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IRAQ: NEXT STEPS—HOW CAN DEMOCRATIC INSTITUTIONS SUCCEED IN IRAQ AND THE MIDDLE EAST?

HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

SEPTEMBER 24, 2003

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IRAQ: NEXT STEPS—HOW CAN DEMOCRATIC INSTITUTIONS SUCCEED IN IRAQ AND THE MIDDLE EAST?

WEDNESDAY, SEPTEMBER 24, 2003

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 2:36 p.m. in Room SH–216, Hart Senate Office Building, Hon. Richard G. Lugar (chairman of the committee), presiding.

Present: Senators Lugar, Hagel, Brownback, Alexander, Biden, and Feingold.

The CHAIRMAN. This hearing of the Senate Foreign Relations Committee is called to order. One of the most difficult challenges that we face in working to rebuild Iraq is establishing a new Iraqi Government with a constitution developed and approved by the Iraqi people. In United Nations Security Council Resolution 1483, adopted unanimously on May 22, 2003, the international community called for the establishment in Iraq, "of a representative government based on the rule of law that affords equal rights and justice to all Iraqi citizens without regard to ethnicity, religion, or gender."

The United States is committed to this goal. A number of nations want to accelerate this self-governance process and are calling for the transfer of full power to Iraqis within months. Yet United States officials estimate that preparing Iraq for democracy will take much longer. Ultimately, all agree that Iraqi citizens must take full responsibility for Iraq's governance as soon as possible.

According to Ambassador Bremer, who testified before the committee this morning, the process to establish full Iraqi sovereignty is well underway. A critical first step was taken with the naming of the 25-member Iraqi interim Governing Council in July 2003. The Council's decision to set up a constitutional development committee is another important advancement, but the recent attempt to assassinate Dr. Al-Hashemi, one of the few women on the Iraqi Governing Council, is reflective of the dangerous obstacles this process must still overcome.

Although 95 percent of all Iraqis are Muslim, Iraq has been split for centuries along sectarian, ethnic, and tribal lines. Distrust among Shi'ites, Sunnis, Kurds, and other groups has been fueled by generations of political repression. Women have not participated significantly in governance in Iraq. In addition, until a vehicle for "truth and reconciliation" is found, deep divisions will continue to

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exist in Iraqi society between victims of the Hussein regime and the Ba'athist supporters.

The dilemma of allowing Iraqis to freely choose their own form of government is that elections may produce an Iranian-style theocracy or some other type of government that is inimical to the stable development of Iraq, to efforts against terrorism, or to other United States interests. Yet the legitimacy of any new government requires some degree of electoral involvement, clearly by the Iraqi people.

The Coalition Provisional Authority cannot simply dictate the results, and Ambassador Bremer said as much today in another hearing in response to questions from Senators. The more control the CPA asserts, the less legitimate the process will be viewed by the Iraqis and perhaps by other Arab nations. We have asked our witnesses today to consider this challenge and to give us their guidance on how democratic institutions can succeed in Iraq, and more broadly, in the Middle East. We intend to explore what kind of democracy is possible in Iraq and what constitutional ideas are likely to be the most relevant. If democracy succeeds in Iraq, what effect will this success have on Iraq's neighbors and the prospects for democratic liberalization throughout the region?

Our committee is pleased to welcome Dr. Noah Feldman, an assistant professor at New York University School of Law; and Dr. Phebe Marr, former senior fellow of the National Defense University and author of the recently published book, "The History of Iraq." We are grateful for copies of the book. I've read the reviews and look forward to reading this volume. Dr. Rami Khouri, executive editor of The Daily Star in Beirut, Lebanon, is with us, as is Dr. Isam al-Khafaji, a professor at the University of Amsterdam, and former member of the State Department's Future of Iraq Project and Iraq Reconstruction and Development Council. These experts have a broad range of experience to draw on to assess prospects for the development of democracy in Iraq and the Middle East. We deeply appreciate their joining with us today.

This hearing is the third in a series of hearings in the last 2 days that are designed to frame the issues that Congress must address as it considers President Bush's $87 billion supplemental funding request for Iraq. This request, as we heard from Ambassador Bremer this morning, includes assistance to reach out to the grassroots in Iraq and educate Iraqis on their historic opportunity to develop a new constitution and governance system.

The stakes are clearly high. Ensuring that democratic institutions succeed in Iraq must be one of the highest priorities of United States policy in Iraq reconstruction. We look forward to discussing these issues with each one of you. I would like to call upon the witnesses in this order. First of all, Dr. Feldman, then Dr. al-Khafaji, then Mr. Khouri, and finally Dr. Marr, and I will ask you to proceed for a reasonable time. We will not have stringent time limits because our purpose is to hear you today to get the full benefit of your ideas.

I will be joined in due course by colleagues, who may still be occupied at lunch or in the debate on the Appropriations bill, and when Senator Biden appears, he will be recognized to give an open-

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ing statement as the distinguished ranking member of our committee.

[The opening statement of Senator Lugar follows:]

OPENING STATEMENT OF SENATOR RICHARD G. LUGAR

One of the most difficult challenges that we face in rebuilding Iraq is establishing a new Iraqi government with a constitution developed and approved by the Iraqi people.

In United Nations Security Council Resolution 1483, adopted unanimously on May 22, 2003, the international community called for establishment in Iraq of "a representative government based on the rule of law that affords equal rights and justice to all Iraqi citizens, without regard to ethnicity, religion or gender." The United States is committed to this goal.

A number of nations want to accelerate this self-governance process and are calling for the transfer of full power to the Iraqi's within months. Yet, U.S. officials estimate that preparing Iraq for democracy will take much longer. Ultimately, all agree that Iraqi citizens must take full responsibility for Iraq's governance as quickly as possible.

According to Ambassador Bremer, who testified before the Committee earlier today, the process to establish full Iraqi sovereignty is well under way. A critical first step was taken with the naming of the 25-member Iraqi Interim Governing Council in July, 2003. The Councils' decision to set up a constitutional development committee is another important advancement. But the recent attempt to assassinate Dr. Al-Hashemi, one of the few women on the Iraqi Governing Council, is reflective of the dangerous obstacles this process must still overcome.

Although 95 percent of all Iraqis are Muslim, Iraq has been split for centuries along sectarian, ethnic, and tribal lines. Distrust between Shi'ites, Sunnis, Kurds, and other groups has been fueled by generations of political repression. Women have not participated significantly in governance in Iraq. In addition, until a vehicle is found for "truth and reconciliation," deep divisions will continue to exist in Iraqi society between victims of the Hussein regime and Ba'athist supporters.

The dilemma of allowing Iraqis to freely choose their own form of government is that elections may produce an Iranian-style theocracy or some other type of government that is inimical to the stable development of Iraq, to efforts against terrorism, or to other U.S. interests. But the legitimacy of any new government requires some degree of electoral involvement of the Iraqi people. The Coalition Provisional Authority cannot simply dictate results. The more control the CPA asserts, the less legitimate the process will be viewed by the Iraqis and by other Arab nations.

We have asked our witnesses today to consider this challenge and give us their guidance on how democratic institutions can succeed in Iraq, and more broadly, in the Middle East. We intend to explore what kind of democracy is possible in Iraq and what constitutional ideas are likely to be the most relevant. If democracy succeeds in Iraq, what effect will this success have on Iraq's neighbors and the prospects for democratic liberalization throughout the region?

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These experts have a broad range of experience to draw on to assess prospects for the development of democracy in Iraq and the Middle East. We appreciate their joining us today.

This hearing is the third in a series of hearings designed to frame the issues that Congress must address as it considers President Bush's $87 billion supplemental funding request for Iraq. This request, as we heard from Ambassador Bremer this morning, includes assistance to reach out to the grassroots in Iraq and educate Iraqis on their historic opportunity to develop a new constitution and governance system.

The stakes in Iraq are high. Ensuring that democratic institutions succeed in Iraq must be one of the highest priorities of U.S. policy in Iraq reconstruction. We look forward to discussing these issues with you.

The CHAIRMAN. But for the moment, I would like to recognize you, Dr. Feldman, and ask you to proceed with your testimony.

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STATEMENT OF DR. NOAH FELDMAN, ASSISTANT PROFESSOR OF LAW, NEW YORK UNIVERSITY SCHOOL OF LAW, NEW YORK, NY

Dr. FELDMAN. Thank you very much, Mr. Chairman. May I begin just by saying how honored I am to be asked to appear before this committee and to discuss this important subject of developing democratic institutions in Iraq. I speak on the basis of recent experience in Baghdad, where I served as senior adviser for constitutional law to the Coalition Provisional Authority, and on the basis of continuing experience in consulting with the Iraqis themselves, who are participating in creating a constitutional process for the new Iraq.

Mr. Chairman, there's a general question that looms over any discussion of democratizing Iraq or the region, and that question is whether Islam and democracy are compatible. I believe the answer to that general and enormously important question is a resounding yes, and elsewhere at some length in a book I wrote called "After Jihad" I tried to explain why I think this is the case.

But my answer matters much, much less than the fact that the United States of America, by leading the coalition into Iraq, has now also answered this question in the affirmative. By removing Saddam Hussein and declaring our commitment to ensuring freedom and self-government for Iraqis, the government of the United States has now committed itself to the viability of democracy in Iraq, a country which is predominantly Arab and overwhelmingly Muslim.

As a consequence, it is now in our vital self-interest to make certain that democracy in Iraq succeeds. If democracy does not succeed in Iraq, our presence will increasingly be perceived as imperial occupation throughout the region, and the deep skepticism about American motives, which already exists in the Arab and Muslim worlds, will turn increasingly and explicitly into condemnation, not merely of our presence, but of our long-term intentions in the region.

We also, I believe, have a pressing moral duty to enable Iraqis to create a life for themselves that is better than the one that they suffered under for the last 35 years and under which they were living when we first entered the country.

I believe that the basic state of affairs in Iraq today can be summed up relatively straightforwardly. There are two tracks, one political and one security-based. The security track is facing enormous setbacks and challenges. The political track, on the other hand, is going remarkably well, indeed much better than many would have predicted prior to the war.

The main features of success on the political track are these: First, the Kurdish parties, specifically the PUK and the KDP, that had long been at odds with each other, are actually working extremely well together and are often offering a kind of leadership to the rest of the Governing Council that is reflected in the stance of unity that they've taken. Rather than calling for the independence of a Kurdish state, as some in the region feared, the Kurds are instead sticking to the vision of a federal Iraq.

And although there are those people within Kurdistan who are very impatient for independence, the Kurdish leadership is telling

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its impatient followers not to rock the boat and to continue to participate in the project of a federal Iraq, as Kurdistan is now much closer to achieving a kind of provincial autonomy, if I can use that word, than it has ever been in the past. So the Kurds are continuing to participate in the process very, very well.

Another important path of success in the political track relates to the Shi'i Islamic leadership in Iraq, which some feared might adopt a position of pro-Iranian declarations that what they really need in Iraq is an Islamic State governed by mullahs. That has not happened. The senior Shi'i religious leadership has made it very clear that they are committed to a country that is legitimately democratic with equal rights for men and women, for Muslims and non-Muslims, but that also has room for the expression of Islamic values, and they have emphatically rejected the failed Iranian model, in large part because they know it well themselves. Many of them have traveled to Iran and they understand that religion is less well-respected in Iran than it has ever been in the history of that country.

