



IRAQ'S CONSTITUTIONAL DEBATE

Ibrahim Al-Marashi*

This article analyzes the Iraqi draft constitution and the role played by each party in its creation. The demands and internal divisions of the various parties involved in the process are addressed, as well as the difficulty to reach a consensus. The possible outcomes of the December 15, 2005 vote and the future of the constitution are also discussed. The article concludes that these fundamental disagreements may preclude the possibility of reaching a final draft by consensus.

"We the sons of Mesopotamia, land of the prophets, resting place of the holy imams, the leaders of civilization and the creators of the alphabet, the cradle of arithmetic: on our land, the first law put in place by mankind was written; in our nation, the most noble era of justice in the politics of nations was laid down; on our soil, the followers of the prophet and the saints prayed, the philosophers and the scientists theorized and the writers and poets created. "

-Preamble to the Iraqi Draft Constitution released on August 29, 2005

INTRODUCTION

The Iraqi draft constitution, opening with the evocative "*Nahnu abna' wadi al-rafidain*" (We, the sons of Mesopotamia), ironically mimics the rhetoric of the deposed dictator Saddam Hussein, who strove to develop a synthesized Iraqi-Arab-Mesopotamian nationalism during his rule. Nevertheless, drafters of the preamble remind their

audiences (both Iraqi and international observers of this process) that in this very land of the "two rivers," the world's first constitution was developed during the reign of the Babylonian leader Hammurabi. However, in the land that produced the first written law code, forging ahead with the task of drafting a constitution for the modern nation of Iraq has proven to be a hard task. The experience has proved daunting as the drafters of the constitution have faced pressure from two sides. The Commission responsible for the draft strove to meet an August 15, 2005 deadline to produce the document due to increasing insistence from the United States, yet at the same time, heeded demands from the Iraqi public, as well as Sunni in the Commission, to draft the constitution in a less rapid, more inclusive and transparent fashion.

Considering that drafting the constitution began in earnest in May 2005, the fact that a document, albeit an imperfect one, was

released several days after the deadline is an impressive feat. Yet this impressive feat may be the very undoing of the charter, as questions have emerged about the integrity of a document that was rushed in such a fashion. It could be said that Iraq is pursuing democracy at a microwave oven's pace. "The 'timer' for Iraq to assume sovereignty was set on June 28, 2004, a few months later it held elections on January 30, 2005, and an interim assembly will have to rush to write a constitution by October 2005 to be voted on by the Iraqi public."¹ Indeed, the end result of this process is a constitution that emerged from this "microwave." The document was written under "coerced consensus," with Arab Shi'a and Kurds, excluding Arab Sunni in the drafting commission from crucial negotiations in the process and leaving many controversial and crucial issues unspecified for the sake of passing an upcoming referendum.

The United States had pressured the Iraqi drafters to adopt a constitutional process that would entice the Sunni to partake in Iraq's political process. This was in order to undermine the insurgents' social base of support, and thus expedite the exit of American troops from a quagmire in Iraq. Yet the very constitutional process that tried to bring harmony to Iraq's populace could also serve as a decisive issue that might plunge the country into full-scale civil war between the Sunni, Shi'a, and Kurds, essentially resulting in the constitutional dismemberment of Iraq.

The debate on Iraq's constitutional process suffers from two weaknesses. The first is that observers of this process offer advice and commentary without examining the debate occurring in Iraq itself. Others have failed even to read the Iraqi constitution or are

unable to comprehend the text in the original Arabic. The second fallacy, not only underlining the debate on Iraq's constitution, but on the nation as a whole, is an addiction to describe its society as divided by three neat monolithic blocs. These blocs are known as the "Shi'a, Sunni, and Kurds" and obscure the nature of the debate on Iraq's constitution. The purpose of the following analysis of the constitutional debate is to draw upon Iraqi and Arab media sources to elucidate the trends in its internal politics, as well as to analyze how international media coverage of the constitutional process propagates the myth of Iraq's tri-ethnic division.

HISTORICAL OVERVIEW

Iraq's first constitution was drafted in 1925 during the British mandate. Five years had passed since the 1920 Iraqi revolt against the British, and thus some deemed the document as a tool to legitimize indirect British rule.² One can say that history in Iraq repeats itself as some Iraqi factions complain that the current draft serves as an American tool to manipulate and control Iraq's politics. Despite the complaints in the 1920s, the 1925 constitution was drafted after heated debate among Iraqis, within not just the drafting committee, but the public as a whole. The document recognized Islam as the "official religion of the state," but provided freedom of worship to all Iraqi communities. It stipulated that Islamic law (Shari'a) would serve as "a source of law" with respect to personal status issues affecting Muslims.³ Thus, the current draft constitution is essentially replicating the 1925 document, as it also recognizes Islam as the religion of the state and Shari'a as "a source" of law for personal status issues.

The military coup of Abd al-Karim Qasim in 1958 overthrew the monarchy and

established the Republic of Iraq—a title which the nation bears to this day. The coup also ushered in subsequent "provisional" constitutions designed to legitimize the successive regimes that promulgated the documents. While provisions on liberties and minority rights were explicitly mentioned, they were never followed in spirit by these "revolving-door" military dictatorships that ruled Iraq from 1958 to 2003. The 1958 provisional constitution reiterated the role of Islam as the state religion. While it guaranteed freedom of worship, it also ended Iraq's parliamentary period and dissolved the powers of the former prime minister, concentrating all authority into the executive position of the President, a euphemism for dictatorial rule.⁴ This constitution acknowledged that the Iraqi nation constituted two nationalities: Arab and Kurd. However, such a clause failed to prevent tensions between the Qasim government and the Kurdish leadership, resulting in a renewed armed rebellion in the north of Iraq.

The Ba'th Party coup in 1968 resulted in a provisional constitution two years later that cemented the party's monopoly over the political system, essentially decreeing that all authority rested in the "Party" and the "Revolution." The 1970 constitution also acknowledged Arabs and Kurds as equal nationalities within the "Iraqi union."⁵ Four years later, the Iraqi government established the Kurdish Autonomous Region (KAR), in an attempt to placate the Kurds during the height of the Kurdish Democratic Party's (KDP) uprising in the north of Iraq. While the KDP rejected the agreement, as it failed to include the city of Kirkuk in the KAR, the Region remained "autonomous" in theory. Thus, this

demonstrated that a proto-federal Kurdish state existed on paper long before the safe haven was established in the north of Iraq after the 1991 Gulf war. While this constitution provided cultural and linguistic rights for the Kurds,⁶ such provisions meant little as the Saddam Hussein government attempted to "Arabize" the various regions. This was achieved by deporting Kurds from Kirkuk and eliminating their villages bordering Iran, culminating in the Anfal campaign that exterminated entire segments of the Kurdish rural population.

Saddam Hussein attempted to pay lip service to promises he made during the 1980-88 Iran-Iraq War to democratize Iraqi society more. In 1990, and the Ba'th drafted a "permanent" constitution, but failed to implement it due to the invasion of Kuwait and its aftermath. Nevertheless, ratifying the 1990 constitution would have served as a mere formality, as Hussein effectively ruled Iraq through Revolutionary Command Council (RCC) decrees, issued via various state-run newspapers and media outlets. The decrees could issue various laws and prohibitions, only to be overturned the next day at Hussein's whim.

This system remained intact until April 2003 with the fall of the Ba'thist government. In the political vacuum that followed the collapse of the state, plans were debated on how to draw up a new Iraqi constitution. During this chaotic interim period, Iraqi Shi'a ironically complained to the author that they were being ruled by two sets of new "RCC decrees"—Paul Bremer's Coalition Provisional Authority Orders and Grand Ayatollah Ali Sistani's *bayans*, or religious

decrees. Ironically, Iraq's constitutional process had its roots in one of these sets of decrees.

THE CONSTITUTIONAL WRITING PROCESS

One of the dangers of viewing Iraq through a tri-ethnic prism lay in the assumption that Iraq's Shi'a formed an ethnic group, a classification that led outside observers to fear that they would automatically follow the lead of their fellow "ethnic" brethren across the border in Shi'a Iran. Yet, in the aftermath of the 2003 war, it has been a Shi'a religious cleric of Iranian origin, Grand Ayatollah Ali Sistani, who has ensured that Iraq's political process does not mimic that of the Islamic Republic of Iran. The Coalition Provisional Authority (CPA) advocated that Iraq's first referendum implement a system where members of caucuses, handpicked by the Americans, would be responsible for the elections and drafting the subsequent constitution. In reaction, Sistani issued a decree on June 30, 2003, stipulating that the democratic elections are based on a "one person-one vote" system, and that those elected Iraqis should write Iraq's constitution. Fearing to upset a cleric who held sway over large segments of Iraq's majority Shi'a population, the CPA gave into his demand of direct elections, resulting in the January 2005 referendum.

The Transitional Administrative Law

In the interim period, a document was needed to govern Iraq and serve as a guiding framework for the process of drafting the constitution. A month after Sistani's decree, the CPA appointed 25 Iraqis among various religious and ethnic communities to serve in a body known as the Interim Governing

Council (IGC). After much debate within the Council, on March 8, 2004, this body ratified an interim constitution known as the Transitional Administrative Law (TAL).⁷ The TAL was treated with suspicion by Iraqi critics of the post-war order. First, it was drafted behind closed doors by the IGC, a body whose membership was seen as unbalanced in favor of Shi'a exiles and Kurdish parties. Second, the document's articles were overly influenced by the U.S. authorities in Iraq.

Despite its imperfections, it empowered the two segments of Iraq's population which had been excluded from the political system under the Ba'th. It met the Kurdish political parties' demand for autonomy and the Shi'a parties' demand for a political system that would recognize their majority in Iraq's society. Article 7 of TAL also satisfied the religious Shi'a factions, as it stated, "Islam is the official religion of the State and is to be considered *a* source of legislation," but not the only source of legislation. The TAL also served to empower another disenfranchised segment of Iraq's population—the Iraqi women. According to the TAL, the January 30, 2005 election would aim to have women constitute no less than one-quarter of the members of the Transitional National Assembly (TNA). The TAL served as a interim governing charter that would provide an outline for the process of drafting the current constitution that would replace the TAL itself. Elections were to be held in January 2005 for a national assembly that would then draft this document by August 15. The draft document would then be voted on through a popular referendum on October 15. If the constitution is passed by a majority in this election, the TAL states that a new referendum would be held for a permanent National Assembly on December

15, which in turn would select Iraq's president who would then select Iraq's prime minister.⁸

However, an article within the TAL may serve as the undoing of this constitutional process. Article 61 C states that the draft constitution will be ratified under two conditions. First, a majority of voters must approve of the text. Second, ratification would be blocked if two-thirds of the voters in three or more governorates were to reject it.

The latter stipulation was believed to have been included in the TAL text as a compromise to placate Iraq's Kurdish political parties in the IGC. It was a Kurdish demand that a safety mechanism be included so that the three predominantly Kurdish governorates of Dohuk, Irbil, and Sulaymaniyya could veto the draft constitution if it did not satisfactorily meet their demands for a federated Kurdish entity. Ironically, what emerged as a Kurdish concession could serve as the Arab Sunni veto of the current draft constitution.

Iraq is comprised of eighteen governorates (*muhafazat*). Starting from the north, the three governorates of Dohuk, Irbil, and Sulaymaniyya are predominantly Kurdish, and thus the Kurdish demand that the population in all three of these entities be granted the power to veto the draft. Bordering this area are the governorates of Ninewa (where the predominantly Sunni Arab city of Mosul is situated), and Ta'mim which includes the oil-rich city of Kirkuk. The Kurds have demanded that they maintain federal jurisdiction over this city, yet the problem remains that it is a divided city among Arabs and Turkmen who are unwilling to submit "their city" to Kurdish

administration.

Below this area, a strip of governorates has been referred to as the "Arab Sunni Triangle," as the population of these administrative units are predominantly Sunni Arab and witnessed most of the violence in the aftermath of the war. The governorates include Salah al-Din (includes Saddam's home town of Tikrit), al-Anbar (including the restive towns of Falluja and Ramadi), and Diyala (including the restive town of Ba'quba).

Baghdad, the capital of Iraq, is located within its own governorate. Below the capital are the nine provinces of Karbala, Najaf, Babil, Qadisiyya, Wasit, Misan, Dhi Qar, Muthanna, and Basra, where most of Iraq's Shi'a reside, but also containing significant pockets of Iraqi Arab Sunni as well.

