



UNITED STATES INSTITUTE OF PEACE



International Institute
for the Rule of Law

**Recommendations from the Roundtable on
“Safeguarding Judicial Independence in a Federal Iraq”
September 15-17, 2006
Istanbul, Turkey**

A. Constitutional Amendments

- 1. Amend Article 121(2) of the Constitution in order to reinforce the Federal Supreme Court’s (sole) jurisdiction to interpret the Constitution and federal laws.**
- 2. The Executive and Legislative authorities shall guaranty the required resources for the judicial authorities budget so that it may carry out its mandate.**
- 3. Specify that the “appeal” referenced in Article 100 of the Constitution is a “judicial” appeal.**
- 4. Amend Articles 61(5)(A) and 91(2) of the Constitution so that the appointment of the Chief Justice and members of the Court of Cassation and the Chief Public Advocate and the Chief of the Judicial Oversight Board is not subject to a vote of the Council of Representatives. (ie. have the vote of the Presidency Council instead of the COR).**

B. Legislative Initiatives

- 1. Implement the provisions of the constitution regarding judicial federalism and support the role of the Higher Judicial Council and work towards building a strong regional judiciary. (ie. balance between the constitutional requirement for federalizing the judiciary while recognizing the need to build regional judiciaries which can sustain judicial functions without compromising judicial independence).**
- 2. Eliminate all legal provisions which undermine the jurisdiction of the judiciary, including the exceptions contained in Law No. 17 of 2005.**
- 3. Draft legislation related to the military courts which has jurisdiction over the military, police and internal security forces only as it relates to crimes of a military nature.**

4. **Appreciate the importance of the judiciary and its place in society by equating the head of the judicial authority at the same level as the heads of the other two authorities.**

C. Institutional Reform

1. **Promote/activate the role of the Judicial Oversight board and comply with the international standards on judicial conduct. The Higher Judicial Council shall review existing codes on judicial conduct and compare them with the Bangalore principles.**
2. **Confirm the principle that court sessions are open to the public as well as the transparency of judicial proceedings**
3. **Make the procedures easier for citizens who come to court**
4. **Make available all of the necessary material and security requirements which allow the judge to carry out his/her responsibility in a complete manner.**
5. **Remove the Judicial Training Institute from the Ministry of Justice and associate it with the Higher Judicial Council**

D. Advocacy

1. **Promote/activate the principles of Rule of Law and Judicial Independence and raise awareness about them through government institutions and civil society organizations.**

E. Followup on Conference Recommendations

1. **The Higher Judicial Council shall follow-up on the above-mentioned conference recommendations which assures that they are implemented and submitted to the Council of Representatives in the form of specific draft legislation (where appropriate).**