That leads us to the question of, first, how security can be restored, and second and more importantly, how the constitutional process can go forward if security is restored. In my view, restoration of security in Iraq turns heavily on bringing into being a powerful Iraqi security force with the local knowledge and intelligence that would enable it to suppress terrorist attacks, whether they are coming from Sunni insurgents or coming from Iranian interlopers or al-Qaeda supporters. No matter who the source of these terrorist attacks and ongoing sabotage might turn out to be, Iraqis will be better placed to find that out than will anyone else who attempts to police the region, the country. So I believe that creating an Iraqi security force is absolutely necessary to bring that about.

In the absence of law and order being restored in Iraq, as the chairman mentioned, the political process can collapse, because if enough Governing Council members are either assassinated or suffer attempted assassinations or are intimidated, nobody will want to participate in the political process. On the other hand, if the political process does go forward and if security does improve, here are the main issues that I believe will come before the constitutional body that comes into being.

The first and most pressing is simply the question of how a constitutional convention should in fact be selected, how should the members be selected, and that's the job of the constitutional preparatory committee to answer right now. They are canvassing the country, they're having internal discussions. A full-blown election for the members of the constitutional convention would be a mistake. There isn't time to put together the basis for such an election, and in any event, basic preparatory questions like districting, the census, and so forth, which have to be answered by a constitution would already be serious problems in the run-up to any such constitutional process. So there's no reason to put the cart before the horse and insist on a national election at this stage.

On the other hand, the greater the legitimacy of the constitutional convention selection process, the greater the likelihood of success for the eventual constitution, and there is real reason to make certain that the constitutional convention does not appear to

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be a body hand-picked by the coalition. To that end, it's absolutely essential that the coalition be open to whatever suggestions are put forward by the constitutional preparatory committee, including, for example, the possibility of a national referendum, as opposed to an election, to approve or disapprove an entire slate of nominated members to the convention, or alternatively, some combination of selection and election relying upon local councils throughout Iraq.

The reason to be open to those suggestions is simply that, in their entire absence there is a significant chance that the constitutional convention could be seen as illegitimate the very moment that it came into place. I'm confident, however, that the members of the preparatory committee will come up with a suggestion that is plausible and acceptable to the coalition, and when that happens, we end up turning to the core question of what a constitution for a new federal Iraq will look like. I will address that question extremely briefly and then would be very happy to talk about it further should anyone wish to.

First, federalism. The Iraqi constitution will be federal. On that much nearly everybody in Iraq at this point agrees, but as we know in the United States, to call something federalism tells you very little about what the actual content will be. Federalism conceals a thousand sins and there are many different possibilities.

Many in Iraq would prefer to see a country composed of 18 different governorates corresponding roughly to the governorates that presently exist, all federated as states in a federal union, but it is very difficult to find anyone in the Kurdish regions who will agree with that proposition. The position of almost all Kurds whom I've spoken to and whom anyone else I know has spoken to is that Kurdistan must be a unified region, and as for the other regions it is up to them, the Kurds will often tell you. They can choose for themselves how many regions they want to have or how many provinces they want to have.

And the Kurds are in a position to enforce this demand to some degree simply because they have an operating regional government in the area that they controlled prior to the most recent war in Iraq. And in a worst-case scenario, the Kurds have the capacity simply to retreat back to their area, say they're participating in the constitutional process while actually vetoing any deal, and essentially continue with the state of affairs that they already had, and that's a very, very powerful stick for them to use. It would be drastic for them to use that, and I don't think the leadership has any intention of doing so, but that of course is something that exists in the background.

So as a consequence I think it's increasingly likely that we're going to see a Kurdish region as its own region in a federal Iraq with the other regions divided accordingly. And if one Kurdish region is large, it is unlikely that others will want to have smaller states. That increases the likelihood of us seeing an Iraq that's divided into three or four or five parts, not an Iraq divided into 18 parts.

The next issue that will be contentious and important will be the question of religion and government in Iraq and I will close with this issue. The overwhelming majority of Iraqis with whom I have spoken, and this is especially true of Shi'i Iraqis, want the constitu-

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tion of Iraq to mention Islam as the official religion of the state, but they immediately add to that that the constitution of Iraq ought to be one that guarantees explicitly full religious liberty for all citizens, equality for all citizens, regardless of religion and regardless of sex, and furthermore that they believe those values to be in keeping with having Islam be the official religion of the state.

That does not mean that they've thought through in any very complicated way how these two propositions will interact with each other, but they feel strongly that there are many states in the world that unlike the United States have established religions, and that at the same time can show the capability of respecting individual liberty and of equality. Now that's a tremendous challenge for Iraqis to accomplish, but this is a value that one sees again and again.

And in Bahrain just last week I had the opportunity to meet with about 40 Iraqis from the southern part of the country who were themselves hand-picked by the coalition to come and participate in a seminar on democratic values along with several very distinguished judges from the federal district courts and the federal courts of appeal, and I had the privilege to conduct there a session on church and state, as it were, on religion and government in Iraq. And there was strong insistence from all of the Iraqis present, and they ranged from deans of law schools in Iraq to high school biology teachers, that Islam must be the official religion of the state, but that that was compatible with equality, with liberty, and with religious freedom for all.

I think that's a vision that the United States should be eager to accommodate if in fact it has practical meaning. The hard part on this point in Iraq as on all the other points will be making certain that a constitution, no matter how well written it is, actually turns out to be enforceable in practice, and I'll close on that note. The best written constitution in the world will do no good at all absent institutions capable of implementing its principles. That means a strong and independent judiciary, it means a legislature and an executive branch that are accustomed to listening to the judiciary and are forced to do so by a strong separation of powers, and last but not least, it means a very strong civil society, which in my view we in the United States should be very eager to support and to fund, that exists independently of the government, and that can act as a watchdog and warn both other Iraqis and the world should circumstances arise where the democratic values of the constitution, which I'm confident the constitution will include, are actually put into practice. And with that I will thank you very much for your attention.

[The prepared statement of Dr. Feldman follows:]

PREPARED STATEMENT OF DR. NOAH FELDMAN, ASSISTANT PROFESSOR OF LAW, NEW YORK UNIVERSITY SCHOOL OF LAW, NEW YORK, NY

Mr. Chairman and Members of the Committee,

May I begin by saying how honored I am to be asked to appear before this Committee to discuss the important subject of the development of democratic institutions in the Arab and Muslim worlds, and particularly in Iraq. I have in recent months had the opportunity to participate firsthand in our early efforts to establish democracy in Iraq. I served as senior constitutional adviser to the Office of Reconstruction and Humanitarian Assistance, later renamed the Coalition Provisional Authority, between April and July 2003, and spent some five weeks in Baghdad in that posi-

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tion. I returned this past Friday from Bahrain, where I met with senior Iraqi officials including the Minister of Justice, the Chief Justice of the Supreme Court, and Judge Dara Nur al-Din of the Governing Council, and discussed the progress of the constitutional process with them. I also addressed the question of promoting democracy in the Muslim world at some length in my recently published book, *After Jihad: America and the Struggle for Islamic Democracy*. My testimony today reflects the views I developed in the course of researching and writing that book, revised in the light of our experiences thus far in Iraq.

There is a general question that looms over any discussion of democracy in the Muslim or Arab world, namely the question whether Islam and democracy are compatible. I believe that the answer to this general question is yes, and in my book I explain why this is so. But my answer matters much less than the fact that the United States of America, by leading the Coalition for the liberation of Iraq, has now also answered this question in the affirmative. By removing Saddam Hussein and declaring our commitment to ensuring freedom and self-government for Iraqis, the government of the United States has committed itself to the viability of democracy in Iraq, a country which is predominantly Arab and overwhelmingly Muslim.

It is now in the vital national self-interest of the United States to prove that democracy can succeed in Iraq. If democracy does not succeed there, our liberation will come to be perceived as imperial occupation, and the deep skepticism throughout the Arab and Muslim worlds about our motives will turn into increasingly explicit condemnation of our intervention in the region. We also have a pressing moral duty to enable Iraqis to create a life for themselves that is better than the one they suffered under thirty-five years of oppression and tyranny. By taking the reins of government in Baghdad, we also took on the responsibility for leaving the Iraqi people better off than we found them.

Today, then, it would be academic in the worst sense of the word to ask whether democracy can succeed in the Arab world. Democracy must succeed in Iraq, and eventually elsewhere. Whether we supported going to war in Iraq or not—and there were reasonable arguments to be made on both sides of the question—we now must recognize the necessity of finishing the job that we started. I would like therefore to address my comments to the particularities of our efforts thus far to create lasting, stable, democratic institutions in Iraq, and to recommend the course of action most likely to succeed there.

The basic state of affairs in Iraq today, I believe, can be summed up relatively straightforwardly. The Coalition is operating along two equally important tracks in Iraq: the security track and the political track. The security track is facing major challenges, while the political track is going to remarkably well: The setbacks we have faced on the security track have the capacity to undercut our progress on the political track. It is therefore of the utmost importance to achieve stability and security in Iraq: the future of democracy in that country depends upon it. The overwhelming majority of Iraqis have already begun to show themselves to be interested in democracy. But a small number of insurgents are capable of spoiling the possibility of law and order by disrupting the peace.

Daily reports of shootings and bombings in Iraq reflect the hard reality that the Coalition led by the United States does not yet exercise a monopoly on the use of force there. Assassination attempts, like the one against Governing Council member Dr. Aqila al-Hashemi last week, threaten the democratic project itself. Life for ordinary Iraqis cannot return to normal so long as sabotage impedes reconstruction.

But the Coalition's lack of progress on the security front in the last four months must not obscure the successes of the political process in that same time. The establishment of an Iraqi Governing Council; its takeover of the government ministries that deliver basic services; and its commencement of the constitutional process have proceeded apace despite significant security setbacks. Only by looking at the surprisingly smooth political track alongside the problematic security track can we shape a policy that will allow rapid transfer of sovereignty to an Iraqi government that can actually rule the country.

An accurate assessment of the security situation must begin with the fact that essentially all Iraq's 60% Shi'is and 20% Kurds were happy to see Saddam go, and want the Coalition to remain long enough to prevent the Ba'Ba'ath party from re-emerging. The Sunni Arabs, on the other hand, who comprise another 15% or so of the population (the rest are Turkomans and miscellaneous Christian and other religious minorities), are the inevitable losers in any even quasi-democratic reallocation of power, since they took a grossly disproportionate share of the country's resources under Saddam. Of these Sunnis, many want the U.S. out, but only a few are presently willing to take up arms—otherwise we would be seeing thousands, not dozens of incidents each week. Sunnis do not necessarily want Saddam back, but many think they can only benefit from the failure of democracy and the rebirth of

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some kind of autocratic Sunni state that would restore their privileges. Some have begun to frame their opposition in terms shaped by Islamic radicalism.

It is also possible that some of the bombing attacks on targets like the United Nations headquarters have come not from disaffected Sunnis but from terrorists who have infiltrated easily over Iraq's long and unguarded borders. Iran has an interest in keeping the U.S. presence costly to discourage it from trying to replicate regime change next door. Al Qaeda, for its part, needs no excuse to attack the West, and would like nothing better than to make Iraq into the site of a new, Afghan-style jihad against foreign occupation of Muslim lands.