Many observers of Iraq have not only divided it into three ethnic blocs, but also assume for a fact that Kurds, comprise 15 to 20 percent of Iraq's population, Sunni make up 15 to 20 percent, and Shi'a some 60 percent, with numbers adjusted for Iraqi Turkmen and other minorities. It must be stressed that these numbers are only mere guesses since a reliable census of Iraq's population has not been conducted. Obviously, the failure to conduct a census during the Saddam regime was because it could highlight the fact that a Sunni Arab minority ruled the country and would have been inaccurate given that communities such as the Turkmen were only recognized as Arabs. The lack of a census led to an election procedure in January 2005 where Iraq would be treated as a single electorate. Therefore,

the exact numbers of Sunni in the center provinces are uncertain. However, it is assumed or feared that they can rally two-thirds' of the population in the Ninewa, al-Anbar, Salah al-Din, and Diyala governates to block the draft constitution, exercising the veto power granted to them by the TAL. The possibility of a regional defeat required the Shi'a and Kurdish politicians to include the Sunni in the constitution-writing process. This was in addition to the hope that the integration of these alienated Arab Sunni would result in their calls to end the insurgency, a product seen as a result of their exclusion from the political process.

Formation of the Constitutional Committee/Commission

The January 30, 2005 elections resulted in a victory for the United Iraqi Alliance (UIA), a coalition of predominantly Shi'a religious candidates, which received 140 of the 275 seats in the Transitional National Assembly (TNA), representing 48 percent of the vote. The Kurdistan Coalition List (KCL), dominated by candidates from the Kurdish Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK), came in second with 75 seats or 26 percent. Thus the UIA failed to receive a majority and formed an alliance with the KCL to ensure the necessary two-thirds majority to pass various motions. Al-Iraqiyyun ("The Iraqis"), a coalition led by the former interim Prime Minister Iyad Allawi (who also served as the leader of the exiled opposition group the Iraqi National Accord), attempted to provide a political platform that transcended sectarian and ethnic affiliation. It received 40 seats or 14 percent of the vote. The Sunni Arab factions called for a boycott of the elections and the parties that did participate gained only 17 seats.⁹ The National Rafidayn (Mesopotamia) List led by Yunadam Kanna,

representing Iraqi Christian parties, gained only one seat in the Assembly. The Front of Iraqi Turkmen, a coalition group including the Iraqi Turkmen Front (ITF), at first attempted to boycott the elections, but then ran at the last minute and gained only three seats. The People's Union, a coalition dominated by the former outlawed Iraqi Communist Party, led by Hamid Majid al-Musa, secured two seats.¹⁰

After the elections, the TNA was responsible for establishing a government and cabinet before drafting the charter, but this effort was seriously delayed by political infighting. By May 2005, the Assembly appointed a 55-member committee made up of Shi'a, Sunni, and Kurdish legislators from the TNA. The committee consisted of 46 men and nine women, with the UIA providing 28 drafters on the committee, while the KCL had 15 members. The committee included only two Sunni, Abd al-Rahman al-Nu'aimi from the UIA coalition and Adnan al-Janabi from the al-Iraqiyyun coalition led by Allawi.¹¹ These mere two members reflected the Sunni' low numbers in the TNA. Moreover, the politicians were seen as unrepresentative of the Sunni population as a whole, as al-Nu'aimi belonged to a Shi'a coalition and al-Janabi was associated with the Iraqi National Accord, an exile group that had little grassroots support among the Arab Sunni.

On May 24, the Constitutional Committee held its first formal assembly, with less than three months to write the constitution according to the TAL-established deadline of August 15, 2005. During this committee session they selected the UIA member, Humam Hammudi as its chairman. Hammudi is a Shi'a cleric and member of the Supreme Council for the Islamic Revolution in Iraq (SCIRI), the dominant faction within the UIA. Despite his

clerical background, he did not seek to impose Islam as the source of legislation and was content with the TAL, which stipulated that Islam be a source of legislation. Fuad Ma'sum of the KLC and member of the Patriotic Union of Kurdistan served as his first deputy chairman. Adnan al-Janabi, served as a "second" deputy chairman, thus trying to allocate the three position in order to placate the three largest segments of Iraq's society.¹²

Nevertheless, the Assembly and the Committee needed to find an ad-hoc arrangement to co-opt more Arab Sunni figures into the process. This was despite the fact that those within the body were reluctant at first to include unelected Sunni, who may have been sympathetic to the Ba'th or the insurgency. Parties that represented various elements among the Sunni, such as the the Iraqi Islamic Party, the Association of Muslim Scholars, and the National Dialogue Council, were seen by some on the Committee as political wings of the Iraqi insurgents. While the three groups have disavowed any links with the insurgents, they do have moral influence among them, and thus incorporating them into the political process was seen by some Iraqis, as well as the United States, as the first step in defeating the insurgency.

Under U.S. pressure and deliberations between the TNA and a group of prominent Arab Sunni leaders, 17 members from this community were given the opportunity to participate in the body. The constitutional drafting committee officially became a commission, a title to accommodate those not elected into the National Assembly.¹³ Within this commission, subcommittees were formed to write the different "chapters" (*bab*) of the constitution. The committees included Basic

Principles; Rights and Freedoms; Institutions of the Central Government; Institutions of the Governorates Administrations, the Authorities of the Institutions; Constitutional Guarantees; and Concluding Regulations.¹⁴ These Committees would later regroup to bring those chapters into one document to be debated within the Commission. Once a draft was agreed upon, the Commission would submit it to the National Assembly. However, according to the TAL, the TNA does not have to vote on the draft constitution, before it is released to the public and to be voted on in the October 15 referendum.

Goals of the Political Factions in the Writing Process

1) Shi'a Political Parties/UIA

For the Shi'a political parties, the core goal was to ensure the constitution guaranteed that a future government reflected their majority status and demographic weight in Iraq. Given that the UIA is dominated by two Islamist parties, SCIRI and the Da'wa Party, they also sought a role for Islam in the state. Given their connections to the Shi'a religious institutions in towns such as Najaf and Karbala, they aimed to ensure the document acknowledged Iraq's Islamic identity and character. However, this factor has been misunderstood by outside observers of the constitutional process. None of these factions ever stated that their aim to establish a *wilayat al-faqih* ("rule of the jurispudent") as in neighboring Iran, nor do they intend to use the democratic process to achieve this end. The Iranian system of government, although led by Shi'a clerics, is not accepted by all Shi'a clerics, especially by Grand Ayatollah Ali Sistani, nor by clerics in SCIRI or Da'wa.

Additionally, these Shi'a factions have recently demanded that the constitution provide them with the right to form their own federated state in the south, on the lines of a Kurdish federated entity in the north.

Ayatullah Sistani, while responsible for setting this process in motion, has remained quiet during the writing of the constitution itself. Indeed, he has been described as belonging to the "quietist" school of Shi'a theology, which urges clerics to abstain from taking an active part in the political sphere. While Sistani has demonstrated that he has no aspirations for a political role, he is willing to issue decrees regarding political affairs at crucial junctures, such as in June 2003. Contrary to rumors in the Iraqi media that he condemned a federal Iraq, his edict issued on August 30 neither condoned nor condemned a federal system.¹⁵

On the other hand, the young cleric Muqtada Sadr has called for the Shi'a clerical establishment to play a direct role in Iraq's politics. Despite the publicity he receives, he has emerged only as a secondary figure among the religious Iraqi Shi'a and Sistani has proven to garner more respect among this segment of the population. Sadr has rejected the constitution as a scheme designed to divide Iraq, and has made common cause with the Sunni rejectionists opposed to this charter.¹⁶

2) Kurdish Political Parties/KCL

In writing the constitution, the Kurdish parties are unwilling to give up the de-facto autonomy they have enjoyed since 1991, and aim to formally enshrine this autonomy within the constitution, if not expand the powers they already enjoy. They would also seek to extend the geographic jurisdiction of

their autonomous region to include the city of Kirkuk, but were willing to concede on this issue and debate it at a future date in the year 2007. In the past, they have made their aspirations for an independent Kurdish state known, but have used this as a negotiating tool simply to ask for the right to separation from Iraq. They have also conceded on this demand and now have focused on insisting that the document ensures a federated system within Iraq to protect their status. The secular KDP and the PUK, the two most dominant factions within the KCL, have attempted to block the Shi'a attempts to Islamicize a future state via the constitution.

3) The Sunni Parties/ AMS-IIP-NDC Coalitions

The Sunni Arab parties fared poorly during the January elections due to their call for a boycott. They faced the dilemma of influencing the writing of the constitution, via their role in the Constitution Drafting Commission, despite their low numbers in the Assembly. The primary goal of Sunni involved in this process is to prevent the passing of a constitution that will ultimately serve as a prelude to the disintegration of Iraq. They fear that a federal entity in the north and south could lead to the dismembering of the nation, leaving the Sunni in a landlocked rump state, with no access to the oil facilities. Some parties are willing to allow a measure of decentralization for the Kurdish areas, as this has been a fait accompli since 1991, but are not willing to see their fellow Arab Shi'a in the south form a similar federal entity, which could monopolize the oil resources in the vicinity of the city of Basra. Some of the Arab Sunni in the constitution-drafting process are Islamists and agree with the Shi'a demand for a greater role of religion in the state. However, one

cannot discount the fact that some of these Sunni Islamists view the Shi'a as an unorthodox school of Islamist jurisprudence, and suspicions could remain if not pronounced in public.

After the collapse of the primarily Arab Sunni-dominated Ba'th, this segment of Iraq's population fell into a political vacuum with no united leadership to represent their views. Some segments aligned themselves with tribal leaders, others with the Islamist parties that slowly began to emerge, while others depended on Sunni insurgent groups to make their voices heard. A number of parties, associations, and coalitions have developed, competing to serve as the united voice of the Sunni. The three most outspoken of them are the the Iraqi Islamic Party (IIP), the Association of Muslim Scholars (AMS), and the National Dialogue Council (NDC). The organizations were relatively new to the Iraqi political landscape, and while the IIP fluctuated between its call for boycotting or participating in the January elections, the AMS was adamant that Iraqis should not vote in an election while the nation was under occupation. These groups strengthened their calls for a boycott after the US-led assault on Falluja in November 2004, as it primarily affected Arab Sunni residing in that town. However, these groups did not represent all Sunni in Iraq, even though the media may represent them as the "voice of the Sunni."

Some members of the IIP-AMS-NDC coalition were among the additional 17 figures added to the drafting committee of the constitution. However, their inclusion did not lead them to support the ultimate product, as they argued they were kept out of key negotiations and failed to agree on several of

its articles. These three organizations have agreed that it will mobilize its followers to reject the constitution released on August 28, in what has been referred to as the "get-out-the-no-vote."

The National Dialogue Council formed in early 2005, but not in time to affect the January elections. Officially it is not a formal party and describes itself as a coalition that includes former military officers, Arab Sunni tribal leaders, and low-level Ba'thists. Its spokesman, Salih al-Mutlaq took part in the drafting process, but has emerged as one of the most critical opponents of its text.

The Iraqi Islamic Party was formed after the fall of the Ba'th. Its leader Muhsin Abd al-Hamid had served on the interim Iraqi Governing Council, but took a critical stance toward the United States after its attack on Falluja in November 2004, and has criticized some provisions of the draft constitution.

The Association of Muslim Scholars (AMS) has emerged as a prominent group representing the interests of the Arab Sunni, though it has not declared itself as a political party. This organization attempted to barter the "political participation" of the Sunni sect in the Iraqi elections to avoid an impending attack on al-Falluja in November 2004. Since the attack took place, the AMS urged its followers to boycott the January elections, and remains critical of the constitution as well.

A smaller organization that has criticized the charter among this coalition is the General Conference of Iraqi Sunni (*Al-Mu'tamar li-Ahl al-Sunnah al-Iraq*). It is led

by Adnan al-Dulaymi. The organization's name is astonishing in the Iraqi political scene as it is one of the first groups that has adopted the term "Sunni" in its title. While it is known among Iraqis that groups like SCIRI and Da'wa are predominantly Shi'a, or the IIP, AMS, and NDC are predominantly Sunni, this is one of the first factions that has taken a specific sectarian affiliation in its title.¹⁷

4) Non-Aligned Factions

Other political factions involved in this process do not fall into one of these three categories. Secular groups, such as the Iraqi National Accord or the Iraqi Communist Party, to name a few, are interested in ensuring that the constitution guarantees liberal freedoms, human rights, and women's progress, even though the three aforementioned factions have promised to enshrine such rights in the process. These groups have participated in writing the draft but with varying degrees of influence, as they have no mass political movement or armed militia behind them. Nevertheless, this fact may be Iraq's Achilles heel, in that the three dominant factions within this writing process are based on ethnic or sectarian affiliations, and no movement has emerged to transcend these lines. While categorizing Iraq's society into three main blocs is erroneous, their political factions are beginning to crystallize along these lines.

