contravention of international human rights standards. The rights of women and members of Iraq's diverse minority groups, both Muslim and non-Muslim, would be jeopardized. Unless the other principles enumerated above are also cited, such judges would even be empowered, under the guise of upholding Islamic law, to curb freedom of expression of those wishing to debate the role of religion in Iraqi society. The Commission urges you and the CPA to consider carefully the importance of fully guaranteeing fundamental rights to individuals in a key document in Iraq's process of establishing a new constitutional order. The November 15 agreement between the CPA and the Iraqi Governing Council obliges the latter to approve by February 28, 2004 a Transitional Administrative Law that will be a "guarantee of basic rights" and "will also respect the Islamic identity of the majority of the Iraqi people, while providing guarantees of religious freedom for all Iraqis." The protections outlined above must be enshrined in the Transitional Administrative Law for Iraq to be a model of democratic principles for the Middle East. Without such protections, accusations of blasphemy, apostasy, or offending Islam may be used to stifle public debate or the right to freedom of expression by all Iraqis, including members of Iraq's Muslim majority. The current formulation of article 10, ensuring most freedoms to "the people" rather than to each individual, does not offer the protections appropriate to freedom of expression or association that would further protect against such abuses. We urge you therefore to remain firm in your commitment to ensure freedom, including freedom of thought, conscience, religion, and belief, for all Iraqis, and to promote future Iraqi legal and political systems that practice religious tolerance and that respect the internationally recognized human rights of every Iraqi, including Muslims, members of religious minorities, and women. Thank you for your consideration of the Commission's views. Sincerely, Michael K. Young

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The Honorable Paul Wolfowitz, Deputy Secretary of Defense  
The Honorable Peter W. Rodman, Assistant Secretary of Defense for International Security Affairs  
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