The realities of anti-Coalition violence, both known and unknown, suggest a strategy for reducing the violence to a level compatible with exercising ordinary government in Iraq. Only Iraqi police and soldiers, knowledgeable about local conditions and populations, and with access to high-quality local intelligence, stand a chance of breaking Sunni resistance cells and identifying out-of-towners who might be Iranian or Al Qaeda agents. The call to internationalize the Coalition forces is an excellent idea for reasons of American foreign policy and cost-reduction. International help could speed up reconstruction and take some of the security load off hard-pressed U.S. troops. But Indian troops would likely have no better luck than U.S. troops in combating terrorism. Broadening the Coalition will have no measurable effect on violence in Iraq, be it local or foreign-bred.

French and German suggestions to speed up the process of transferring sovereignty to an Iraqi interim government would be just as unlikely to produce security gains. The tenor and resistance is not coming from Iraqis who would be sympathetic to such an interim government. Worse, without a re-constituted police force and military at its disposal, an interim body would be a travesty of a sovereign government. Actual control is the indispensable hallmark of sovereignty. Nothing could be worse for the future of democracy in Iraq than the creation of a puppet government unable to keep the peace and susceptible to the charge that it was sovereign in name only.

The easily overlooked progress of the political process thus far points the way to a legitimate, elected Iraqi government that can actually rule. Since the fall of Saddam's regime in May, those Iraqis participating in organized politics have shown a maturity and unity of purpose that pre-war critics would scarcely have credited. The two most important Kurdish parties, the KDP and the PUK, have subordinated their historical rivalry and have acted in concert, casting a steadying light over the rest of the political scene and often taking the lead in coordinating policy among the members of the Governing Council. Far from insisting on secession and Kurdish independence, as some in the region feared, the Kurdish leaders are sticking to the vision of a federal Iraq, and urging their sometimes impatient community not to falter so close to achieving long-awaited freedom from autocratic Arab rule.

More importantly for Iraq's democratic future, the Shi'i religious elites, and the political parties loosely associated with them, have consistently eschewed divisive rhetoric in favor of calls for Sunni-Shi'i unity. Emerging as Islamic democrats, they have repeatedly asserted their desire for democratic government respectful of Islamic values, rather than government by mullahs on the failed Iranian model. As a result, they have been largely successful in marginalizing younger radicals like the rejectionist Muqtada Sadr, whose late-spring play for leadership of the national Shi'i community seems to have faded over the course of the summer. When Sadr wanted to organize an anti-Coalition protest in the holy city of Najaf, he was forced to bus in supporters from Baghdad, three dusty hours away. The Coalition has wisely declined to arrest Sack, and, his hopes for a living martyrdom denied, he increasingly looks more like a small-time annoyance than the catalyst of a popular movement of Shi'i anti-Americanism.

The emergence of democratic attitudes among religiously committed Shi'is was underscored on Saturday in Detroit, where Da'wa Party leader Dr. Ibrahim Ja'fari, the immediate past Governing Council president, addressed the second annual Iraqi-American Conference. The largely Christian audience of Iraqi-Americans spent the morning fretting about the dangers of a constitution declaring Islam the official religion of Iraq, but treated Ja'fari to a standing ovation after he argued for a pluralistic, tolerant Iraq, in which full rights of citizenship would be exercised by Muslims and non-Muslims, men and women. The same proud insistence on the compatibility of a democratic, pluralist Iraq with Islamic values was sounded by forty Sh'is from southern Iraqi cities at a session on religious liberty I conducted last week in Bahrain as part of an ABA-sponsored program on constitutional values. Skeptical of arguments for strong separation of religion and state, they nonetheless took as a given that a country as religiously diverse as Iraq must ensure religious freedom—mandated, they said, by the Qur'an—and equality for all citizens regardless of religion.

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The next step in the constitutional process is for the Constitutional Preparatory Committee, named by the Governing Council, to complete its canvass of the country and propose a mechanism for naming the members of an Iraqi constitutional convention. The Committee needs to find a workable solution, short of a general election, to choose a legitimate and representative body. It is considering proposals such as a mixed election/selection procedure or a national referendum to approve or disapprove a complete slate nominated by the Governing Council.

The Coalition is right to be wary of a national election to select the delegates to a constitutional convention. Iraq is not yet ready for such a national election. Political parties have not yet had enough time to develop. Organizing voter rolls would take time. To make matters even more complicated, voting districts would require deciding even before the election what districting would be fair. This would be very difficult to accomplish in the absence of a recent census. What is more, one of the main issues for a constitutional convention to discuss will be the creation of just rules for drawing districts, so it would be putting the cart before the horse to use existing districts, gerrymandered by Saddam to disenfranchise the Kurds, to select a constitutional convention.

On the other hand, the Coalition should not automatically reject suggestions for a national referendum to approve or vote down a slate of candidates selected by the Governing Council. Without some component of public affirmation, there is the risk that the constitutional convention would be seen as illegitimate from day one. A widely distributed fatwa, authored by moderate Shi'i cleric 'Ali Sistani, demanded some sort of public participation in the process of selecting the convention, and asserted that a convention handpicked by the Coalition would not represent the values of the Iraqi people. Although it is not certain that Sistani would actively condemn a convention selected by the Iraqi members of the Governing Council, a general sense among Iraqi elites is that some sort of public affirmation process would do much to enhance the legitimacy of the constitutional process. I am confident that a solution can be reached, and that the constitutional convention, once named, can begin its work of drafting a constitution for ratification by the Iraqi people.

It is difficult to imagine elections being held under a new constitution before next autumn at the very soonest—and perhaps later still. The constitution will have to resolve complex questions of the boundaries of the provinces in a new, federal Iraq, not to mention ensuring religious liberty and equality and finding the right form of government to manage Iraq's distinctive ethno-religious mix. Getting the wrong answers to these questions quickly would be much worse than taking some time to get the right answers. But rushing would be a mistake in any event, because an elected Iraqi government would come too soon if it predated effective control of the country.

Let me speak briefly to the constitutional structure and the difficulties it must resolve to establish stable and democratic institutions. Iraqis are coming to the realization that their government will have to be federal in order to accommodate the various regional ethnic and religious differences in their country. Many Iraqis would like to see eighteen federal states, corresponding to the currently existing eighteen governorates. It is difficult, however, to find even a single Kurd who is prepared to accept the division of the Kurdish region into several distinct states or provinces. Kurds are more likely to say that the Kurdish region must be a unified province. As for the rest of Iraq, the Kurds are prepared to leave it to Arab Iraqis to decide whether they want to have a single Arab region, separate central and southern regions, or a dozen different provinces. It will be extremely difficult to convince Kurds to accept the division of the Kurdish region. At present, the Kurdish region is governed by a centralized Kurdish Regional Government, and the Kurds can realistically boast at least 40,000 men at arms. It is therefore increasingly likely that constitutional negotiations will yield a unified Kurdish federal region. In any event, the shape of Iraq's federalism will be the single greatest and most complicated issue to be addressed in constitutional negotiations. It will take time to reach a workable consensus, and all parties will have to compromise. But the federal arrangement is far and away the most important for achieving the long-term goal of keeping Iraq is a single, unified country.

It will be relatively easy for Iraqis to agree that their constitution should guarantee basic rights of liberty and equality for all citizens, regardless of religion or sex. The Islamic democrats who increasingly represent the Shi'i community believe that Islam guarantees such liberty and equality. The constitution will certainly guarantee religious liberty for everyone in Iraq. At the same time, it is unlikely that the majority of Iraqis would agree to the omission from their constitution of a provision describing Islam as the official religion of the state. Every Arab constitution has such a provision. The hundreds of Iraqis I have spoken to about this issue in Iraq, both Sunnis and Shi'is, balk at the idea that their constitution would declare

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the formal separation of religion and state. To ensure long-term democratic stability in Iraq, we need to focus on making certain that the constitution guarantees effective liberty and equality regardless of religion or sex. If these provisions are firmly ensconced in the constitution and broadly accepted by the public, there is no reason that Iraq cannot be poor list and democratic even as it treats Islam as an official religion.

The best written constitution in the world would be useless without effective institutions to guarantee its enforcement. The new Iraqi constitution must and will guarantee the separation of powers and must vest the spending power in the legislature, not the executive. It must guarantee an independent judiciary with the strength to stand up to the other branches. We must devote significant resources to encouraging the development of independent, nongovernmental civil society organizations that will take up the all-important task of monitoring the government to make sure the constitution is followed, and telling the world if it is being violated. Islamic groups have a natural head start in forming such organizations, so secular alternatives need to be encouraged. Right now, Iraq has what might be called the empty shell of secular civil society. Organizations like the National Lawyers Association or the National Physicians Association were highly organized under Saddam, but were in effect organs of the state. New elections have brought new leaders into power, but these organizations are still far from beginning to function as advocates for basic rights and democracy. They need to be assisted and trained in fulfilling this crucial role.

In oil-rich states, government has long had the capacity to dominate society by paying off potential critics and suppressing others. To help save Iraq from reentering this destructive pattern, it is possible that the constitution should guarantee per capita distribution of oil revenues to individual Iraqi citizens. If this course is chosen, however, the constitution should also make it clear that the state can tax citizens on their income, including income derived from the government itself. The government of Iraq will have huge revenue needs in the years ahead, both for reconstruction and security. It would be a serious mistake to hamstring a future Iraqi government by depriving it of its most steady source of revenue.

Let me emphasize that solving the security problems by rebuilding the Iraqi police and army must be the Coalition's highest priority in the months ahead. This will cost a great deal of money, and create the long-term risk that reconstituted Iraqi armed forces might some day make their own grab for power, as the army has done repeatedly in Iraq's history. But this risk must be taken, because if the security situation is not brought under control, it has the capacity to destroy the political track. Leaders like the assassinated Ayatollah Muhammad Baqer al-Hakim, willing to work with the Coalition despite initial reservations, are not easily replaced. The enemies of the democratic process, whether Sunni-Iraqi or foreign, know that by violence they can deny the Coalition the stability that is prerequisite to law and order.

With progress on the security track, democracy in Iraq remains achievable. Without it, America's pragmatic and moral duty to help Iraqis to democracy will be almost impossible to fulfill. Iraqis are already on the track to self-government—but we need Iraqi security forces, not just international help, so we can establish the rule of law and restore sovereignty to Iraqi hands.

Once security is restored, however, there is reason for cautious optimism about the capacity of the constitutional process to bring about a democratic, federal settlement in Iraq, one that will ensure individual liberties and equality for all Iraqis regardless of religion or sex. By devoting our resources not only to the governmental process but also to the development of a vigorous civil society, we can help create conditions for democracy to flourish. With almost no outside help, there are well over one hundred newspapers being published in Iraq today. Much of what they publish is unreliable or worse, but that is, in its very nature, the free marketplace of ideas. Democratic ideas will win the day in Iraq so long as security exists on the ground there—not because anybody puts a thumb on the scale, but because in today's world, democracy is the only form of government that has shown the capacity to give its citizens liberty, equality, and a decent way of life. Iraqis already understand this fact, and they want democracy. They need our assistance to let democracy take hold and make it stick.

The CHAIRMAN. Well, thank you very much, Dr. Feldman, for that testimony. At this juncture, I'd like to recognize my colleague and distinguished ranking member, Senator Biden, for his opening statement and then we'll proceed with the testimony of the witnesses. Senator Biden.