Setbacks during the Writing Process

Several setbacks delayed the writing process and thus the TAL imposed the August 15 deadline, which passed without the draft being finished, much to the concern of observers in the United States. The Sunni Arabs walked out of the Commission in order to protest the July 19 assassinations of two

fellow Sunni members, arguing that they had not been provided with adequate security. They returned to the process a week later, but complained of being excluded from the negotiations afterwards. Such sessions were often tense at times, riddled with racist and sectarian comments. Nathan J. Brown, who has followed the process closely, states how, "Another deputy (and former defense minister) lacked even this subtlety when he alluded to an attempt to 'Persianize' Iraq—a clear reference to the attitude among some Arab Sunnis that the Shiite are not fully Iraqi."¹⁸ During the January election debate, the author scanned close to 500 media pieces from the Iraqi press and noticed how political leaders avoided using sectarian terms like "Sunni" and "Shi'a," rather hinting at or referring to such differences indirectly. In reading over the same amount of media pieces to analyze the constitutional debate, sectarian and ethnic terms proliferate the Iraqi discourse and the delays in the constitutional process have been blamed on the intransigence of rival ethnic and sectarian Iraqi groups.

After failing to meet the original August 15 deadline, Iraqi leaders pushed the due date to August 22. On that day, Hammudi, head of the Iraqi Constitution Drafting Commission, made a statement to reporters saying, "As you know, it is not possible to convince or please all parties, but much of what they demanded was achieved in this constitution. We hope this constitution will be a real step toward stability."¹⁹ However, the National Assembly Speaker, Hajim al-Hasani, broke the news at this conference that the draft constitution was still incomplete: "The draft constitution was accepted today. There are however, as I have already mentioned, certain unresolved issues when it

comes to the endorsement of the draft- issues that require broader deliberations so that we may arrive at a constitution that is acceptable to all Iraqis."²⁰ What the Commission submitted to the National Assembly on August 22 was an incomplete draft that needed additional time to resolve outstanding differences. On August 28, the Commission voted to approve a final draft text that did not have the support of the Arab Sunni members, underlining that consensus was not reached by all three parties involved in the drafting process.

Voting on the Draft Constitution

A copy of the draft constitution released on August 28 will most likely be distributed to every household based on the information from the UN ration card system, the same basis used to register voters in the January elections. Brown warns of another weakness in the drafting process:

First, while elite bargaining is an essential element to any successful outcome, it has largely supplanted any participatory process. Most communication has been one way: many participants have spoken in detail about the content of the negotiations, making the process less secretive but also risking the hardening of positions. Only a very small number of Iraqis will be able to contribute to the process with anything other than a "yes" or "no" vote.²¹

Such a vote will be granted on October 15, 2005. Even some of the Iraqis involved in the process have admitted that the public has

been disconnected from the drafting process. Ghaith Abd al-Ahad, an Iraqi writer, recounted how a Kurdish parliamentarian told him of their isolation from the public as they drafted the document in the heavily barricaded green zone, "We [politicians] don't know what's happening in the streets outside and the people outside don't care about what are we doing here because of the violence they are suffering from." Ahad questioned the essence of the writing process, "Does it matter if Islam is *the main* source of legislation or only *a* source, when Shi'a militia in the south of Iraq are enforcing hijab on women, banning alcohol and transforming the south into 'Iran lite'?"²²

Before the public votes on the document, the Iraqi Independent Electoral Commission, created to provide the framework for January 2005 elections, must establish the procedures for the October referendum after the TNA passes the legislation for this process. The question remains as to whether they will use the same electoral system in which the entire nation of Iraq was regarded as a single electoral district, in order to avoid carrying out a census. In January, a strict nation-wide formula of proportional representation was used. The Sunni objected to this formula, as they could not muster enough votes in their governorates to obtain seats in the Assembly. An alternative could emerge where each governorate (*muhafaza*) would be regarded as an electoral district, and assembly seats would be given in proportion to the vote in each governorate. Such a system could result in greater Arab Sunni representation in the provinces of Ninewa, al-Anbar, Salah al-Din, and Diyala.

On October 15, if a majority of voters nationwide approve the draft, it will be ratified, and then elections for a permanent National Assembly will be held on December 15. If two-thirds of the voters in three or more of Iraq's 18 governorates reject the document, then according to the TAL, the current TNA will be dissolved and elections will be held by December 15 to form another Transitional National Assembly. This would essentially start the whole process over from prior to the January 2005 elections. The new TNA would have to draft an entirely new constitution within a year. Some Arab Sunni prefer this option, as it would allow them to rectify their past mistake when they boycotted the January elections, and would grant them greater input into a new draft constitution. However, this scenario would trouble the United States as it could ultimately delay formulating an exit strategy from Iraq.

THE ARTICLES OF THE CONSTITUTION AND THE IRAQI DEBATE

The drafters of the constitution were able to reach a broad consensus on the division of powers of Iraq's government among three independent branches: a legislative, executive, and judicial. Yet the precise checks and balances among them still have to be dealt with later. The constitution provides for a parliamentary democracy in which the leaders are elected by the assembly.

The [constitution](#) is divided into six chapters, with 139 articles all together. The controversial articles within the Constitution revolve around six issues: federalism, sharing of oil revenue, the role of Islam, women's rights, de-Ba'thification, and Iraq's identity.²³

Federalism

The TAL prescribed that Iraq adopt a federal structure, a clause that the Kurds demanded. The UIA has followed suit by claiming they have a right to form their own federal entity. The Sunni rejectionists of the constitution fear that federalism will ultimately lead to the dismemberment of Iraq. The first article of the Iraqi Constitution states that Iraq is a federal Republic:

Chapter One: Basic Principles

Article 1: The Republic of Iraq is an independent, sovereign nation, and the system of rule in it is a democratic, federal, representative (parliamentary) republic.

The Arabic word for representative, *niyyabi*, is followed by the Arabic word for "parliamentary" in parentheses, (*ḥarlamani*), essentially utilizing an Arabized English word to erase any doubts about the drafters' intentions. However, the word used for "federal" is *ittihadi*, and the drafters avoid using the Arabized English word for "federal," *fidirali*. *Ittihadi* could roughly be translated as "federal," but could also be translated as "unionist." The base of the word, *ittihad*, can mean "oneness," "unity," or an "alliance." *Al-Ittihad*, or *The Union* is the name of the Arabic daily of the PUK, as well as the title of a newspaper in the United Arab Emirates, which outside observers often forget is a successful example of an Arab federal nation. It seems the drafters used *ittihad* as opposed to *fidirali* to stress that the constitution is designed to unite the nation, rather than dismember it.

The power of the center, or the "federal authority," defined as *al-sultat a -itihadiyya*, is stated in a separate chapter:

Chapter Four: Powers of the Federal Authorities

Article 107: The federal authority will maintain the unity of Iraq, its integrity, independence, sovereignty and its democratic federal system.

Article 108: The federal authorities will have the following exclusive powers:

(1) Drawing up foreign policy, diplomatic representation, negotiating international accords and agreements, negotiating and signing debt agreements, drawing up foreign sovereign economic and trade policies.

(2) Drawing up and executing national defense policy including setting up and operating the armed forces to ensure the protection and security of Iraq's borders and its defense.

The constitution stipulates that the Federal Authority will control all domains regarding international affairs and national security.

This power of the Federal Authority, contrasts with the Regional Authority, *sultat al-aqalim*, whose powers are stated in Chapter Five:

Chapter Five:
Authorities of the
Regions

Part One:

Regions

Article 113: The federal system in the republic of Iraq is made up of the capital, regions, decentralized governorates, and local administrations.

Article 114 (1): This constitution shall endorse the Kurdistan region, along with its established authorities, as a federal region.

(2) This constitution shall endorse any new regions that are established in accordance with its provisions.

Article 116: One governorate or more have the right to form a region, based on a request for a referendum, which can be presented in one of two ways:

a) A request by a third of the members of each of the governorate councils in the governorates that desire to form a region.

b) A request by 1/10 (one-tenth) of the voters in each of the governorates that desire to form a region.

Article 117: Each region shall draft its own constitution and define the region's authorities and responsibilities and the mechanisms to carry out these responsibilities in a way that does not contradict this constitution.

Article 118 (1): The governments of regions have the right to practice legislative, executive, and judicial

powers according to this constitution, except in what is listed as exclusive powers of the federal authorities.

Thus, in theory, if the Shi'a residents in any of Iraq's nine southern governorates were to form a federal entity, referred to as a "region" (*iqlim*) in the constitution, they have the option to do so as long as they can find another governorate willing to join. In other words, two governorates could form their own entity or all nine can unite in this manner. However, article 121 of the constitution states that the capital Baghdad cannot join any one of these federal units.

The legislation in these federations cannot contradict any of the articles of the current draft constitution, and technically, no federated unit can separate from Iraq as that would violate the charter. While the draft demands that regional laws do not contradict the constitution, the constitution itself is vague and allows any future region considerable autonomy in establishing its own regional constitution. Thus, if the south formed its own region, it could establish courts based on Islamic law to deal with personal or family matters.

While stating various Iraqi positions on these points would prove to be too voluminous for such an analysis, the author has chosen arguments from the media survey for each of Iraq's communities that summarize their positions. The Kurds and Shi'a political factions have maintained an alliance during the constitutional debate as they both strive for a document that will create a federal Iraq. However, while this majority allowed them to draft this constitution, both Arab Sunni and Iraqi

Turkmen fear that federalism will leave them in an entity in the center of Iraq with little resources, or worse will lead to the collapse of the Iraqi state.

Abd al-Aziz al-Hakim, leader of SCIRI and head of the UIA Coalition, argues that the Shi'a have no interest in dismembering Iraq: "One of the principles the Unified Iraqi Coalition embraces is the need to maintain, and not to encroach upon, the unity of Iraq. This means rejecting any constitutional provision that might harm the unity of Iraq."²⁴ He has argued that federalism will prevent the tyranny of the minority such as that of the Ba'hist centralized state

Mas'ud Barazani stated since the Kurds have made concessions on declaring independence, they should at least be given federated status: "The Kurds have accepted to be a part of Iraq, even if our people want independence and self-determination. With this sacrifice we ask that our conditions be guaranteed."²⁵

Al-Mutlaq of the NDC said, "There is a disagreement on federalism. We still believe that the current formula of federal system in Iraq means that Iraq will be divided into sectarian and ethnic cantons. There will be a Shiite region, a Sunni region, and a Kurdish region. We completely reject such a thing, and we will never accept it."²⁶ The Iraqi Turkmen view on federalism announced by the Iraqi Turkmen Front Representative in Turkey, Ahmet Muratli, is as follows: "If the borders of the Kurdish and the Shi'a regions are going to be delineated within a federative structure, then ours should be clear as well. We want the region that extends from Tal Afar to Mandali to be included within the new structure as the Turkmeneli ("Turkmen

nation") Federation. He also stated that historically Kirkuk has been included within the Turkmeneli region and said that they should administer the city.²⁷

Revenue Sharing

The issue of sharing oil revenues is connected to the articles dealing with federalism. The fear of the Sunni rejectionists is that they will have no guarantees to Iraq's oil in the south and north, especially if the Shi'a decide to form a federal entity in the future. Thus, the drafters attempted to assuage Sunni fears through various articles in the constitution. The Preamble states:

Terrorism and "takfir" (declaring someone an infidel) did not divert us from moving forward to build a nation of law. Sectarianism and racism did not stop us from marching together to strengthen our national unity, set ways to peacefully transfer power, adopt a manner to fairly distribute wealth and give equal opportunity to all.

The constitution declares in its first lines to distribute wealth fairly. The constitution calls for an independent body to oversee the distribution:

Part Four:
Independent
Bodies

Article 104: A public commission to monitor and allocate federal revenues shall be established according to a law. It will include experts from the federal government, regions, and governorates and representatives for

them and will vary out the following duties:

(1) Verifying the fair distribution of international grants, aid, and loans according to the need of regions and governorates that are not organized into a region.

However, mention of the exact percentages of the distribution is avoided directly in the following articles:

Chapter Four: Powers of the Federal Authorities

Article 109: Oil and gas is the property of all the Iraqi people in all the regions and governorates.

Article 110 (1): The federal government will administer oil and gas extracted from current fields in cooperation with the governments of the producing regions and governorates on condition that the revenues will be distributed fairly in a manner compatible with the demographical distribution all over the country. A quota should be defined for a specified time for affected regions that were deprived in an unfair way by the former regime or later on, in a way to ensure balanced development in different parts of the country. This should be regulated by law.

The issue of the oil-rich city of Kirkuk has been controversial. The Kurds wish to administer it under its federal jurisdiction, for both sentimental and economic reasons, yet

the Arab side has been unwilling to concede on this issue. The constitutional solution was to delay the issue altogether:

Chapter Six: Final and Transitional Guidelines

Article 136 (2): The responsibilities placed on the executive power of the transitional government provided for in Article 58 of the Transitional Administration Law for the Iraqi State are extended to and will continue for the executive power elected according to this constitution until the completion of (normalization, census, and ending with a referendum in Kirkuk and other disputed areas to determine the will of the people) in a period no longer than December 31, 2007.

Any oil contracts negotiated between the Kurds and another party prior to the constitution remain valid:

Article 137: Laws legislated in Kurdistan since 1992 remain in effect, and decisions made by the government of the Kurdistan Region - - including contracts and court decisions -- are effective unless they are voided or amended according to the laws of the Kurdistan Region by the concerned body, as long as they are not against the constitution.

The preceding article seems to serve as a concession to the Kurds, who have already negotiated contracts with two Turkish firms to develop their oil resources.

The Shi'a and Kurdish factions are united on the issue that they should profit from Iraq's oil resources. Both communities rarely benefited from the state's largesse during the Ba'thist era, and the revenues even helped finance Saddam Hussein's repression of the north and south. In their view, a federation will prevent a tyrannical center from monopolizing Iraq's oil resources and allow for fair distribution of revenues according to Iraq's demographic structure. Some Sunni would argue that Iraq's oil revenues were dominated by the Tikriti clique in the Ba'th and thus the Sunni in general did not benefit from this wealth any more than did the Shi'a or Kurds. A federalist system that gave control of oil to the Kurdish north and Shi'a south would only continue to deprive the Sunni of their rightful share in this resource.

Hussein al-Shahristani of the UIA argues that "those who did not participate in the elections," a euphemism for the Sunni, believe that "natural resources belong to the Iraqi people and that these resources should be run by the central federal government." He adopts the Shi'a line saying, "As for the revenues, they should be equally distributed to all Iraqi areas in proportion with the population and the needs of these areas."²⁸ The Sunni rejectionists have avoided stating publicly that they oppose federalism for the mere economic reason of losing access to oil. Usually their comments are made subtly such as that of Adnan Dulaymi of the General Congress of the Iraqi Sunni, who said, "Respectable brethren, we call on all of you to show solidarity with us and cooperate with us to confront anyone who wants to fragment Iraq and dissipate its resources. The resources of Iraq are for all Iraqis."²⁹ The Kurdish position over oil revenues has focused less on demanding a percentage as opposed to stating

their demand for the oil-rich city of Kirkuk, realizing that if it fell under their federal jurisdiction their percentage of oil revenues would increase substantially. Nevertheless, Iraqi President Jalal Talabani and leader of the PUK has grudgingly accepted the fact this issue will not be resolved until 2007, "We called for a quick political solution to the issue of Kirkuk, but agreed to postpone this solution to the end of 2007."³⁰

The Role of Islam

The constitution attempts to define the precise role of Islam in Iraq, yet many of its articles dealing with this issue remain ambiguous. The constitution seems to have followed the TAL which defines Islam as "the official religion of the State" that "is to be considered a source of legislation:"

Chapter One: Basic Principles

Article 2 (1): Islam is the official religion of the state and is a basic source of legislation:

- (a) No law can be passed that contradicts the fixed principles of Islam.
- (b) No law can be passed that contradicts the principles of democracy.
- (c) No law can be passed that contradicts the rights and basic freedoms outlined in this constitution.

The words "a basic source of legislation" is translated as *masdar isas li-Itashri'*. Ironically, the intense debate in outside circles of definite or indefinite articles, or in other words whether Islam is "the source of legislation" or "a source of legislation" is not reflected in Arabic. The language simply

does not exhibit an indefinite article as a separate word. In the constitution, Islam is "a source" (*masdar*), opposed to "the source" (*al-masdar*) of legislation. The following three sub-clauses guarantee that no law can contradict the the principles of Islam, democracy, or the rights cited in the constitution, mimicking the language of the TAL. The charter also guarantees the Islamic identity (*hawiya al-Islamiyya*) of the majority of the Iraqi people and the full religious rights for all individuals, as well as the freedom of creed and religious practices of people like Christians, Yazidis, and Mandaean Sabians.

Further articles dealing with freedom of worship include, Article 39: "Iraqis are free in their adherence to their personal status according to their own religion, sect, belief and choice, and that will be organized by law." Article 42, no. 1 states, "The followers of every religion and sect are free in: (a) The practice of their religious rites, including the Husayniyya rites." The last clause was most likely inserted at the behest of the UIA, acknowledging the fact that the martyrdom ceremonies commemorating the death of revered Shi'a figure Imam Husayn were forbidden by the Ba'ath in the past.

One of the most controversial articles among outside observers of this process deals with the role of Islamic clerics in the judiciary:

Chapter Three: The Federal Powers
Part Three: The Judiciary
Second: The Supreme Federal Court

Article 90 (2): The Supreme Federal

Court will be made up of a number of judges and experts in Shari'a (Islamic Law) and law, whose number and how they are selected will be defined by a law that should be passed by two-thirds' of the parliament members.

Outside observers have claimed that Article 90 could allow the clergy to dominate this branch of the government, thus replicating the system applied in Iran and Saudi Arabia. Nevertheless, there is a law controlling this process which suggests that the Iraqi clergy will not dominate this branch in a fashion similar to its neighbors.

On the issue of the role of Islam in the state, the Shi'a and Sunni parties have found common ground in relation to the PUK and KDP. The Kurdish parties are secular and believe that an Islamicized state will merely attempt to subsume the Kurdish identity under the banner of Islam. Al-Hakim of SCIRI has advocated a role for Islam in the constitution: "This is one of the pivotal issues given the fact that the overwhelming majority of Iraqis are Muslims. Islam, consequently, has to be adopted as a main source of legislation, and no laws that violate Islam must be enacted." However he attempts to mollify opponents, "At the same time, we have to heed the democratic practices so as to remove fears that Islam contradicts with such practices, and to stress that Islam does not seek to restrict the public freedoms stipulated in the Iraqi constitution."³¹

Tariq al-Hashimi of the predominantly Sunni, Iraqi Islamic Party opposes federalism but agrees with the role of Islam in the charter: "Within this framework and in coordination with the forces outside the

National Assembly, the party managed to amend many clauses to make them in line with the constants of Islam and the aspirations of the Iraqis."³² In an interview, Mas'ud Barazani was asked his opinion of the United States turning a "blind eye" to the emerging role of Islam in the constitution. His response was: "The Kurds are struggling to achieve a new, federal, and democratic Iraq. We will try to assert our positions and will not retreat an inch. We will not allow Iraq to become an Islamic state."³³

Women's Rights

The debate of women's rights in the constitution has been connected to the issue of the role of Islam, based on a notion that a charter with Islamic elements and symbolism will automatically deprive Iraqi women of their rights. While such a connection may seem alarmist, nevertheless the articles dealing with women's rights are few. One right guaranteed to women that seems revolutionary in the Arab region is Chapter One: Basic Principles, Article 18, no. 1, which states, "An Iraqi is anyone who is born to an Iraqi father or an Iraqi mother." In most Arab countries, citizenship is passed down along patrilineal lines. Such an article has been criticized by male chauvinists in Iraq declaring their outrage that a woman could grant her child Iraqi citizenship if she is married to a non-Iraqi.

Article 20 of this chapter also states that, "Citizens, male and female, have the right to participate in public matters and enjoy political rights, including the right to vote and run as candidates." This article is guaranteed by another provision inherited from the TAL, allowing women a certain quota in the National Assembly. Chapter Three dealing with "Federal Powers" covers "Legislative

Powers." In the section dealing with "The Council of Representatives," or Parliament, Article 48, no. 4 states, "The elections law aims at achieving a representation percentage of women that is not less than one quarter of the council's members."

Most of Iraq's factions have championed women's rights, if only playing lip-service to them. Local women's rights' movements such as the Pioneering Women Institute and the Iraqi Women's Movement have attempted to influence the constitutional writing process. The head of the latter organization complained about her inability to do so: "Through our close follow up during the last few weeks, we found out that some prominent Iraqi political forces are determined to neglect and ignore our demands in the constitution draft."³⁴ A number of outside observers on the constitutional debate argue that the inclusion of Shari'a provisions in the constitution automatically discriminates against women, based on the assumption that Islamic law is inherently anti-women's rights. Nevertheless, support for the inclusion of Shari'a in the constitution has come from some of the Iraqi women in the TNA. For example, one such Turkmen woman, Fayha al-Abadin, said that 90% of women's rights in the constitution were approved. Yet she acknowledges her support for Islamic provisions in the charter: "We demanded that no article should be in conflict with the principles of Islam."³⁵

De-Ba'thification

While the Kurdish and Shi'a drafters of the constitution agreed on clauses that stipulate the de-Ba'thification of Iraq, elements among

the Sunni population fear that this would serve as a discriminatory measure, given that this segment of Iraq's population primarily filled the ranks of the Party. One of the first articles of the constitution deals with this issue:

Chapter One: Basic Principles

Article 7 (1): Entities or trends that advocate, instigate, justify, or propagate racism, terrorism, "takfir" (declaring someone an infidel), [and] sectarian cleansing are banned, especially the Saddamist Ba'th in Iraq and its symbols, under any name. They will not be allowed to be part of the multilateral political system in Iraq, which should be defined according to the law.

The use of the "Saddamist Ba'th" or *Al-Ba'th Al-Saddami*, emerged as a compromise between the Sunni participants and the Kurds and Shi'a drafters on the Commission. The word, *Hizb* ("Party") was dropped to assuage the fears of low-level Ba'thists, some of whom joined the party out of coercion or for the purpose of employment. However, one of the final chapters establishes a body to deal with the de-Ba'thification of Iraq:

Chapter Six: Final and Transitional Guidelines

Article 132:

The National De-Ba'thification Committee will continue its work as an independent body in coordination with the judiciary and the executive power and the executive authorities in the framework of the laws regulating its work. The committee is linked to

the Parliament.

The National De-Ba'thification Committee in Arabic is *al-haya't al-wataniyya al-aliyya li-ijthath al-ba'th*. The "de-" construction does not exist in Arabic; the term used to express the term de-Ba'thification, "*ijthath al-Ba'th*," means to "tear out" or "uproot" the Ba'th, in the same manner in which one would "uproot" a tree for example.

Shi'a and Kurds agree on the de-Ba'thification process, as they suffered the brunt of the party's excesses. Yet the drafters have made an effort to distinguish between Ba'thists who were Saddam loyalists and those who were merely low-ranking members. Ibrahim al-Ja'fari, prime minister of Iraq and a Shi'a from the Da'wa Party, argued that the de-Ba'thification measures were not necessarily discriminatory against the Sunni, as some Sunni also suffered under the rule of the Ba'thists. Al-Ja'fari adds that prominent Ba'thists included the Shi'a as well.³⁶ One Sunni in the Iraqi National Accord stated his reservations about de-Ba'thification:

It is important to purge Iraq of the criminals, whether they belonged to the Ba'th or were tools in the former regime's hands, but not to uproot the Ba'th Party as an Arabist ideology that is still operating in several Arab countries and to allow those who did not take part in murders under the former regime to continue their normal lives and play a role in building the new society. The majority of these are university teachers, doctors, writers, and military."³⁷

His statements underline one of the realities in Saddam's Iraq, where social mobility or the opportunity to obtain an advanced degree was tied to membership in the party.

Iraq's Identity

The constitution drafters struggled with defining Iraq's relation to the surrounding region. Kurds objected to wording that mentioned Iraq as an Arab state or part of the greater Arab nation. Moreover, Iraq's neighbors, particularly Iran and Turkey, would raise objections to Iraqi Kurds declaring themselves part of the Kurdish nation in the charter. The compromise was reached in the Chapter One Article 3 which states: "Iraq is a multiethnic, multi-religious and multi-sect country. It is part of the Islamic world and its Arab people are part of the Arab nation." The word for "multi-ethnic" is conveyed in Arabic as "*muta'dad al-qawmiyyat*," or a "multitude of nations." While I have used the Foreign Broadcast Information Service's translation throughout the text of the charter, I would translate the last phrase "its Arab people are part of the Arab nation" as, "and Arab people in it (Iraq) are part of the (greater Arab Nation)," or in Arabic, *al-Umma al-Arabiyya*.