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Senator BIDEN. Thank you, Mr. Chairman. I have had the opportunity to spend some time with the witnesses in the past. It's great to have them back here. I will save my comments to the questioning period because I'm anxious to hear what they all have to say and give everyone a chance to speak.

The CHAIRMAN. Thank you very much. Dr. al-Khafaji.

STATEMENT OF DR. ISAM AL-KHAFAJI, PROFESSOR, UNIVERSITY OF AMSTERDAM, AMSTERDAM, THE NETHERLANDS

Dr. AL-KHAFAJI. Thank you, Mr. Chairman, distinguished members of the committee. I'm very much honored by this invitation of yours for me to testify before this distinguished place and I would like to express my admiration, my deep admiration of the sharp, timely, and frank questions and comments that all of you have raised in the morning session with Ambassador Bremer. I'm sure that if the Iraqi people were allowed to have access to these comments, they would be much more appreciative of the role that the U.S. Congress, the U.S. institutions, and the U.S. public are playing in favor of the Iraqi people and of our joint interests.

Mr. Chairman and distinguished members, I have my written comments available to you. I hope you've had the chance to look at them so I will not dwell on the opening statements about why I see that despite the huge obstacles, democracy is possible, is compatible with the so-called absence of prior democratic institutions, Islam and mainly the much talked-about heterogeneity of the Iraqi people, which I do not see as heterogeneity, I see as an advantageous point because we do not have in Iraq, unlike any other Middle Eastern country, Arab or non-Arab, any bloc or community that can claim to have a dominating majority, and thus imposing this dominating majority as a kind of a tyranny of the majority and suppressing the rest.

I can see that there is much to learn from the United States and so much from the U.S. experience and the fact that actually democracy is built upon an existence and recognition by all communities that they cannot live without each other.

In the history of Iraq, and I'm not trying to draw any rosy picture, unlike many other Middle Eastern countries, there is no—and I'm talking from modest knowledge of the 18th, 19th, and 20th centuries—there is no episodes of civil, not state-sponsored violence between Shi'is and Sunnis, Arabs and Kurds. There are some unfortunate incidents between other communities, but certainly not between Shi'is and Sunnis or between Arabs and Kurds in general.

So that being said, I'm not trying, once again, to draw a rosy picture. I'm trying to show that what I feel and many Iraqis feel that the sources of the lack of consensus among Iraqis does not lie in the heritage of Iraq, the cultural heritage, rather it is in the heritage that was left to us from an ugly tyranny of 35 years, which atomized the population, made them reliant on the state, a state that has aggravated the perception, the disillusion that the people owe the state, rather than the state owes them, their welfare and their well-being through handing over largess of the oil money.

And it's here that I think that we have so much to learn from the U.S. experience, from the U.S. presence in Iraq, and I come here to what I feel as the bitter lessons, the bitter lessons in the

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sense that while, as you very promptly said, that time is slipping from our hands, while time is not in our hands, still we have a window of opportunity that's still closing but there is a slight ajar.

I think that, as my colleague Dr. Feldman, whom I had the privilege of being together with in Baghdad, I stayed behind him, but I had to resign after noting that there was no role for Iraqis to play under the Coalition Provisional Authority, and I kept in touch with the situation, in intensive touch with the situation in Baghdad, and I feel that giving me the privilege of testifying before you may allow me some opportunity to convey some of the stories that Iraqis would like the world, and especially the U.S. Congress to hear about them.

I feel that the basic issue about the presence of the coalition authority and the future of Iraqi/American relations lies exactly in the message that you and all of the free world would like to send to the Iraqi people, and that is that we are changing from a system of tyranny to a diametrically opposed system based on the rule of law, on democracy, on putting the fate of Iraq into the hands of the Iraqi people, to use President Bush's words.

Up until now, I'm sad to say that Iraqis do not feel that and today's testimony by Ambassador Bremer was saying basically the same, that a constitutional committee is being appointed by the Coalition Provisional Authority with the help of a Governing Council that is appointed and not elected, that this committee, appointed committee, with due respect to all and each of its members, has not been elected by the people but they will have the right to draw a constitution that will be thrown to the people at a yes or no referendum. And I think this is not the way to send a message that the United States is building a fraternal, democratic nation in Iraq and the Middle East and to send a message to the other Middle Eastern countries.

The second one is the way that the social and economic issues and decisions are being taken, and I'm very sad to say that I have to disagree with what Ambassador Bremer said. I just returned last night from the way to see many humiliating scenes in the meetings between the IMF and the Iraqi newly appointed governors and administrators, the way that our colleagues, the senior advisers at the coalition interrupt publicly any statement given by any Iraqi newly appointed minister. I'm sorry to say that, but the facts must be known to all of you because you are the representatives of the United States people.

To say that is not just to repent or to complain but to say that still we can, the Coalition Provisional Authority can change track, and the first step, I think, is as my esteemed colleague has said, is to Iraqize the security situation, not in the sense that was said by a high-level official 10 days ago, to let Iraqis give us the information or inform about the remnants of Saddam's regime but by allowing them to draw policies on security. That will save the United States blood and much, much money, that by giving the United States, the security officials the role of monitors, advisers, educators in how the new security force can abide by the law, not be over the law, but in the meantime can enforce security issues in Iraq.

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And this is quite a different thing from what we heard this morning or we have been hearing all over in the past that Iraqis must come and inform the coalition of the remnants of Saddam's regime. This is a totally different issue by allowing Iraqis to draw the security policy.

Second, we can move from that—and this is the main issue I think—to creating a consensus that no social contract can be built only upon diversity. Diversity should be unified, must be unified, within some kind of a social contract, and that could only be done through calling for a constituent assembly that will draw the constitution, rather than appointing a committee, no matter how prestigious, no matter how sound and solid the knowledge of these colleagues, I think that the legitimacy of that constitution and the promulgator of that constitution will be in doubt among Iraqis. So I think the step is toward a constituent assembly which still will be a temporary, a transitional body whose sole mission would be to draw the constitution, appoint a provisional government, and work with the United States coalition authority gradually to hand over power to the Iraqis.

Along like that, I think transitional justice is where our friends in the United States can help us, by drawing a system of transitional justice that we worked upon that many Iraqis, with the help of our colleagues at the State Department, worked upon last year. I would be very much willing to talk about it, but I can see that my time is coming to a close.

The CHAIRMAN. Go ahead.

Dr. AL-KHAFAJI. The last thing then and then I will close is the economic affairs of Iraq, the running of the economic affairs of Iraq. Today I have nothing to add to your sharp remarks today in the morning. I can not agree more with what has been said, not in the sense that there are bad intentions behind the way the bidding and contracting is being taken or the decisions have been taken, but I think that if once again, if we are talking about steering Iraq toward democracy first, only an elected government can say that we have signed laws. Even in the 1920s, the British High Commissioner used to sign decrees, and today we've heard several times Ambassador Bremer signing laws, and these are not laws to direct the day-to-day affairs of Iraq. These are laws that will have grave consequences to the better or worse of Iraq and the Iraqis must know who is taking these decisions and how.

And unfortunately I can say that the cabinet, the Iraqi cabinet, all the Governing Council, have very little to say about how these decisions are being made. There is some consultation, no formal consultation, no sitting on committees by Iraqis, who just until a few months ago the world, the media, and the U.S. administration was talking about the educated, the talented, the nation that was threatening the world with weapons of mass destruction. So this is not a matter of nation-building.

We have experts, and it's here that I think that the allocation of the budgets, and I totally agree with Ambassador Bremer that we might be reticent in handing the monitoring of these $20 billion or other allocations, but I would be very happy to see a standing committee, subcommittee, from the Congress sitting in the head-

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quarters of the Coalition Authority in Baghdad monitoring and approving the contracts that are being given.

There are some details that show that the value of these contracts that are being awarded and given, the value that's reaching the Iraqi population is a trickle of what's being reached. I'm not alluding to the integrity of the appropriation of that, but simply because giving it in a time of war to an Iraqi is one thing, and giving it to a foreign company, who would add so much premium on working in our zone with a different waste structure and salary structure would add so much to the tax bill on the American taxpayer without in the meantime yielding even an equivalent amount of the benefits to the Iraqi people.

I think that this, the appropriation and allocation of the U.S. taxpayers' money and the coming international authority monitoring board, this should be an issue that others would be, must be, involved, and by others we shouldn't have in mind only the U.S. or the U.N. There are many others. The Iraqization, the involvement, and empowerment of Iraqis, I think, is not only a cheaper way but it's the way that will give the Iraqis a totally different message of what the United States wants from Iraq and that will propagate to the entire region and I think to the rest of the world. Thank you.

[The prepared statement of Dr. al-Khafaji follows:]

PREPARED STATEMENT OF DR. ISAM AL-KHAFAJI, PROFESSOR, UNIVERSITY OF AMSTERDAM, AMSTERDAM, THE NETHERLANDS

Mr. Chairman, Distinguished Members of the Committee:

CASE DESCRIPTION:

Skeptics of Iraq's ability to affect a transition to a stable and democratic country have raised several arguments that most of you are familiar with by now: the country's lack of prior democratic institutions or experience, Muslim religion as an obstacle to democratization, and Iraq's so-called "heterogeneity", i.e. being a multi-ethnic and multi-sectarian society.

While many of these arguments may seem to be empirically validated, it is the conviction of the present speaker that none of them stands to rigorous test. Over the past three decades, countries with no prior democratic experience, such as Russia, Spain, Portugal, and much of Eastern Europe, have shown that while having past democratic principles should be very helpful, it is neither a necessary, nor a sufficient condition: More recently, some skeptics about Iraq's ability at democratization raised the interwar democratic experience of Germany, the Weimar Republic, as a legacy from which Post-WWII Germany could draw to establish its modem democratic system. If this heritage is of any relevance in the context, then it may be worthwhile mentioning that Iraq had a longer period of parliamentary under the constitutional monarchy between 1921 and 1958.

To the argument that Islam is an obstacle to democratization, I would only remind the esteemed audience that five decades ago, standard political theory texts used to ascribe Latin America's (as well as Portugal's and Spain's) resistance to democratization to Catholicism. Orthodox Christianity and Confucianism were viewed similarly in the cases of Eastern Europe and East Asia respectively. The fact is that religious authority everywhere seems fiercely resistant to relinquishing power to secular power. Viewed as sets of powerful philosophical teachings, most world religions contain elements that can be used or manipulated to legitimate tolerance or tyranny, and peace or war.

The US' experience can provide the Iraqi people, and many other societies, with invaluable lessons on how to build a tolerant and democratic system that firmly separates state from Church without in the meantime rejecting the latter as the French model does or treating the system of belief of the majority as a "state religion".

Finally, Iraq's multi-ethnic and multi-sectarian composition can play a powerful role in laying the foundations of a democratic system, rather than being an obstacle to it. For unlike any other country in the Middle East (with the exception of Lebanon), Iraq has no single ethnicity/sect can claim a dominating majority over all oth-

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ers, with Arab Shi'ites composing around 50-52 percent of the population, Sunni Kurds 20-22 percent, Arab Sunnis around 20 percent, Turkoman Shi'ites and Sunnis some 5 percent and Christian Chaldeans, Assyrians, Armenians and Arabs around 3 percent.

To this must be added the fact that unlike the religiously polarized Lebanon, no single religious or secular ethnic/sectarian authority can claim to be the representative of the majority of the members of "their" respective communities, because besides ethnicity and religion, loyalties in a complex and highly urbanized society like Iraq are formed along regional, professional and ideological lines.