A sub-clause in the same article states that, "It shall be forbidden to withdraw the Iraqi citizenship from an Iraqi by birth for any reason. Those who have had their citizenship withdrawn have the right to reclaim it and this should be regulated by law." Such a clause refers to the *Taba'iyya*, or Iraqis who have Iranian ancestry and the Shi'a Fayli Kurds, whose citizenship was revoked during the Ba'thist era based on accusations that they were not "true Iraqis" but in fact Persians. Article 4 states, "Arabic

and Kurdish are the two official languages for Iraq (*al-lughatan al-resmiyyatan*) and that Iraqis are guaranteed "the right to educate their children in their mother tongues, such as Turkmen, Assyrian, Syriac, or Armenian, in government educational institutions, or any other language in private educational institutions, according to educational regulations."

Al-Mutlaq of the NDC was angered over the phrasing of Iraq's Arabness albeit stating, "They changed it to read that Iraq is part of the Islamic world only, as though we are ashamed of our Arab character."³⁸ Iraq's Vice President Ghazi Al-Yawir, while critical of the draft constitution's demands for federalism, nevertheless defended the deletion of the constitutional phrase, "The Arabs in Iraq are part of the Arab people." Al-Yawir defended this action as reflective of Iraq's identity and said, "We say that Iraq is part of the Arab and Muslim world. The world is not a race but a culture, geography, and history. Iraq is an active part in the Arab world."³⁹

While Arab Sunni may be a minority in Iraq, some factions feel that connecting their cause with the greater Arab Sunni world is a means of empowerment. Hence, various Iraqi Arab Sunni leaders have repeatedly called for Arab League involvement in post-Saddam Iraq. This trend does not preclude the Iraqi Shi'a from Arab nationalism as well, but the Sunni's calls for greater Arab support can be viewed as a defense mechanism in post-Saddam Iraq. Thus, the constitutional phrasing of Iraq's Arab identity bears directly on the Arab Sunni's minority position in Iraqi society.

Security

In terms of security, the Iraqi constitution stipulates that the military and intelligence service is not to interfere in the political arena and must focus on national defense. A rarity in Arab constitutions, the Iraqi charter acknowledges an area of security often neglected in the region--human security. Article 35 no. 3 states, "Forced labor, slavery, and slave trade is forbidden, as is the trading in women or children or the sex trade," all problems that are rampant in post-Saddam Iraq.

Chapter One Article 9, no. 1 (b) states that "forming military militias (*milishiat*) outside the framework of the armed forces is banned." The KDP and PUK have been reluctant to dissolve their militias, as has SCIRI which renamed its armed wing, the Badr Brigade, the Badr Organization as a means of circumventing such legislation. Former Prime Minister Iyad Allawi warned of such attempts by Shi'a and Kurdish parties to annex their militias as single units into the Iraqi Army, and urged their dissolution.⁴⁰ Barazani on the other hand stated his refusal to disarm his militia of Kurdish fighters, otherwise known as Peshmerga: "The militia must not be disbanded in order to be absorbed within the Iraqi central army. The Peshmerga have to remain to defend the country's north."⁴¹ Sunni organizations have complained the constitution would not guarantee protection from these militias which they accuse of operating against them on behalf of the Ministry of Interior. During the constitutional writing process, a member of the General Congress of Sunni in Iraq accused these militias of kidnapping Arab

Sunni in Al-Mada'in District in Baghdad and questioned how the charter would protect them from militia excesses.⁴²

IRAQI PERCEPTIONS OF THE AMERICAN ROLE

U.S. officials have pinned their hopes on a successful constitution that could quell the Sunni insurgency. Nevertheless, these same officials hoped that the January elections would also quell the same insurgency, yet violence only seemed to increase. One can argue that the election failed since it did not incorporate the Sunni into the political scheme. At the same time, the constitution has been rejected by the Sunni, thus it seems, on the surface, that this charter will change little. In this regard, examining Iraqi perceptions of the United States is crucial. An examination reveals that while distrust of the United States remains, Sunni will begin to partake in the political process, albeit to defeat the constitution in a referendum. Ironically, the Sunni's rejectionist "no" vote may emerge as the best option for the United States. While it will delay the political process, it may finally incorporate the disenfranchised Sunni into the political establishment and empty the ranks of the insurgency.

An article in the Iraqi weekly *al-Furat* described the Iraqi dilemma over the American role in the draft constitution process:

The most important thing is to please President Bush and submit the draft constitution on schedule. This is in order for the U.S. president to appear on television screens the following day, with a striking Hollywood smile, announcing to his competitors as well

as rivals the success of his policy in Iraq, as the success of US. strategy depends solely on the submission of the Iraqi draft constitution on schedule. President Bush is forgetting that the Iraqi people are the referee and have the first and final word on whether to endorse the draft constitution or not.⁴³

The commentary underlines the perceptions of the American role in the process as a means of satisfying Bush's domestic agenda. As a result, Iraqi leaders have stressed that the United States did not pressure them during the drafting process in the hope of giving the document the appearance of a purely Iraqi charter, as opposed to the TAL. Ibrahim al-Ja'fari, Iraq's prime minister denied any pressure: "Personally, no one has put pressure on me, and I do not allow anybody to blackmail me. The only one that has the legitimate right to convince me is my people."⁴⁴ Abd al-Aziz al-Hakim, leader of SCIRI, denied that the Americans influenced the process. In a TV interview, he stated:

Perhaps you still remember when the Americans occupied Iraq, they wanted the Iraqi constitution to be drafted in locked rooms and then be presented before the Iraqis for implementation. But there was a clear national stand against this. The religious authority insisted that the constitution be drafted by Iraqi hands and approved by the Iraqi people. This is what we agreed on. The elections were held and this Assembly was born.⁴⁵

His statement was a clear acknowledgement that this process emerged as a result of Sistani's legacy.

Mahmud Uthman, a non-aligned Kurd who first sat on the IGC and later on the Constitution Drafting Commission, argued in an interview with the *Sharqiyya* network that the Americans believe that anything that relates to Iraq relates to America. Yet, he stated that U.S. Ambassador Zalmay Khalilzad played an impartial role during the process.⁴⁶ Ironically, al-Hashimi of the rejectionist Iraqi Islamic Party described the U.S. in a positive manner in an interview with the Milan-based paper, *Corriere della Sera*. He said, "In this mess over the constitution, for once they have conducted themselves well." Prior to the January elections, his party condemned the United States as heavy-handed "occupiers," but during this interview he said, "Instead, in this impossible birth, the Americans have conducted themselves like impartial midwives." He acknowledged that the United States, for once, intervened on behalf of the Arab Sunni, who pushed for their inclusion on the drafting committee.⁴⁷ In fact, al-Hashimi maintained a dialogue with the American side and held a meeting with the U.S. ambassador to express the views of his party vis-à-vis the Unified Iraqi Coalition and the Kurdistan List.⁴⁸

A writer in the Baghdad paper, *Al-Ittijah al-Akhar*, representing the views of the Misha'n al-Juburi's Iraqi Homeland Party acknowledged that the United States has begun to work on behalf of the Arab Sunni. She says, "The goal of Washington is that the commitment of Sunni to the constitution will help in reducing the urge of Sunni resistance and in the meantime, to deprive Jihadists, who come across the borders to fight in Iraq,

from any justification."⁴⁹ Jiburi's party is sympathetic to the Sunni rejectionist view and demonstrates how some figures and media outlets among the Arab Sunni have softened their stance towards the United States.

However, among the sample of 500 broadcast and print media articles used for this analysis, the negative views far outweighed the positive. While Hashimi's views of the U.S. role among the Sunni rejectionists were positive, the NDC and AMS criticized the constitution as an American tool to divide the nation. Salih al-Mutlaq of the NDC states, "President Bush, who wants to tell the American people: I have the elections held on the day I decided."⁵⁰ Thus he views the Iraqis' failure to meet the August 15 deadline as a means of resisting U.S. demands to accomplish the draft by "a sanctified deadline."⁵¹ He further states that the rush in the constitutional process was due pressure from "Bush and Iran," ironically working together when it comes to Iraqi issues, in his view.

The AMS represents the more extreme views within the Sunni rejectionist spectrum. Al-Kubaysi, a cleric associated with the group, said in an interview with al-Jazira, "We are, therefore, the weaker link and we must not agree to write a constitution in agreement with Rumsfeld, Khalilzad, or others. Iraq does not need a state whose age is no more than two and a half centuries. We are an ancient nation in history. We are the first to write the alphabet and enact constitutions."⁵² *Al-Basa'ir*, the newspaper issued by the AMS, stressed that the constitution was heavily influenced by

unwanted American input. An editorial writes, "Some of these people even stated that the Americans have told them: We will come up with a constitution for you if you do not reach an agreement,"⁵³ alleging that the United States made such an implicit threat to some of the drafters.

DEBATES OF COALITION MEMBERS ON THE CONSTITUTION

Iraq's "Ethnic Divide" and the Constitution

The necessity of re-examining Iraq's constitutional debate outside of a narrow tri-ethnic prism is evident in how various media outlets provide disinformation on the subject. An editorial in London's *The Sunday Telegraph* demonstrates how BBC coverage stresses these divisions between Iraqis. During an interview on the constitution, Dun al-Zubaydi took offense when James Naughtie on the BBC's Today program introduced him simply as "a Sunni." Zubaydi responded, "May I ask you to describe me as an Iraqi, not as a Sunni," emphasizing that his Iraqiness formed the basis of his loyalty.⁵⁴ Even the Arab media could not resist falling into the trap of debating Iraq's constitution through a tri-ethnic lens. In an interview with the Dubai-based *al-Arabiyyah* weekly program, "Plain Arabic" Iraqi President Jalal Talabani was asked whether the Sunni will boycott the referendum on the constitution on October 15. Talabani said, "First of all, I would like to correct the term Sunni. I am a Sunni, too. Most of the Kurds are Sunni. I think you mean the Sunni Arabs."⁵⁵

The reported schism between Iraq's Sunni and Shi'a Arabs are essentially based on sectarian differences, nevertheless these groups are described as monolithic ethnic entities in certain media outlets. For example, one German daily states: "The three large

ethnic groups should first try to find a way of living together that reflects the power-political realities in Iraq as accurately as possible, modifying and adjusting it to the actual situation at a later date."⁵⁶ A Canadian daily describes Iraq's social fabric as the following: "After all, Iraq is a nation of 27 million split along three vast fault lines: Shia and Sunni Muslim Arabs, and Kurds. Saddam held it together, just barely, with a reign of terror."⁵⁷ Such a statement glosses over more visible "fault lines" in Iraq, such as class, rural-urban, religious-secular, and tribal divisions within the three communities. The comment in the daily also alludes to another generalization in that these three communities were kept together through a reign of terror, ignoring the fact that the three communities managed to co-exist from 1921 to 1979, before Hussein's rise to power.

Essentializing Iraqis into three ethnic categories has led to other erroneous commentaries on Iraq's constitutional debate. The most prominent among them is the notion that Iraq's Shi'a, as an ethnic group, will automatically seek to emulate the system of governance in Shi'a Iran via the draft constitution. In another German daily an editorial states, "The Shiites are more likely to listen to their (political) brothers in faith in Iran. They had relied on them already back in 1991, when they dared rise up against Saddam after the liberation of Kuwait and the United States failed to come to their assistance. At the time, Shiite underground fighters of the Sciri and Dawa parties found shelter in Tehran." It is still debatable whether the Iranians played a role in the 1991 uprising, and in fact some Shi'a have mentioned to the author their resentment over Iran not intervening to protect them from the onslaught of Iraq's Republican Guards who

ultimately quelled the rebellion. While Iran granted sanctuary to SCIRI and Da'wa, they also provided such arrangements for the secular, Kurdish Sunni KDP and PUK in the past. The editorial continues by stating: "The objectives of the three major *ethnic* groups differ so much that they are impossible to meet in a central state. The Shiites want a second Shiite-Islamic republic."⁵⁸ One of the few Shia clerics who has urged the creation of a second Islamic republic is Muqtada al-Sadr, who has stated that Iraq should be based on theocratic rule similar to Iran. Nevertheless, he had no role in writing the constitution and has rejected the document, thus contradicting the editorials comments.

The United States

This process has been closely watched in the United States, perhaps as much as in Iraq itself. As Brown stated, "A diverse group of official and unofficial actors have lobbied the American government (in order to pressure the constitution drafters) on a variety of matters related to women's rights, minority rights, religious rights, and Islam."⁵⁹ Two cases of American commentary on Iraq's constitution deserve special attention.

Freedom House describes itself as, "a non-profit, nonpartisan organization, is a clear voice for democracy and freedom around the world." On August 4, 2005, the chairman wrote a widely circulated letter to Secretary of State Condoleezza Rice stating, "To ensure a truly free Iraq, the United States must apply effective pressure on drafters to respond to Iraqi civil society groups pushing for inclusive, democratic constitutional language."⁶⁰ Nevertheless, the aforementioned section in the article, entitled,

"Iraqi Perceptions of the American Role" in this process has demonstrated that American pressure on the drafters could ultimately undermine the constitution's legitimacy among the Iraqi masses.

The letter continues to say, "The world has seen how similarly worded constitutions- in neighboring Iran and Saudi Arabia, for example-have led to disastrous restrictions on the rights of women, ethnic minorities and religious minorities, including some Muslims, to practice their religion-or not to do so- as they choose."⁶¹ The letter proves unnecessarily alarmist and ignorant of the regional realities of the Middle East. First, the drafter of this letter is unaware of the fact that Saudi Arabia has no constitution. Second, such a comment is misleading, as its fears the mention of Islamic law or Shari'a in the Iraqi constitution. However, such mention of Islamic law is not unique among constitutions of Arab countries that are otherwise considered secular. The Syrian, Kuwaiti, and Egyptian constitutions have all introduced Islamic law as a source of legislation. It was the constitution in Ba'thist Iraq that resisted this trend in the Arab world.⁶²

The U.S. Commission on International Religious Freedom (USCIRF), an independent federal agency, addressed a letter to Ambassador Zalmay Khalilzad in late July.⁶³ The letter stresses the need to secure the religious rights of Iraqi Christians such as "Chaldo-Assyrians... [and] Baha'is in the constitutional drafting process." The last statement is surprising given that while Baha'is are present in Iran, the author has never heard of a Baha'i population in Iraq. The letter continues to criticize the Iraqi draft

for its omission of parts of "language found in the TAL." It concludes, "And on substance, the United States cannot, and should not, stand silent."⁶⁴ While the TAL was one of the most progressive documents in the region, the way it was drafted proved to be unpopular among the Iraqis. The TAL was never designed to serve as a basis for the permanent constitution, hence the title, "Transitional Administrative Law."

This commission later published an op-ed in the *Washington Post*, stating, "In a significant rollback from language in the interim constitution, known as the Transitional Administrative Law (TAL), current drafts would threaten regional stability and thwart stated U.S. goals of promoting freedom and democracy."⁶⁵ While the region has rejected the clauses calling for federalism in the draft constitution, it seems unlikely the charter itself could destabilize the region, especially in comparison to the destabilizing effects that have occurred in the wake of the actual 2003 war. The op-ed further exaggerates the threat posed by the Islamists in Iraq's constitution by stating that "Sharia jurists who may have no education or experience in civil law- placing Iraq's judiciary in the company of those in Iran, Saudi Arabia, Afghanistan and Pakistan, which allow judges without traditional legal training to decide matters pertaining to constitutional law."⁶⁶ The op-ed concludes with the following: "The United States has fought a war of liberation for Iraq, at great cost in blood and treasure. It must not settle now for anything less than the vision articulated by Rice: 'a strong and vibrant and vital democracy here in the heart of the Middle East.'" Nevertheless, a heavy U.S. hand in drafting the constitution, as the op-ed calls for, would have certainly garnered

enough "no" votes among the Iraqis to ensure the draft constitution would emerge as an artifact of Iraq's history. The tone of both the Freedom House and USCIRF letters ignores the reality that it is not the Americans, but the Iraqis who are responsible for writing a document that suits the realities and complexities of their nation.

United Kingdom

The debate within the U.K. fluctuates between media reports optimistic about the constitutional progress and those who predict the document will lead to Iraq's demise. An editorial in the London *Times* entitled, "Freedom and Unity" stresses that the draft Iraqi constitution "represents genuine progress." Another commentary in the same paper may serve as one of the more realistic assessments of a constitutional process that has been generally misunderstood:

In any case, the criticism of the Iraq constitution-in-progress is overdone. It is not a perfect model of democracy; it was never going to be. But neither does it enshrine an Iranian-style Islamic law. Not the least important evidence for that is that Iraq's Shia leadership, having watched with disdain and alarm events to their east, have no desire to model their country on the powder-keg theocracy next door.⁶⁷

Opposed to this commentary, critical editorials from numerous London dailies overplay the fear that the constitution is Iraq's first step towards evolving into an Islamic Republic. An editorial in the London *The Guardian* states, "The Islamisation of Iraq, through the proposed enshrining of a role for clerics in the courts and law-making, takes

the Shia-controlled south closer to the theocratic Iranian model."⁶⁸ This recurring theme of Iraq's Shi'a attempting to emulate Iran's Shi'a state is further evidence of how the notion of Iraq's tri-ethnic prism manifests itself in the media.

In a commentary in the London *Independent*, Patrick Cockburn writes, "Once again, a single development--whose long-term significance is unclear--is being oversold as a breakthrough on the road to establishing a new Iraq."⁶⁹ Cockburn is correct as the handover of sovereignty in June 2004 and the elections in January 2005 were viewed by the United States as "breakthroughs" in ending the violence in Iraq, but have proved otherwise. However, the writing of the constitution has differed in that it has brought participants from all segments of Iraq's society into the process. Even if the Arab Sunni rejectionists will ultimately reject the draft charter, taking part in the referendum will be the first step in legitimizing Iraq's post-Saddam political structure, which would serve as a substantive breakthrough.

Italy

Italy is often the "forgotten Coalition member" or "the forgotten occupier" depending on one's perspective. In fact, the debate within Italy on Iraq's political processes is quite robust, often with fresh insights that are neglected in the international debates on Iraq. Nevertheless, one media piece demonstrates how Iraq's constitution has been misrepresented in the Italian debate. In a commentary in Rome's *La Repubblica* entitled, "Thus Dies a Lay Country, with the White House's Seal of Approval," the

commentator states, "In the present Iraqi situation, elevating the sharia to the status of a fundamental constitutional norm enables the Shiite majority groups to pass legislation that can shape an Islamic republic. One different from the Iranian, but still an Islamic republic." While the commentator fears an Islamic republic can emerge in Iraq, at least he acknowledges that the Iraqi Shi'a would be unlikely to mimic Iran's system of governance.

A more objective perspective is offered in the same paper via an interview with Emma Bonino, an EU observer in Afghanistan. She states: "Almost all countries with an Islamic majority include references to Islam in their constitutions," and that "This is the case in the overwhelming majority of the other Islamic countries, in which the presence of Islam in the legislation does not restrict civil rights." Bonino, who has experience in the region, further adds that while the Iranian revolution gave a strong role to the Shi'a hierarchy in Iran, she acknowledges, "I am still convinced that this is not the aim of al-Sistani, and of the Iraqi Shi'ites: they have never espoused the model of Khomeini's theocracy."⁷⁰

REACTIONS FROM IRAQ'S NEIGHBORS AND THE REGION

The Arab World

Relations between Iraq and the Arab world can be characterized as tense. This state of affairs is amply evident in the Arab media. At the regional level, disagreements still exist between Iraq and the Arab League, given that the body criticized the ICG as an "unelected entity" and has refused to send an ambassador to Baghdad more than two years

after the war. Amr Musa, secretary general of the Arab League, declared that the "entire Arab Nation" opposed the Iraqi constitution on the day of its release and argued that a constitution that would lead to a federal Iraq was "a recipe for chaos."⁷¹ Amr Musa's declaration may have been alarmist, given Iraq was a founding member of the body and would be unlikely to withdraw.

Some states in the Arab world fear federalism, especially those with Shi'a populations such as Bahrain and Saudi Arabia. The Saudi media has launched a vitriolic campaign to condemn articles referring to federalism in the Iraqi constitution. A Saudi editorial in the Jeddah-based *Arab News* argues that the Iraqi draft constitution serves as a "disaster in waiting." This article, like many in the Saudi press have fallen into the trap of classifying Iraqis into a tri-ethnic prism: "The two sides-- Sunnis opposing federalism and Kurds and Shiites insistent on it--are so entrenched in their positions that the very outcome the Sunnis fear from federalism--that it will lead to the breakup of Iraq--has moved a step closer to reality." The article claims that the Sunni are the champions of "the notion of Iraq," ignoring the Arab Shi'a who fought in an eight-year war with Iran to defend the Iraqi nation. The article further states, "What worries the Sunnis, and rightly so, is a federal system that gives the Kurds and the Shiites all the oil wealth because the oil is in the Kurdish north and the Shiite south. Federalism can work provided that enough of Iraq's oil wealth is allocated centrally to ensure that everyone benefits." Ironically, in Saudi Arabia such a formula has not been applied where most of the oil lies in the predominantly Shi'a dominated al-Hasa

province that has seen little benefit from an equal allotment of Saudi oil.⁷²

Of Iraq's neighbors, tensions between Iraq and Syria are particularly tense, and this has been evident in the Syrian media. Jalal Talabani, president of Iraq, expressed his outrage over an article that appeared in the Syrian paper *Tishrin* :

It was dripping with poison against the Iraqi people and their cause and glorifying the terrorists describing them as resistance men. The paper was supposed to defend the Iraqi people and their cause or at least condemn those who kill the Shiite and Sunni Arabs. If they want to solve their problem with the Americans, they are welcome and this is their own business. But is killing the women, children, and people in mosques and churches an Arab resistance?⁷³

Syrian papers have also vehemently criticized the constitutional articles dealing with a federal Iraq. The Damascus based *al-Ba'th* paper featured a commentary arguing, "But the American objective of dwarfing Iraq through the recipe of federalism as a prelude to dismantling the Iraqi state as we have known it since its establishment in 1921 and ending the Iraqi national entity is not easy to realize."⁷⁴

The criticisms of Iraq's constitution in the Jordanian media deal less with federalism and more with the fear that Iraq seeks to emulate Iran's system of rule. An article in the paper *Al-Ghadd* claims that the "Shi'a Seek Implementation of Wilayat al-Faqih." The basis of his article is based on a single unnamed Iraqi source who alleges that SCIRI

will attempt to emulate Iran's Wilayat al-Faqih system.⁷⁵

Turkey

The dominant themes in the Turkish media vis-à-vis its constitutional process are the fear that federalism will result in an independent Iraqi Kurdish state which could destabilize the Kurdish population within its own borders, and that an Islamic Republic could emerge in its southern neighbor that would ultimately form an alliance with Iran and threaten Turkey and its secular system. For example, Turker Alkan in a column for the paper *Radikal* claims that, "From that perspective clergymen will inevitably play a determining role in Iraq's politics just as in Iran." He also claims that a "religion-based constitution," will lead to a government similar to "the Taliban, the Saudi government, or the Iranian regime."⁷⁶ In the Turkish daily, *Cumhuriyet*, Mustafa Balbay offers a commentary under the title, "Iraqnam," a play on the words "Iraq" and "Vietnam." He repeats a claim made in numerous media outlets that the Iraqi Shi'a seek an Islamic state through the constitution: "The Shiites, for their part, want an imam at the apex of the administration of the state. No matter who becomes government, they want an imam above them."⁷⁷ The author argues that the Kurdish demands for a federal Iraq were dropped after Sistani allegedly issued an edict condemning federalism: "After this statement the Kurds appeared to have shelved their demands for a federation. It seems to us that it was the Bush administration that made al-Sistani... issue this statement."⁷⁸ It is unclear if the author is being sarcastic or conspiratorial minded, but the notion that the U.S. ordered Sistani to issue the edict is far-

fetched, given that Sistani refuses to meet an American official and such an edict was a mere rumor that Sistani later denied.

Iran

Within the region, the Iranian media have been the most supportive of Iraq's constitutional process. This seems unusual given the heterogeneous fabric of Iran, where Azeris, Kurds, and Arabs have expressed desires for various degrees of autonomy in the past. Nor do the Iranian media seem enthusiastic that another Islamic Republic will form on its borders. Perhaps the support for Iraq's constitutional process lies in the realization that it will expedite an American exit from Iraq, which seems to be the Islamic Republic's overriding security concern.

For example, the state-run Islamic Republic of Iran News Agency (IRNA) released a news item on August 22, urging Iraqi leaders to reach a consensus on the draft constitution, warning that failure to do so would only further destabilize the country.⁷⁹ The day after, Iran's Foreign Ministry Spokesman, Hamid-Reza Asefi, praised the Iraqi constitution as "very valuable" and encouraged its development.⁸⁰ The IRNA TV network also gave an indirect congratulatory message to the United States by stating, "The U.S. acceptance of the Iraqi people's desire to have an Islamic society is a great achievement for the Iraqi nation."⁸¹

Assessing the International Debate on Iraq's Constitution

The purpose of the section was to highlight the dilemma over misinformation in the media outlets vis-à-vis the constitutional debate. Many of these commentaries seek to

lobby and influence the United States in taking a greater role in drafting the document. Not only are such commentaries erroneous, but the act of international lobbying itself could undermine the legitimacy of the Iraqi constitution as a charter developed by the Iraqis, for the Iraqis.