Rather than viewing this situation as disruptive, this state of affairs means that unlike Iran or Saudi Arabia, no single community or ideology in Iraq can impose its tyranny in the name of representing the majority.

DESCRIBING THE PROBLEM

The above description is not intended to draw a rosy picture of a situation that is far from ideal. It is rather intended to direct your attention to what I think is the sources of the lack of a consensus among Iraqis. And once again, it is from the US experience, as well as from those of others, that we learn that before or alongside the establishment of diversity and pluralism, no democracy can survive without a social contract which stipulates what unites the diversity and from which common rules and laws can be drawn.

The Ba'athist regime has forcibly imposed a destructive concept of unity among Iraqis which sought, and succeeded to a certain extent to atomize the population and linking the individuals directly to the state. During the rising days of that regime, until circa the mid 1980s, this concept tried to impose homogeneity on the population by marginalizing and suppressing entire communities and regions. This could not have been made possible without the tremendous resources that accrued to the Iraqi state thanks to the oil extraction sector whose revenue yielding potential had very little to do with the productive capacity of the people. A welfare state made of huge numbers of civil and military and paramilitary servants and a large stratum of wealthy businessmen living on state contracts that was handed according to political, family and clannish cronyism deprived Iraqis from any autonomy and enhanced a perception among them that the state does not owe anything to the people. Rather it was they who owed their living to the state. Only after the Ba'athist state drained Iraq's resources and had to withdraw from providing the basic social and economic services did atomized individuals turn back to revive their sub-national loyalties in search of protection and basic services.

REMEDYING THE PROBLEM

Iraqis cannot hope to reach a modern social contract without a long-term modernizing project aimed at engaging them in rebuilding their devastated economy and society. With the huge demands on the oil-revenue, the days of the parasitic welfare state are over, and it is would be very misleading and dangerous to revive any illusions among them on "oil funds" that would bring them toast and honey without hard work.

But before this reconstruction project can effectively roll on, security and the rule of law must be firmly established. And the Coalition Provisional Authority (CPA) is in a unique position to help us in establishing this complicated project by seriously revising some of its policies that sent a wrong message to the Iraqis and left them to question the sincerity of the claims to liberate them and putting their fates into their own hands.

A quick and systematic, but not hasty, process to "Iraqize" the functions that the CPA is performing now must begin by admitting that not only implementation of security policy should be handed to the Iraqis themselves, but also thawing and designing that policy, with the intensive help and advise of the Coalition forces. Foreign armed forces, no matter how technologically advanced, can never bring security. Rather, their wellbeing and safety will become a security problem and a huge drain on the US budget which can only escalate with time.

The justifiable fears among US policymakers as well as among Iraqis that relying on militias and tribal chiefs in building and reorganizing a modern police and security force can lead to disruptive results can be overcome by empowering the already functioning provincial councils. These councils can draw from a huge pool of unemployed ex-soldiers and policemen by announcing a crash plan to recruit members of a national police force proportionate to the rough population of each governorate as a first step to merge these provincial police forces into one national police force. The names of the new applicants must be made public and citizens must be encouraged

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to object any of the applicants if they have sufficient evidence that he had been implicated in past violations of human rights.

Within a month time, the role of US forces can be transformed from confronting the population to monitoring the newly formed police force, training, educating and imposing discipline on them. The Coalition troops can be redeployed to safeguard Iraq's borders, until an Iraqi army can stand on its feet.

Only when palpable achievements on the security front can be made, would the civil administration and economic enterprises be able to resume their normal functions, and a political process that would enable Iraq to regain its sovereignty, as a country in transition to democracy can be launched.

How long would this process take? A timetable of less than one year can ensure achieving the following functions:

THE POLITICAL PROCESS

1. Relying on the food for oil rationing cards, where all resident Iraqis were registered, a process for the election of a constituent assembly can be initiated and called for by the end of this timetable.

2. A national committee composed of official and non-governmental bodies can call on Iraqis in the Diaspora, to register in the Iraqi embassies and other centers to be established in the major centers where they cluster.

3. A constituent assembly would be elected in 6-7 months after the establishment of basic security. The role of this assembly is to approve a draft of a permanent constitution and to appoint a transitional government.

4. The legal basis along which Iraq is run until approving a permanent constitution is the interim constitution that was adopted following the 1958 revolution.

5. The US, while recognizing the outcome of these elections and the ensuing government, will declare that it will keep a reduced military presence until a fully constitutional system is in place to negotiate and establish the future relationship between the US and Iraq.

TRANSITIONAL JUSTICE

1. Alongside the political process, a transitional justice system made up of reformed and reeducated Iraqi judges, Coalition advisors, and representatives of political parties and NGOs would be set up in each of Iraq's governorates. All US prisoners of war would eventually be turned to these courts in order to try them.

2. An interim law on trying crimes committed by the Ba'athist regime can be worked out by representatives from the entities mentioned in the previous paragraph. As a starting point, the reports produced by the workshops on transitional justice in 2002 can be used.

3. The law must clearly state the nature of punishable crimes and the levels of punishment.

4. Prosecuted members would be declared ineligible for running to the election of the Constituent Assembly.

5. Citizens would be called upon to hand whatever information they may have on past crimes, and the acquisition by non judicial bodies of files and documents pertaining to the Ba'athist regime would be declared illegal.

CIVIL SERVICE AND ECONOMIC DECISION MAKING

1. The US must clearly and explicitly make its vision, objectives and goals regarding its economic relations with Iraq known to the Iraqi people.

2. To fill their promises of radically departing from past tyrannical practices, the US and any interim Iraqi body must refrain from approving laws or regulations that have long-term effects on the structure of Iraqi society and economy without a transparent and accountable mechanism.

3. Iraqi business community and the relevant ministries and public bodies must be fully empowered to supervise, monitor and approve all reconstruction tenders.

4. The CPA should cede more authority to the proposed International Advisory and Monitoring Board, which is composed of representatives from the World Bank, the IMF, the UN and the Arab development fund. In the meantime, an extremely positive message can be made if the US, through the CPA,

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champions the cause of involving Iraqis as full and observer members of this board.

The CHAIRMAN. Thank you very much, doctor. Let me mention that all of the four statements of the witnesses will be made a part of the record. Therefore you may either deliver the statements orally in full or you may summarize them in your own words as you hear each other testify. But we want the prepared statements that you have given to us, and which are very important, to be printed in full in the permanent record. I'd like to call now Dr. Khouri.

STATEMENT OF MR. RAMI G. KHOURI, EXECUTIVE EDITOR, THE DAILY STAR NEWSPAPER, BEIRUT, LEBANON

Mr. KHOURI. Thank you very much, Mr. Chairman, Senators, ladies and gentlemen. I also am deeply honored to be part of this process and I'm awed by the power of the American democratic ideal, and to watch it in practice this morning was quite an impressive experience for me. I've never attended a congressional hearing before. I've only watched them on TV and they're much more interesting in person.

But I would make a point which would summarize maybe everything I want to say. I've spent my whole life between the United States and the Arab world. I'm a Christian Palestinian Jordanian. I'm about as Christian as you can get. I'm a Greek Orthodox from Nazareth and you don't get more Christian than that. That's where it all started and our family has lived in Nazareth for 400 or 500 years. I'm a Jordanian national, I'm an American citizen by being born here, and my whole life has been between the United States and the Middle East and I can tell you that as impressive as this hearing is and the democratic ideal that it represents where you hold accountable and question your own public officials and at the same time bring in independent experts from other countries, from the United States, to gain the best knowledge and viewpoints that you can get, this is a highly institutionalized formal and public process.

In the Arab countries exactly the same thing happens, but it's not institutionalized and it's not formal and it's never public. But I would make the point to you that if you are trying to spread democracy in the Middle East, as I have been and my colleagues and millions of us in the Arab world have been trying to do for my lifetime and for many lifetimes before mine the key issue to keep in mind is the difference in the cultural traditions and values between American society and Arab and Middle Eastern society as a whole.

I'm going to speak mainly about the Arab world because that's the area I know best, but what I'm saying also applies to Turkey and Iran and parts of Israel and other non-Arab Middle Eastern countries, but this difference between the manner in which people manifest democratic ideals is, I think, the linchpin to a successful promotion of democracy in Iraq and throughout the Middle East.

I think the objective is noble and it is appropriate and it is achievable. The demand among the people of our region in the Middle East for democratic institutions is tremendous and it has been going on for years and years and years, though it has not been widely reported in the American media particularly.

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The men and women in the Middle East and the United States who seek to achieve this worthy goal of a democratic Middle East face a landscape that is littered with obstacles, and these obstacles can be traced to two primary sources. The main source is the political regimes and dynamics within the Middle East, but the other source is the external support for these autocratic, non-democratic, non-accountable, non-participatory political regimes, and that includes the long-term support from the United States but also from the Soviet Union and from other countries.

Most of the constraints of democracy in the Middle East are man-made and they can be removed if we forge appropriate policies and we work diligently and consistently. None of the constraints are due to our genes, to our religion, to our water, or to our environment. All of the constraints are man-made. They are a product of modern history and I would add to the history lesson that Ambassador Bremer gave you this morning by going much further back to remind you in a rather cruel irony—cruel irony in the sense that the operation of the war in Iraq to liberate Iraq was called Operation Iraqi Freedom—I would remind you that the first documented use of the word freedom, according to scholars, is from the Mesopotamian city-State of Lagash in southern Iraq today, around 1250 B.C. It's the first time in recorded human history that the word freedom was ever used, and this was in Lagash.

Most of the values that underpin Western republicanism, whether you're talking about representative assemblies such as yours, contractual obligations under the rule of law, naming the rights of individuals and the rights of sovereigns and the rights of monarchs and the relationships between them, judicial systems to adjudicate disputes between people, most of these values can be traced historically back to the ancient Orient, to the Hammourabi code, to Mesopotamia, to Assyria, to Babylon, to the Biblical kingdoms.

Now I say this only to show that there has been a tremendous history of exchange between our region in the Middle East and the United States and the Western world, in Europe initially and then in the United States and North America. This long tradition is one that allows us to identify certain values and certain principles that underlie the formal processes of sovereignty and statehood and the institutions of democracy, such as Parliaments and elections and political parties and judicial systems.

I would say that if the United States really wants to promote democracy in the Middle East, and I'm not certain that this is a clear national objective, this is something that history will show most of the people in our region are skeptical, but if the United States really is serious about promoting democracy as a long-term goal, I would suggest that it would do well to start by correctly analyzing three critical factors: Why has democracy not spread throughout the Middle East? What has been the United States' role in this lack of spread of democracy in the Middle East in the modern history? And what do the people of the region themselves feel about democracy and what are they doing to achieve it?

There are tens of millions of people in the Middle East who have been working for democracy in civil society and human rights and equality and other values that we all cherish, but these people have been mostly silenced by their own governments and they have

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been mostly ignored by the American Government and other governments around the world. The struggle for democracy in the Middle East in the last half a century has been almost totally neglected, if not implicitly subdued, by the foreign policies of Western powers and Eastern powers, when those Eastern powers existed.