A large portion of the reporting of Iraq's constitutional debate is based on fears of an Iraqi Islamic Republic or a disintegrating Iraqi state. Such commentaries are counter-productive and fail to give moral support to elements within the process, elements which seek only security for their nation rather than a "second Iran" in the Arab world. Such misinformation has had disastrous effects on Iraq's communities, especially the Kurds and Shi'a. The prevalent thinking in the United States during the 1980s and 1990s was that the Iraqi Shi'a were an ethnic group that would automatically follow Khomeini's lead after the 1979 Revolution. Such misguided analysis influenced policy makers in the United States and could be attributed as one of the reasons why the United States failed to intervene during the 1991 uprising in the south of Iraq. This matter is merely speculative at this point, but had the United States had a better understanding of the Iraqi Shi'a in 1991 and supported the revolt at that juncture, perhaps the entire 2003 Iraq war could have been avoided. Nevertheless, while it is useful delving into the past, the letters from Freedom House and the Commission on International Religious Freedom indicate that such misperceptions are still present and could undermine American support for various Iraqi Shi'a factions who have a genuine interest in a democratic constitution, rather than a theocratic regime.

IMPLICATIONS FOR CONTINUING VIOLENCE

The United States seems optimistic that the constitutional process will undermine support for the Iraqi insurgency by including elements among the disenfranchised Sunni in the political process. These Sunni have indicated their willingness to engage in this process, albeit to defeat a constitution they find detrimental to their community's interest. While a unanimous rejection of the charter could be viewed as a defeat by some American circles, the very fact that these Sunni opposed the document with ballots as opposed to rifles could serve as a victory in itself. Yet at the same time, the constitution could fail to unite the country's various factions if it is unable to deliver their core demands. This would only swell the ranks of the insurgency and exacerbate Iraq's otherwise violent political dynamics.

Hammudi, chairman of the constitutional process, stated in regard to the October elections, "All Iraqis of all political shades will participate in the referendum. They will say yes or no. We will all participate in the parliamentary elections at the end of the year. The healthy sign in the political process in Iraq is that all have finally agreed that the ballot boxes are the right way to maintain order and political activity instead of bombings, plotting, and killing."⁸² His statement acknowledges that there are factions that oppose the constitution, but their mere presence in the election process would serve as a victory in itself.

Elements within Iraq's Sunni community who have expressed sympathies with the insurgency, stated that they are currently willing to take part in the "Get-Out-The-No-Vote." Al-Luhaybi, a tribal leader in the NDC

who has expressed his objections to the constitution, has said, "We will strongly participate in the elections, even if ballot boxes are blown up. We will participate, even though, we are threatened by extremists."⁸³

Mizhar Hamdani, a tribal chief in another insurgent stronghold south of Baghdad, (between the towns of al-Yusufiyya, al-Mahmudiyya, and al-Latifiyya) stated, "The guerrilla movement will not hold its fire over the coming months, but on the day of the referendum, the day of our victory, it will look on from the sidelines."⁸⁴ His comments indicate that those willing to reject the constitution will not be deterred from violence. While the insurgents threatened to target anyone taking part in the January elections, especially in the Sunni dominated areas where they operate, it remains to be seen if they will allow voters to cast their ballots in the October 15 referendum. Insurgents did kill three members of the IIP while they were attempting to place posters in Mosul that were encouraging voters to reject the constitution. They were killed on charges of being "infidels" and "opponents of Islam." Tracts have circulated in the Sunni areas threatening to kill anyone registering to vote in the upcoming elections. In towns such as al-Ramadi in the al-Anbar province, tribal leaders have offered to provide security for those willing to vote on the draft charter. In this town, Hasan Zeidan, head of the National Front of Iraqi Tribes, which is part of the NDC stated, "There are people who are trying to cause the electoral process to fail. But this time we are ready to participate until the end, even if that risks seeing the polling stations explode!"⁸⁵

However, the al-Qa'ida Organization in the Land of Two Rivers (Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn) has vowed to kill anyone taking part in this process, regardless of their sect or ethnicity. The Media Division of Abu-Musa'b al-Zarqawi's al-Qa'ida of Jihad Organization in the Land of the Two Rivers, released audio clips from officials in their Legal Council that provide their religious legitimization for striking at anyone taking part in the constitutional process. The first "edict" by Shaykh Abu-Islam al-Qahtani stated that the punishment is death for those who "chose to write a constitution to manage life's affairs instead of God's constitution."⁸⁶ The edict demands that, "the soldiers, policemen, followers and supporters of those apostates" (i.e., the United States and the Iraqi government) repent immediately and join their forces.

The second "edict" released by Shaykh Abu-Hamza al-Baghdadi is entitled, "The Constitution, the Creed of the Infidels." It argues that "the election is a wicked outgrowth of the many outgrowths of democracy, which is the greatest act of polytheism in this day and age," and that all Muslims are ordered to not believe in democracy or a constitution. He argues that, "writing the constitution is one of the most contradictory things to monotheism and God's religion and that the one who writes it has placed himself as equal with the Creator of heaven and earth, with whom no human has the right to legislate laws because legislation is one of the distinctive qualities of God."⁸⁷ The edict specifically addresses Iraq Sunni stating, "So you Sunnis in the Land of the Two Rivers, the right thing to do is that your arms should bear the slaying

swords to battle the worshippers of the cross, the Americans, and their supporters among the apostate blasphemous rejectionists" (i.e., the Shi'a). Such a statement indicates that Iraqi Arab Sunni could be targeted during the vote, despite the fact that some may be voting to reject the document. In al-Qa'ida's opinion, Arab Sunni should not even take part in the vote, as the only means to expel the United States from Iraq is via armed struggle. Regardless of the outcome of the constitutional process, this faction within the insurgency will continue its violent campaign until it has achieved its goals, which would be akin to a Talibanesque state in Afghanistan.

CONCLUSION

The purpose of this analysis aimed to demonstrate that the draft constitution did not receive consensus among all parties, despite concessions from all sides, and that reaching such consensus may be impossible given the demands articulated by the various parties. The issue of federalism is the core demand of the Kurdish and Shi'a political parties in the Assembly, but would not satisfy all the Arab Sunni factions. Kurds conceded on Shi'a demand for a greater role of Islam in the constitution, in exchange for a greater degree of autonomy in the north, creating a federal system to which the Sunni parties objected. While bargaining among three parties was difficult, the parties themselves suffer from divisions. Secular Shi'a like Iyad Allawi and religious figures such as Muqtada al-Sadr oppose federalism, yet some Arab Sunni were involved in writing those very articles.

Examining the constitutional debate in Iraq has revealed a troubling phenomenon in Iraq's politics--its increasing ethnic and sectarian nature. In the aftermath of the fall of

the Ba'th, politics in Iraq has shifted from a clan that monopolized power to a plurality of competing ethnic and sectarian based parties, opposed to issue-based parties. While differences between various ethnic and sectarian groups have been ever-present in Iraq, these differences were never articulated in public debate, nor used as a basis to criticize the other. This past tendency all but ended with the constitutional debate, where ethnic and sectarian labels proliferated in the political discourse. The prospect of a civil war is still a matter of debate, but a "civil war of words" has definitely emerged within this process. The violence which has gripped post-Saddam Iraq prevented the emergence of a stable politic process, creating a vacuum which forced Iraqis to seek refuge, protection, and representation via their sectarian and ethnic parties. While the media has over-simplified Iraq's social divisions along the lines of Sunni, Shi'a, and Kurd, the post-war chaos has preordained Iraq's destiny, where misperceptions are slowly becoming reality.

One of the most persistent misperceptions is that the Shi'a of Iraq, as a monolithic group, will use the constitution as a means for their parties to establish a separatist Islamic Republic. Similar thinking proved unfounded during the Iran-Iraq War, as the Shi'a of Iraq resisted Khomeini's exhortations to revolt against the Iraqi government, proving that their national loyalties overrode their sectarian identity. Moreover it demonstrated that some Shi'a were simply resistant to the Ayatollah's vision of an Islamic Republic in Iraq. Yet, in the chaos that has become the post-Saddam political order, the Shi'a--who have been considered ethnically Arab just like Iraq's Sunni--are emerging as an independent ethnic group.

This evolution parallels that of the Bosnian Muslims, another religious community which emerged as an ethnic group during their civil war.

Elements of the Iraqi Shi'a, at one time, were the vanguard of the Arab nationalist movement in Iraq. In the beginning it was those Shi'a who swelled the ranks of the Arab Socialist Ba'ath Party. The UIA's calls for a federation indicate a new trend in Iraqi political thinking. In the 1980s and 1990s, Shi'a parties claimed the entire nation of Iraq as theirs, as they were the majority after all, and they dismissed any notion of attempting to form a pro-Iranian Shi'a mini-state in the south of Iraq. The recent calls for federalism could be viewed as an indirect disenchantment with the Iraqi nation. The insurgency and increasing violence in the center has spurred them to at least keep the peace in their areas and to leave the Arab Sunni to their fate. The Shi'a parties are unlikely to call for secession from Iraq. However, like the Kurds, they have shown that they want to disassociate themselves from the instability in the center, and a federated region in the south could be an "insurance policy" if the center does collapse.

In this post-Saddam structure, the few secular parties that have attempted to transcend these ethnic and sectarian differences include the Iraqi National Accord and the Iraqi Communist Party, both of which lack a large base of grassroots support and were unable to heavily influence the outcome of the constitutional process. Even if the constitution passes on October 15, it will not solve this problem entrenched in Iraq's political landscape.

The question remains as to how the Iraqis will vote on October 15. The UIA and KLC will urge their various constituencies to vote for the constitution on that day. While Kurds will most likely heed the call to support a document that guarantees the autonomy they have strived for, elements among the Shi'a may heed Sadr's call that the document is a foreign tool designed to divide the Iraqi nation. As long as a majority in the predominantly Shi'a and Kurdish governates vote in favor of the charter, the UIA and KLC would have achieved their aims. The voting pattern in the predominantly Sunni areas remains as a "wild card." The NDC-IIP-AMS coalition has promised to mobilize the Sunni against the charter, yet they do not have similar access to funds nor to Iraqi media outlets as do the parties in the Assembly. They have resorted to "getting-out-the-no-vote" through traditional means via Friday speeches at the mosques and holding protests.

One can view both outcomes of the constitution vote as a success, as elections will be held on December 15 regardless. If the constitution passes, elections for a permanent assembly will be held on that date and the political process will enter a new phase. If the constitution is rejected, it would not necessarily indicate a failure for Iraq. The Iraqis would have gained experience in the drafting process and would have learned what a new constitution needs to succeed a public referendum. Granted, the process will start over, but the Sunni have stated that they will not make the mistake of boycotting the elections and will seek to influence Iraq's new constitution via its politicians rather than via its insurgents.

* *Ibrahim Al-Marashi (Ph.D. Oxford University) is a visiting faculty member at Sabanci University in Istanbul, Turkey and a Fellow at the Institute for Middle East Progress.*

NOTES

¹ Ibrahim Al-Marashi, "Iraq's Microwave Democracy," *Zaman*, July 11, 2005.

www.zaman.com.

² For a historical overview of Iraq's constitutional processes see Charles Tripp, *A History of Iraq* (Cambridge: Cambridge UP, 2000) and Phebe Marr, *The Modern History of Iraq* (Boulder, Colorado: Westview Press, 2004).

³ International Crisis Group (ICG), "Iraq's Constitutional Challenge," *ICG Middle East Report*, No. 19 (November, 2003), p. 17.

⁴ *Ibid.*

⁵ *Ibid.*, p. 11.

⁶ *Ibid.*

⁷ The text of the TAL can be viewed at the CPA's website www.cpa-iraq.org. While the CPA was dissolved after sovereignty was handed over to the Iraqis in June 2004, the website will maintain its contents for "historical purposes" until June 2006.

⁸ International Crisis Group, "Iraq's Transition: On A Knife Edge," *ICG Middle East Report*, No. 27 (April 2004), pp. 24-28.

⁹ For an overview of Iraq's Election Debate see Ibrahim Al-Marashi, "Boycotts, Coalitions and the Threat of Violence: The Run-Up to the January 2005, Iraqi Elections," *Middle East Review of International Affairs News*, Issue 1, (January 2005), <http://meria.idc.ac.il/news/2005/05news1.htm>.

¹⁰ ICG, "Iraq: Don't Rush the Constitution," *ICG Middle East Report*, No 42. June 8, 2005, pp. 2-3.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ Nathan J. Brown, "Iraq's Constitutional Process Plunges Ahead," Carnegie Endowment for International Peace, July 2005, p.7.

¹⁴ "Iraq: Shiite Leader Shaykh al-Ya'qubi Comments on Constitution Draft," *Al-Furat* (Baghdad), Aug 18, 2005, p. 3, translated by Foreign Broadcast Information Service (FBIS).