I would say there are five main reasons why we haven't had very democratic institutions in the Middle East. The first one is the legacy of autocratic, sometimes authoritarian rule, in our region, and these governments have been sustained, as I said, by foreign aid and foreign governments. Arab democrats have never had a chance, they never had a chance, and they are understandably skeptical today when they hear the United States saying that it wants to promote democracy. Washington's credibility on the promotion of democracy in the Middle East, like its track record, is very thin. Despite this, there are tens of millions of people in the Middle East who want you to succeed and who are keen and anxious to work with you to achieve this goal.

Second reason is the long years of the cold war reinforced the status quo and the frozen political system in the Middle East. The Arab/Israeli conflict is a third reason. It gave many countries the excuse to focus on militarism security rather than on promoting domestic democracy.

The fourth reason is the post-World War I colonial legacy which created most of these countries, installed leaderships that were hand-picked by the Europeans, and basically put all the resources, military, economic, political, in the hands of small elites who were hand-picked by the Europeans in a process that is frighteningly similar to what many people see happening in Iraq today, Western powers coming in on the back of their armies, choosing local people, and having them set up institutions and then giving them money and letting them run the show. This is frighteningly similar to what the British and the French did in the eyes of many people in the region and that is why people are raising these issues of concern.

And the fifth reason that we haven't had democracy is that most governments and people in the region have said, well, given these other four obstacles, let's just get on with our lives, feed our children, educate our kids, build a house, get a job, and let's get on with the daily business of taking care of our families or the government saying security issues are paramount and then we'll deal with democracy later.

The net result of these and other trends has been that security-minded governments have completely dominated the Middle Eastern societies and most aspects of life. Middle Eastern democrats have struggled unsuccessfully against these odds for many decades, just as their counterparts had done for many years in the Soviet Union. But some improvements have occurred since the mid-1980s. Economic pressures have forced many Arab and Middle Eastern governments to loosen their grips on society just as in fact happened in the Soviet Union. Fiscal pressures were the key to opening up the political systems.

The result has been since the late 1980s an appreciable liberalization of political life in many countries, including legalization of new political parties, holding parliamentary elections, providing

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greater opportunities to oppose the government in public and more robust media, a larger role for the private sector, and an expansion in the number and the nature of non-governmental institutions that form civil society.

There has been great enthusiasm throughout the region for people to try to forge credible, effective, useful civil society institutions, non-governmental organizations, PVO's, private voluntary organizations. You've had tens of thousands of new, non-governmental organizations established in the Arab world in the last 15 years. The number went up from around 30,000 to around 80,000 in the last 15 years. Societies for the care of handicapped children to teach people literacy, to help provide educational facilities, promote democracy, human rights, women's rights, children's rights, any kind of organization you can think of, there's been an explosion of these societies, showing you the enthusiasm and thirst for democracy in the region.

We've also seen in the elections that have taken place and the liberalizations that have taken place since the late 1980s dozens and dozens of political parties, new press publications created, so there is a tremendous thirst in the region to participate in democratic institutions. And what's happened since the late 1980s has diffused some of the tensions and the frustrations and the pressures that had been building up in Arab society.

But in no cases did this political liberalization lead to fully democratization. The small elites that ruled most of these countries since independence continued to dominate decisionmaking and continued to dominate the political, military, fiscal, and even the intellectual resources of the country.

The forces that drive people in the Middle East to try to create better societies are the forces that I think are important for you to address if you want to connect with the people who are already working for democracy in that region. And I would say that the single most important driving force for political activism and change in the Middle East has been domestic indignity. It's not Israel, it's not the United States, it's not British colonialism, it's not historical anxiety, it's domestic indignities hoisted on the people by their own regimes and societies. People are angry about not having a sufficient voice in their countries, about corruption, about exploitation of power, about lack of equality, about mediocrity in public service, and this goes on for decade after decade, and people fight against this but they can't get very far.

The second reason is the humiliations and the dangers that people have suffered in the Arab world particularly as a result of the Arab/Israeli conflict. This has huge impact throughout the region, so solving the Arab/Israeli conflict fairly will have a significant impact on domestic trends in the Arab countries, but by itself will not completely solve the problems of the region.

And the third problem that people suffer from is the legacy of foreign intervention in the area. People still remember what the Europeans did, we still talk about it, it still impacts on the mediocrity of many of our institutions, and in some cases the incoherence of some of our states. So if you look around the Middle East, we have a series of rather incoherent states in some cases that have fallen apart from civil wars or occupations or whatever, and many

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people still remember the colonial role of the Europeans and people are asking whether we're witnessing a new colonial American experience now.

The vast majority of people in the Arab world are stunned and angry that we in my generation are still addressing the same issues that my grandparents addressed 80 and 90 years ago: the rights of the citizen; the relationship of the individual citizen to the state; relationships between the individual and the society around him or her; the relationship between Arabism and Zionism, Israel and the Arab countries; the relationship between us and the Western great powers; the rights of individuals in society in relation to other people in society. These fundamental issues of citizenship and statehood and sovereignty have not been addressed in any coherent way in the last three generations and this angers people.

And all of these issues and others have caused people to work hard to try to bring about a better order in the region and many of them have expressed this desire in the language of religion. It's not an accident that this is a majority Muslim region and people have turned to their religion to express their indignities when they found no other opportunities open to them in civil society. The parallel that I draw, and it's not exactly the same but it's very similar, is how the American African-American experience, when all routes for political change through these institutions of society in United States were closed to African-Americans by and large in the 1940s and 1950s, they turned to the church.

The civil rights movement was led by the church and the African-Americans and all Americans were lucky to have such enlightened leaderships leading the civil rights movement, and it was one of the finest moments in American modern history. And you had the church leading the anti-apartheid movement in South Africa and it's no accident that the people turned to the religious leaderships in their countries in the Middle East.

So we have this very rich and vibrant landscape and dynamic landscape of people trying to improve societies in the Middle East but unable to do so, and now there is an opening to make change, an opening because of the economic stress in the region that has forced countries to liberalize their political grip and perhaps an opening because of external interventions. We'll have to see what the American intervention in Iraq actually does in terms of promoting democracy. I think the record is still open on this, but giving the U.S. Government the benefit of the doubt. If it wants to really promote democracy, I think it will find millions and millions of people anxious to work with it.

The keys to success will be to achieve a legitimate democratic order in the Middle East, I think the key is going to have to be to understand these cultural differences that separate us, but that are anchored in the common values that we share. People in the United States value freedom above all other attributes, I would say. Freedom is not a high priority for most people in the Middle East. Human dignity, justice are the issues that people talk about, and you need to relate to them in those terms if you want them to work with you coherently for democratic progress.

Americans organize their society on the basis of the rights of the individual. Middle Eastern societies are based on the rights of the

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individual is subsumed under the group, the family, the tribe, the religion, the ethnic group, whatever it may be. Individual rights in the Middle East are not as important as they are in the West.

The United States is a secular society. Religion deeply permeates all aspects of life in the Middle East and this is something that you need to come to grips with. And the United States is predominantly an immigrant society with a very short collective history, while most countries in the Middle East are not immigrant societies, they're people who have lived there for hundreds or even thousands of years and they have strong historical memories.

These four points I think are crucial to formulating any kind of effective democratic program in the Middle East, and I would urge that there be a serious effort to study these issues much more carefully to find those commonalities between the people of the United States and the people of the Middle East where we do agree. And I'm making these differences but also pointing out that there is a massive underlayer of agreement on the principles, the consent of the governed, the rule of law, equal justice for all, accountability of public officials.

These are issues, values that are deeply ingrained in our religions and in our culture, and I would finish by saying again that the dynamic that we witnessed here in this committee is a dynamic that we witness all the time in the Middle East, but it's not done like this, it's not on television, it's not in the paper, it's not open to the public. It's done quietly, it's done in people's rooms, it's done in people's homes, offices, government officials. I've been in situations with kings and the people sitting down together and having a chat, people holding the leaderships accountable, but it's done in a different way.

If you try to impose a Western American tradition of doing things in a democratic way on a culture that is completely different in the way it manifests its ideals, you are going to have the same failures that the British and the French did 80 years ago. And I would urge you as somebody who is deeply rooted in both American and Arab culture and who loves them both and appreciates their values both to make a much more rigorous and strenuous effort than the executive branch of your government has done to understand these differences but also understand the commonalities, identify those forces in the Middle East who are working for exactly what you're working for, and to push that process forward with much more coherence than we have seen today.

Thank you very much.

[The prepared statement of Mr. Khouri follows:]

PREPARED STATEMENT OF MR. RAMI G. KHOURI, EXECUTIVE EDITOR, THE DAILY STAR NEWSPAPER, BEIRUT, LEBANON

Mr. Chairman, Committee Members, Ladies and Gentlemen,

Thank you for this opportunity to share some thoughts with you on an issue of immense and urgent importance to Americans and Middle Easterners alike—promoting democracy throughout the Middle East. I have spent all my adult life in the region working towards this goal, and am personally delighted that democratization in the Middle East should now be raised as a potential American foreign policy objective. The objective is noble, appropriate, and achievable. The demand among the people of our region is great. Yet men and women in the Middle East and the United States who seek to achieve this worthy goal face a landscape littered with obstacles that can be traced back to indigenous Arab and Middle Eastern causes but

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also to the conduct of the USA and other foreign powers. Most of these constraints are man-made, and they can be removed if we forge appropriate policies and work diligently and consistently. I would like to offer some observations and suggestions based on my analysis of sentiments throughout the Arab World, the region I know best, though some of these thoughts are also relevant to Turkey, Iran, Israel, and other non-Arab parts of the Middle East.

This is a critical time in the Middle East, when its own citizens and many friends around the world are exploring why this region remains the least democratic part of the globe. If the United States in particular truly seeks to promote democracy in Iraq and the wider region, it would do well to start by correctly analyzing three critical factors: Why has democracy not spread throughout this region? What has been the United States' role in this matter in modern history? And what do the people of the region feel about democracy, and what are they doing to achieve it?

There are tens of millions of people for you to work with on this goal throughout the Middle East, but they have mostly been silenced by their own governments, and ignored by the American government and others around the world. I would suggest the following main reasons why the Middle East remains a region largely devoid of democratic governments:

1. The legacy of autocratic, sometimes authoritarian, rule in our region, almost always with the explicit, sustained support of foreign governments, including the US government. Arab democrats have never had a chance, and they are understandably skeptical to hear the USA suddenly promoting a policy of rapid democratization in the Middle East. Washington's credibility on this, like its track record, is very thin.

2. The many years of the Cold War reinforced the static, non-democratic nature of the Middle Eastern political order, as the two superpowers provided economic, political, and military support for their clients in the area.

3. The Arab-Israeli conflict provided a means for autocratic rulers to avoid democratic transformations and instead to promote security-minded regimes, by arguing that the regional conflict made defense a greater priority than democracy.

4. The post-WWI colonial legacy made it virtually impossible for Arab public opinion to manifest itself for democratic governance, given that colonial authorities usually transferred political and military power in most countries to hand-picked local elites, who quickly consolidated their grip on power or were overthrown by military coups whose leaders consolidated their power.

5. State-building issues, security, and taking care of one's own family usually were seen by most people and governments as more urgent priorities than promoting democracy.

The net result of these and other trends has been that security-minded governments and states dominated most aspects of life in Middle Eastern countries, external powers usually helped to perpetuate this autocracy and lack of democracy, and civil society and the private sector were largely contained and controlled by the state. Middle Eastern democrats have struggled unsuccessfully against these odds for many decades, just as their counterparts had done in the former Soviet bloc. But some improvements have occurred since the mid-1980s, when fiscal pressures forces most Arab regimes to loosen their grip on society; this trend continued in the early 1990s, after the collapse of communism impacted on the region.

The result has been an appreciable liberalization of political life in many countries, including legalization of new political parties, holding parliamentary elections, providing greater opportunities to oppose government positions, a more robust press, a larger role for the private sector, and expansion in the number and nature of non-governmental organizations and other civil society actors. The enthusiasm with which ordinary people throughout the region embraced the opportunities provided by the recent political liberalization indicates the strong thirst for more democratic and participatory governance systems in the region. Tens of thousands of new non-governmental organizations have been established in the region in the past two decades, along with hundreds of political parties and publications.

This has defused some of the tensions, frustrations, and pressures that had been building up within Arab countries, but in no case did it move any society towards a truly democratic system. The Arab region since the late-1980s has experienced a measurable improvement in freedom of expression and association, but political liberalization has not continued on the path towards full democratization. The ruling elites that have dominated Middle Eastern political life for the past half century continue to do so, with only superficial changes to their control of political, security, intellectual, cultural, and economic assets.

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The tensions and concerns that drive the sentiments and actions of ordinary people throughout the Middle East have not changed very significantly in the past few decades. I would define these, in their order of importance, as:

1. Domestic indignities, reflecting political, economic, cultural and environmental pressures on the ordinary citizen, who feels that his or her voice is not heard in a society where power is unjustly exploited by a small, non-accountable elite.

2. The humiliations and dangers suffered as a result of the Arab-Israeli conflict, which are widely felt emotionally and politically throughout the region.

3. The legacy of foreign interventions in the area, whether by Europeans a century ago or by the USA today.

All three of these issues have caused tens of millions of people throughout the region to agitate for a better, more responsive and more equitable order. Ordinary men and women have had few if any opportunities to express themselves, let alone to work for better governance. Most people have expressed their wishes in the language of religion or culture, speaking of their right to justice and dignity, rather than in the language of democratic republicanism. Dissatisfied Arabs whose citizenship rights have been routinely degraded have most often found refuge and hope in their religion or in their collective tribal and family identities, which have provided the sense of identity and the security and services that the modern state has not been able to provide.

The election results throughout the Middle East since the late 1980s, along with public opinion polls and the media, indicate clearly a strong desire for change among the publics of the region. The landscape for change and democracy in the Middle East is deep, rich and fertile, but it has never been cultivated by indigenous authorities or foreign powers.

Any effort to promote democracy in the Arab and wider Middle Eastern region must take these facts into consideration, acknowledge the mistakes of the past, understand the grievances and aspirations of the people of the region, and respond to indigenous concerns and hopes, rather than transplant foreign notions of what is right or what is needed. The US' policy in Iraq today unfortunately dampens indigenous Arab activism for democracy in the short run, given the strong anti-American sentiments in much of the Middle East. Local activists who seek to promote democracy face the new obstacle of being seen by some of their peers as unwitting agents of the United States. This is a terrible and bitter irony, given that Middle Eastern democracy activists have long wished to work with like-minded partners from the US and the West as a whole.

To achieve legitimate democratic orders in the Middle East, we must acknowledge several key realities and act accordingly, rather than forge policies that are driven either by extreme ideology or naïve romanticism. The single most important point that we must acknowledge is that the people of the United States and the Middle East share very common values and goals on issues such as a just society and good governance—but they express them very differently. Four key differences should be kept in mind as we collectively seek to promote democracy in our region:

1. Americans probably value freedom above all other attributes, while most Arab societies stress the dignity of the individual more than his or her liberty. Dignity is defined and perceived as comprising the same range of values and rights that define democracy in the US and the Western world—participation in political life and decision-making, a sense of social and economic justice, initial equal opportunities for all young people in their education and careers, and the rule of law applied equally and fairly to all in society.

2. Americans organize their society and governance primarily on the basis of the rights of the individual, while Arabs define themselves and their societies primarily through collective identities, such as family, tribe, ethnic group, or religion. Americans tend to stress society's obligation to ensure the individual's rights to do as he or she pleases, within the limits of the law; Arabs tend to focus more on the obligation of the individual to fulfill his or her responsibilities to the family and wider community.

3. The USA is a secular society, while religion plays an important public role in most Arab and Middle Eastern societies.

4. The United States is predominantly an immigrant society with a short collective historical memory, while Middle Eastern cultures are deeply defined by their historical memories and past experiences.

These four key differences between American and Arab culture have a major impact on how democracy could spread throughout our region. The term "democracy"

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itself needs to be defined carefully, given its largely Western tradition, though I believe we are all talking about the same broad concepts and values. We can speak of democracy, constitutionalism, republicanism, good governance, the rule of law, representative and accountable governance, participatory governance, or any other combination of words that reflect values we admire and seek to enjoy. One of the continuing mistakes of the past century—and the United States is now repeating the mistakes that Great Britain made in Iraq nearly a century ago—is that Western powers that enter the Middle East on the back of their military might tend to recreate Middle Eastern societies in their own Western image. Most of the parliaments, presidential systems, and even, in some cases, the very sovereign states that the British and French created in our region nearly a century ago have limped into this new century in poor shape, with limited credibility, relevance, or impact with their own people. One reason for this is that the people of the Middle East were rarely seriously consulted about the formation of their new countries after World War One. Another reason is that Western powers tried to copy their own institutions and mirror their own values in the Middle East, without sufficiently taking into account local realities such as those included in the four points I mentioned above. We may be witnessing this mistake once again in US policies in Iraq, whose good intentions are not always matched by effective implementation.

Rather than trying to replicate Western institutions in the Middle East or graft American institutions into Iraq, it would be much more effective and culturally acceptable to identify those shared values that define Middle Eastern and Western cultures, and work together to give those values life and institutional meaning in new governance systems. I know from my own life experience in the United States and the Arab World that Arabs and Americans broadly see eye-to-eye on the core principles and values that concern us—such as the consent of the governed, majority rule and the protection of minority rights, accountability of those who hold public power, participation and consultation in the decision-making process, a sense of justice and equity for all, and pluralism in the social, religious and political order. We can all identify some quarters in the Middle East that do not share these views, but these are the exceptions that prove the rule.

I would urge the USA and any other foreign party that seeks to promote democracy in the Middle East to focus on promoting these kinds of principles and working to ensure that the peoples of the region have the opportunity to manifest these values in political structures and norms that are culturally comfortable and credible for them. The sad fact is, never in my generation have I witnessed an American government that worked hard for the principle of the consent of the governed in Arab lands. If this is to change, and the USA now plans to spearhead a democratic age in the Middle East, it would do well to start by consulting more closely with the people of the region, and forming partnerships for goals that are defined primarily by the citizens of those societies you wish to democratize. In other words, the best way to promote democracy in the Middle East is to be democratic in the way you go about trying to do this: consult, and don't dictate; achieve consensus, and don't issue ultimatums.

Perhaps the most common obstacle in the way of American hopes to promote democracy in the Middle East is the perception in the region of American double standards, on issues such as the Arab-Israeli conflict, implementation of UN resolutions, promoting democracy, and weapons non-proliferation. This suggests that the fastest way for the US to be accepted as a credible purveyor of democracy in the Middle East is to be much more consistent in its practical policies in the region. Simply stated, the US should apply the same standards in its policies abroad as it does at home. This will require greater sensitivity to local Middle Eastern cultural and religious values, and more consistency in promoting democratic values among all the countries of the region, including the ones that the US has long viewed as strategic allies that it has exempted from promoting democracy.

The CHAIRMAN. Thank you very much, Mr. Khouri.
Dr. Marr.

STATEMENT OF DR. PHEBE MARR, FORMER SENIOR FELLOW, NATIONAL DEFENSE UNIVERSITY; AUTHOR AND CONSULTANT, WASHINGTON, DC

Dr. MARR. Mr. Chairman and Senators, I'd like to thank you very much for inviting me to testify once again before you, and it is indeed a privilege. I want to expand in my testimony a little bit be-

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yond the constitutional system and address some of the problems I see the Iraqis facing today, but I would also like to touch on the constitutional process as well.

It seems to me that even before the occupation of Iraq there was considerable debate in policy circles here on what regime change in Iraq would mean. Without oversimplifying, some envisioned a modest change, removal of the head, Saddam, and some of his support system, but leaving much of the apparatus intact. In retrospect, that would have made a smoother transition if it could have been accomplished. It probably would have been less costly, but the difficulty with it, of course, is that you wouldn't have gotten much change, and we all worried about the emergence a new authoritarian leader later on.

The second choice, the one that we've ultimately followed, was to opt for more radical change, a rather thorough dismantling of the system, the better to create something new in its place. This obviously has the virtue of clearing the field for new construction, but it does come with a high price tag. This radical change has created a political, military, and psychological vacuum, that now has to be filled by us or by others that we can hastily assemble from abroad or from inside Iraq.

I would like to focus on a couple of unintended consequences that have resulted from this. I see two of these as the most important, and would like to focus on them today. One is the destruction of the central government in a country that was previously overwhelmingly dependent on it. As a counterbalance, and this is a very welcome one, there has been a very significant decentralization of administration in Iraq; the establishment of municipal councils, provincial-level appointments, and so on.

But this cannot substitute for the role of a central government, and if there is too much decentralization left unchecked, we could get a lot more unintended consequences we don't want, such as renewed factionalism, the development of party militias, which we see, and increased control by local potentates. I believe that a balance has to be re-established and soon for several reasons. I've gone into in more detail on this in the paper than I will here.

First is demographics in Iraq. I don't think this is widely appreciated, but because of internal migration in Iraq over the past couple of decades, there has been a considerable shift in population from the northern and southern provinces into the central provinces and particularly Baghdad. One should always distrust statistics in Iraq, but the trends I think are clear.

By my calculation today, about half of Iraq's population lives in its five central provinces, and something like a third live in Baghdad, the capital. Only about 13 percent live in the three northern Kurdish provinces, and in all those southern provinces we lump together as Shi'ah, only about 32 percent live there. The north and the south up to this point have been relatively quiet, but I would point out that it's the center with the bulk of Iraq's population that is giving us the most trouble, including a persistent guerrilla insurgency.

A second point, and you are probably familiar with this: Under Saddam, a large percentage of the population, especially its educated middle class, worked for the government directly or indi-

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rectly. It was a classic socialist command economy. They worked in the military, the police, security, education, the media, even large-scale industry. There are a lot of statistics, but according to one, perhaps a quarter of the population or more was supported by the central government including their families. I would point out here that most of this group is now out of work while the government doesn't function very well without them.

Third, let me mention in passing, it's not surprising to find that this situation reinforced a culture of dependency on the government in Iraq and starved individual initiative and incentive. Mr. Khouri has talked about cultural differences and this is one I think we have to pay attention to. The United States is built on initiative. We expect people to rise up and seize the initiative. Iraq, because of the horrendous experience it's had in the last four decades, expects the government to perform services, give them orders, and to follow the government's lead. We have to deal with that situation.

The U.S. occupation up to this point, it seems to me, has entirely reversed this situation. First, it has empowered local communities for the first time in Iraq's modern history. This is obviously very good. As I've indicated, it's worked well in the north, which has been governing itself for over a decade, and in the south, where the population is eager to exercise self-government. It has not worked well in the center.