¹⁵ "Al-Sistani Denies Issuing Statement Objecting to Federalism, Constitution" Al-Najaf News Network (Internet), Aug. 31, 2005, translated by FBIS.

¹⁶ Radio Free Europe/Radio Liberty, "Sunnis Weigh in on Draft Constitution," *Iraq Report*, Vol. 8, No. 30, Sept. 2, 2005.

¹⁷ "Iraq: Sunnis Reject Draft Constitution, Warn against Portioning," Al-Jazira Satellite Channel Television, Aug. 24, 2005, translated by FBIS.

¹⁸ Nathan J. Brown, "Iraq's Constitutional Conundrum," Carnegie Endowment for International Peace, August 31, 2005, p.2.

¹⁹ "Iraqi Officials on Draft Constitution Discussions, Presentation to Assembly," Al-Sharqiyah Television (Baghdad), Aug. 22, 2005, translated by FBIS.

²⁰ "Iraq: National Assembly Speaker Outlines Pending Issues in Draft Constitution," Al-Sharqiyah Television, Aug. 22, 2005, translated by FBIS.

²¹ Nathan J. Brown, "Final Update on Iraq's Constitutional Process," Carnegie Endowment for International Peace, August 12, 2005, p.3.

²² "UK Commentary Says Iraq's Political Process Failing due to 'Greed, Isolation,'" *The*

Observer, Aug. 28, 2005, transcribed by FBIS.

²³ The Arabic text of the constitution was found on the Iraqi website, "Encyclopedia of the Two Rivers," *Mawsu'at al-Nahrayn*, <www.nahrain.com>. The English translation used by the author for this section comes from the FBIS; the formatting has been slightly modified to conform with MERIA Journal's style. The author has compiled an Arabic-English version of the Constitution, included as an appendix to the article (<http://meria.idc.ac.il/journal/2005/issue3/jv9no3a8.html>).

²⁴ "Leading Iraqi Figure Al-Hakim Justifies Extension of Constitution Deliberations," *Al-Iraqiyah Television* (Baghdad), Aug. 16, 2005, translated by FBIS.

²⁵ "Italy: Iraqi Kurdish Leader Barzani Urges Secular Constitution for Iraq," *La Repubblica*, August 22, 2005, translated by FBIS.

²⁶ "Iraq: Dialogue Council Spokesman Says No Agreement Reached on Constitution," *Al-Sharqiyah Television*, Aug. 22, 2005, translated by FBIS.

²⁷ "Iraqi Turkomans Want Federation," *NTV* (Istanbul), Aug. 18, 2005, translated by FBIS.

²⁸ "Iraqi TV's Treatment of Assembly's Decision to Extend Draft Constitution Deadline," Aug. 16 2005, translated by FBIS.

²⁹ "Sunni Leader Statement Names Requirements for Acceptable Draft Constitution," *Al-Jazira Satellite Channel Television*, Aug. 24, 2005, translated by FBIS.

³⁰ "Iraqi President Discusses Draft Constitution, Security Situation, Saddam's Trial," *Al-Arabiyah Television*, Aug. 28, 2005, translated by FBIS.

³¹ "Leading Iraqi Figure Al-Hakim Justifies Extension of Constitution Deliberations," *Al-Iraqiyah Television*, Aug. 16, 2005, translated by FBIS.

³² "Al-Jazira : Iraqi Islamic Party Press Conference on Draft Constitution," *Al-Jazira Satellite Channel Television*, Aug. 23, 2005, translated by FBIS.

³³ "Italy: Iraqi Kurdish Leader Barzani Urges Secular Constitution for Iraq," *La Repubblica*, Aug. 22, 2005, translated by FBIS.

³⁴ "Iraqi Politician Explains Kurds, Women's Concerns over Draft Constitution," *Al-Zaman* (Baghdad), Aug. 20, 2005, p. 4, translated by FBIS.

³⁵ "Iraq: Politician Explains Turkoman Concerns over Draft Constitution," *Al-Furat*, Aug. 18, 2005, p. 2, translated by FBIS.

³⁶ "Iraq's Al-Jafari Denies US 'Pressures,' Views Sunni Stand on Ba'th, Federalism," *Al-Iraqiyah Television*, Aug. 28, 2005, translated by FBIS.

³⁷ "Iraq: Iyad Allawi's Bloc Voices Reservations about Deba'thification," *Al-Hayat*, Aug. 30, 2005, p. 3, translated by FBIS.

³⁸ "Iraqi Officials on Draft Constitution Discussions, Presentation to Assembly," *Al-Sharqiyah Television*, Aug. 22, 2005, translated by FBIS.

³⁹ "Iraq's VP Al-Yawir Criticizes Draft Constitution, Demands for Federations," *Al-Sharq al-Awsat*, Aug. 27, 2005, translated by FBIS.

⁴⁰ "Iraqi Newspaper Al-Thurayya on Terrorism, Political, Economic Issues in Iraq," July 17, 2005.

⁴¹ "Italy: Iraqi Kurdish Leader Barzani Urges Secular Constitution for Iraq," *La Repubblica*, Aug. 22, 2005, translated by FBIS.

⁴² "Sunni Leader Statement Names Requirements for Acceptable Draft Constitution," Al-Jazira Satellite Channel Television, Aug. 24, 2005, translated by FBIS.

⁴³ "Iraqi Constitution: Writer Criticizes US Intervention, Draft Constitution," *Al-Furat*, Aug. 27, 2005, p. 12.

⁴⁴ "Iraq's Al-Ja'fari Denies US 'Pressures,' Views Sunni Stand on Ba'th, Federalism," Al-Iraqiyah Television, Aug. 28, 2005.

⁴⁵ "Leading Iraqi Figure Al-Hakim Justifies Extension of Constitution Deliberations," Al-Iraqiyah Television, Aug. 16, 2005, translated by FBIS.

⁴⁶ "Constitution-Drafting Committee Member on Pending Issues; Sunni, Kurdish Demands," Al-Sharqiyah Television, Aug. 18, 2005, translated by FBIS.

⁴⁷ "Iraq's Al-Hashimi Calls US 'Impartial Midwives' in Constitution Talks," *Corriere della Sera*, Aug. 28, 2005, p. 9, translated by FBIS.

⁴⁸ "Al-Sharqiyah: Sunni Representatives End Meeting with US Envoy on Constitution," Al-Sharqiyah Television, Aug. 27, 2005, translated by FBIS.

⁴⁹ "Iraq: Writer Warns US, Iraqi Leaders against Excluding Arab Sunnis," *Al-Ittijah al-Akhar* (Baghdad), Aug. 27, 2005, p. 17, translated by FBIS.

⁵⁰ "Iraqi Constitution-Drafting Committee Members Interviewed on Draft, Referendum," Al-Arabiyah Television, Aug. 28, 2005, translated by FBIS.

⁵¹ "Parliamentary Blocs' Members Cited on Constitution Draft, Party Differences," *Al-Furat*, Aug. 18, 2005, p. 1, translated by FBIS.

⁵² "Iraqi Sunni Cleric Reads Statement, Answers Questions on Draft Constitution," Al-Jazira Satellite Channel Television, Aug. 24, 2005, translated by FBIS.

⁵³ "Paper Strongly Criticizes Iraqi Leaders, Accuses Them of Being Liars, Hypocrites," *Al-Basa'ir* (Baghdad), Aug. 24, 2005, p. 1, translated by FBIS.

⁵⁴ "UK Editorial Accuses BBC of Not Covering 'Reality' of Iraq's Democratic Progress," *The Sunday Telegraph*, Aug. 28, 2005, transcribed by FBIS.

⁵⁵ "Iraqi President Discusses Draft Constitution, Security Situation, Saddam's Trial," Al-Arabiyah Television, Aug. 28, 2005, translated by FBIS.

⁵⁶ "German Daily Sees Iraqi Draft Constitution as Chance to Make 'Fresh Start,'" *Die Welt*, Aug. 29, 2005, p. 6, translated by FBIS.

⁵⁷ "Canada Daily Praises Iraqi Efforts to 'Shape Their Own Destiny' in Constitution," *The Toronto Star*, Aug. 24, 2005, translated by FBIS.

⁵⁸ "German Daily Sees Lack of Time, Federalism as 'Dilemmas' in Iraqi Reconstruction," *Frankfurter Allgemeine*, Aug. 29, 2005, p. 1, translated by FBIS.

⁵⁹ Nathan J. Brown, "Constitutional Drafting Update," Carnegie Endowment for International Peace, August 8, 2005, p. 1, translated by FBIS.

⁶⁰ Text Available from the Freedom House Website, <http://www.freedomhouse.org/pdf_docs/iraq_constitution.pdf>.

⁶¹ *Ibid.*

⁶² Nathan J. Brown, "Debating Islam in Post-Baathist Iraq," Carnegie Endowment for International Peace, March 2005, p. 2.

⁶³ U.S. Commission on International Religious Freedom (USCIRF), Press Release

July 26, 2005, available at
<www.uscirf.gov>.

⁶⁴ *Ibid.*

⁶⁵ Preeti D. Bansal and Nina Shea, "Iraq Must Avoid a Rollback of Rights," *The Washington Post*, August 4, 2005.

⁶⁶ *Ibid.*

⁶⁷ "Commentary by Gerard Baker: 'The President may be waiting on a friend - but he'd be a fool to cry,'" *The Times*, Aug. 26, 2005, transcribed by FBIS.

⁶⁸ "UK Daily Says Constitution's 'Islamisation of Iraq' Could 'Prove Awkward' for US," *The Guardian*, Aug. 24, 2005.

⁶⁹ "Commentary by Patrick Cockburn: 'Another Six Months, Another Breakthrough? Treat it Sceptically,'" *The Independent*, Aug. 23, 2005.

⁷⁰ "EU Envoy in Afghanistan Weighs Arguments for Islamic Law in Iraqi Constitution," *La Repubblica*, Aug. 21, 2005, translated by FBIS.

⁷¹ "Arab League Chief Says 'Entire Arab Nation' Opposed to Iraqi Constitution," Middle East News Agency (MENA), Aug. 29, 2005, transcribed by FBIS.

⁷² "Saudi Editorial Says Iraqi Draft Constitution 'Disaster in Waiting,'" *Jedda Arab News*, Aug. 30, 2005, translated by FBIS.

⁷³ "Iraqi President Discusses Draft Constitution, Security Situation, Saddam's Trial," Al-Arabiyah Television, Aug. 28, 2005, translated by FBIS.

⁷⁴ "Syrian Paper Warns against Federalism in Iraq," *Al-Ba'th* (Damascus), Aug. 22, 2005, translated by FBIS.

⁷⁵ "SCIRI Head on Efforts to Complete Iraq Constitution on Time, Resolve Differences,"

Al-Ghadd (Amman), Aug. 19, 2005, p. 15, translated by FBIS.

⁷⁶ "Column by Turker Alkan: 'Bush (Shrub) Democracy,'" *Radikal* (Istanbul), Aug. 24, 2005, translated by FBIS.

⁷⁷ "From the column 'Agenda' by Mustafa Balbay: 'Iraqnam,'" *Cumhuriyet*, Aug. 23, 2005, translated by FBIS.

⁷⁸ *Ibid.*

⁷⁹ "Iranian Paper Urges Iraqi Leaders to Reach Consensus on New Constitution," *IRNA* (Tehran), Aug. 22, 2005, transcribed by FBIS.

⁸⁰ "Iran: Foreign Ministry Spokesman Welcomes Codification of Iraqi Draft Constitution," *IRNA*, Aug. 23, 2005, transcribed by FBIS.

⁸¹ "Iran TV: US Acceptance of Islam-Based Constitution 'Great Achievement' for Iraq," Vision of the Islamic Republic of Iran Network 1, Aug. 23, 2005, translated by FBIS.

⁸² "Iraqi Sunni Leader Interviewed on Constitution Draft, Other Issues," *Al-Bayyinah* (Baghdad), Aug. 14, 2005, p. 8, translated by FBIS.

⁸³ *Ibid.*

⁸⁴ "Iraq: 'Influential' Tribal Chief Predicts Massive Turnout against Constitution," *Corriere della Sera*, Aug. 23, 2005, translated by FBIS.

⁸⁵ "French Report Explains Renewed Interest in Political Process by Iraq's Sunnis," *Le Figaro*, Aug. 23, 2005, translated by FBIS.

⁸⁶ "Al-Zarqawi Group's Legal Council Issues Statements Condemning Aiding 'Polytheists,' Participating in Writing Iraqi Constitution," Jihadist Websites, Aug. 12, 2005, Report in Arabic by FBIS.

⁸⁷ *Ibid.*