Second, as I've indicated, the United States has demolished much of the central government and its pillars, thereby weakening the center. Chief among these, of course, was the Armed Forces. While it's true the army collapsed, obviously there was no attempt made to reconstitute this force at any level. On the contrary, the CPA and others made clear that the old army would not be reassembled. Instead, a new one would be built from the ground up.

Third, Iraq's notorious security services were disbanded. Obviously, no one is weeping over that or suggesting that they be revived. Nevertheless, the absence of these forces, as we saw during the looting and we see today, has left a huge security void that the coalition has not been able to fill.

Fourth, the Ba'ath party was outlawed and members in the top three levels of the party were banned from public employment. That may involve 25,000, 30,000 members who had manned key positions in the public bureaucracy. While most members at the lower level, many of them middle class, were in the party for career reasons, for opportunism, without commitment, this group subsequently felt uncertain about their future. In any event, the bureaucracy at lower levels has not come back to work to any considerable degree to take charge of the administration as anticipated. Once again, the gap has been difficult to fill.

So the question we have to ask, I think, about this educated middle class, the group that we need to run the bureaucracy, to fill the security gap, to propel its education system in new directions is this: Is this large and important class of Iraqis, what I consider to be the moderate, silent majority, going to cooperate with the United States in building a better foundation, or is it going to become alienated, passively resist cooperation, or worse yet, turn against us as the militant minority is urging?

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I would remind everyone that there is a very strong strand of nationalism and anti-colonialism in Iraq, not without some justification, stretching right back to the British mandate. This often creates a lot of peer pressure to avoid cooperation with the United States. But in my view, and a recent poll by John Zogby reinforces this, most of this middle class knows it needs the help and support of the U.S. and others and it wants this support until it has a government that can stand on its feet and meet the challenge of extremists. We must address this problem.

The second radical change that's taking place, in my view, is in the distribution of power. This gets us to a problem that I think is critical. We've talked about it before. The second consequence has been a radical distribution, radical change in the distribution of power, and again, there's much that's beneficial about that. The new Governing Council and the ministers are now representative of the ethnic and sectarian distribution of the population. They also represent a wide diversity of political parties and they have brought into power a substantial group of exiled Iraqis, whom I see as a benefit. They bring fresh ideas and a spirit of initiative that may not be there right away in Iraq. This is all a very new phenomenon in Iraq.

I think it is generally known, that most of the governments in Iraq, and none worse than Saddam's last government, have been dominated by the Arab Sunni community, and in his case a very narrow spectrum of this community. They come from the smaller towns and cities of the Sunni triangle. This completely underrepresented the Shi'i, who constitute 60 percent of the population, and the Kurds as well.

The new Governing Council has reversed this. Of the 25 members, 13, or about 52 percent, a slight majority, are Shi'ah, 5 each, about 20 percent, are Arab Sunnis, and Kurds. There's one Christian, one Turkman, and three women. At least half, perhaps more, are exiles, not including the Kurdish parties. While the makeup of this council is representative, it has also caused a little trouble, mainly from those who were left out. First the supporters and beneficiaries of Saddam's regime, the Sunni triangle, are the most disaffected and this is the source of our problem.

Let us leave them aside because they are probably irredeemable, but the Baghdad middle class, many of whom were nominal party members, are also unhappy and I think we have to turn our attention to these as well.

Second, the heavy emphasis on the religious and ethnic background in the Governing Council also points to another change from past regimes—that is an open emphasis on ethnic and sectarian politics. This has always been a subtext in Iraq. One can't deny its presence but it's more pronounced today than it has been at any time that I can remember in Iraqi history. This is worrisome to me. These appointments point to cleavages and tensions in the society that we have to be aware of and unless these are reconciled and we make efforts to reconcile them and we get people to cooperate across ethnic and sectarian lines, it could spell trouble ahead.

The Arab Sunni community is not the only one to watch. Let me just mention the Shi'ah and the Kurds. The Shi'ah as a whole have accepted the new order because they understand that they have a

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chance to be a political majority for the first time in Iraq's modern history. However, the Shi'ah community is hardly homogenous, and even the minority of the Shi'ah, who want to see a more religious state, are divided among themselves on what role religion should play.

Much of the Shi'ah community is uncomfortable with the U.S. occupation and wants an earlier rather than a later departure. The Shi'ah, however, risk a political split over this issue, particularly from militants like Muqtada-l-Sadr, the radical young cleric who has mobilized a lot of people in the poor district of Baghdad, Sadr City. A further decline in the security situation, more killing of Shi'ah clerics, could split the community, erode support for the Governing Council, and exacerbate community tensions. These eventualities should be avoided at all costs.

The Kurds also represent another future fault line in the system, and I take on board to a considerable extent what Dr. Feldman has said. Though the north has been very quiet and the Kurds are very supportive of the coalition, one reason for this is that the Kurdish parties have made substantial gains in achieving their future goals. They are obviously very anxious to preserve these in the new constitution, and I agree that they're likely to drive a very hard bargain for self-government in the north.

As the constitutional process proceeds, I think there will be two issues that have to be resolved. These will require very difficult bargaining among the Iraqis; they are not going to be technical constitutional questions, although that will be involved. These are political questions. I have actually identified the same issues that Dr. Feldman did, although my take on them may be slightly different. These issues incidentally are very real, and in my view we can opine on them, but the Iraqis are the ones that have to resolve them. If the Iraqis in any way can resolve them, that should be acceptable to us.

The first is the role of the Shi'ah in the state. This is a key issue for several important Shi'ah parties and for secularists as well. There is little doubt that these Shi'ah politicans and not only the Shi'ah but the Sunnis as well will want a greater role for religion. The folks who do want a greater role for religion are going to face a number of secularists in Iraq as well as moderately religious people who want a limited role. In my view, we're going to see more religion in Iraq than we have in the past, but the question is how to draw the boundaries, how much religion, what kind of religion, and so on. This is going to be one of the key questions in the constitutional discussion.

The second issue is the role of the Kurds in the state and how much self-government for the Kurds under the constitution. There is little doubt that the Kurds want federalism. This issue boils down into a discussion between those who are talking about ethnic federalism and those who are talking about administrative federalism, based on 18 provinces. Administrative federalism would not be a bad idea, because those provinces which are distinctly Kurdish or Shi'ah or Arab Sunni would of course have Kurdish, Shi'ah, and Arab Sunni governments, and those which are mixed, like Kirkuk, Mosul, Baghdad, even Basra, Diyala, and so on, would have mixed governments.

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A word of caution here about federalism that divides Iraq into two or three big areas. Disentangling these areas is going to be no small task if that's what people have in mind with this federalism. It may be easy in Dahuk. It may be easy or not too easy even in Najaf, but when you get to these mixed areas where the bulk of the population in Iraq lives, it's going to be extremely difficult.

I agree that the Kurdish parties, who are in control of the north of Iraq, are pretty determined to have federalism on an ethnic basis. As I've heard it defined wherever a province has 50 percent Kurdish speakers it is going to be a Kurdish province. This really has to be looked at carefully, although it is an issue for the Iraqis to decide, because if there is an ethnically defined Kurdistan, does that not open the door to self-governing units in other area, such as the Shi'ah south or the Sunni triangle? What happens to Baghdad and other mixed areas in the center? And what happens to the cohesion of Iraq as a country?

Constitutional deliberations, however they come about, and the drawing up of an electoral law on which representation will be based, will open all of these issues. I believe they're going to be difficult to resolve and that the Iraqis need a reasonable time period in a relatively secure environment to resolve them. They do need some deadlines, however, to work toward the process so that they'll be able to move to a conclusion. I recognize the difficulties of holding an election, which would produce a huge group of people to sit down and look at the constitution. Actually dozens of Iraqi exiles, including my colleague, Dr. al-Khafaji, have looked at constitutions and drawn up models. I would be a little uneasy myself to have a constitution promulgated in Iraq without some kind of an electoral body to ratify it, because that would raise the whole issue of legitimacy. The constitution, after all, is going to determine much of the future of Iraq.

I'd like to conclude with a few suggestions on what the United States needs to do in a broad sense, where we need to go from here to address a couple of these issues. The first I'm sure you've heard over and over. We must reduce and neutralize the insurgency. Everything else depends on getting a degree of stability and quiet. That of course is going to be easier said than done.

I would certainly second the suggestions that have been made here to turn that task over as rapidly as possible to Iraqis. Iraqis know the environment, they know the people, they're much better equipped to deal with security than we are. And incidentally, there have been a number of suggestions for security, some of which are short-term but not, I think, too good for the long-term, such as using local militias placed under the authority of the central government. It is better to rapidly develop new forces for the Iraqis. I would be very careful about decentralizing security and putting it in the hands of these militias, because we need to strengthen the central government while we're making it democratic.

The second point that I would make here is that it is time to strengthen the central government and the center. This may be somewhat controversial, but the gap left by the collapse of the central government and the decline and weakening of Baghdad and the center as a whole is part of this problem of restoring law and order. While decentralization is necessary, I think the process

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needs a little re-balancing at this point, particularly in a country that's used to taking orders from the central government.

A restored and healthy center and a functioning central government will help prevent unraveling in the provinces. Staffing shortages need to be filled. There should be better linkages between the provinces and the central government, not simply the extension of the central government into the provinces. The Baghdadis need to get out in the provinces and understand their demands. We should try to get some of these very dynamic, very interesting municipal and provincial councils that have developed in better contact with the central government as well.

The last point I would make here, and it is the main one that I want to make, is that in looking at how to spend this money, in looking at programs, looking at where we want to go, we need to aim at strengthening the middle class. The United States should use its construction money to strengthen this class. It can do so in several ways, developing an independent business class, which is free of government control, and strengthening an educated professional class, both of which are the backbone of any democratic state.

In Iraq, this class has generally cut across ethnic and sectarian lines. When you strengthen the middle class, you're reducing these divisive, ethnic, and sectarian differences in general—the middle class has been the glue which has held the country together—as well as encouraging a common and more progressive Iraqi vision. That class and the progressive vision are still present in Iraq, but as we know, the middle class has been weakened through Saddam's oppression and by sanctions.

I think we should be spurring economic activity in small- and medium-sized business, which will help employment and help develop an independent economic sector. And I would add my voice to Dr. Khafaji's in saying we've got to be very careful to keep a level playing field in the economy, to make sure it's Iraqis we're empowering and hiring, not foreign companies, and preventing the development of a small economic mafia, the sort of thing that developed in the Soviet Union and which Saddam developed prior to his overthrow.

We should also open the country to outside influences. There are dozens of good ideas on how to do this in education, through think tanks, through professional exchanges which will help the educated class, which is the backbone of government and civic society. The stronger this class becomes, the less will be heard of these ethnic and sectarian differences. And accompanying this transformation must be an attractive, practical vision of the future for young Iraqis to develop new careers and new opportunities. If this takes place and Iraq becomes a dynamic economic and social place, some of these divisive tendencies will dissipate.

This vision and these opportunities, I think, must come soon, especially in Baghdad and the center, or ethnic and sectarian tensions, rising opposition to the occupation, and a deepening and spreading insurgency will end any hope for a stable, much less a democratic, Iraq. Thank you.

[The prepared statement of Dr. Marr follows:]

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PREPARED STATEMENT OF DR. PHEBE MARR, FORMER SENIOR FELLOW, NATIONAL DEFENSE UNIVERSITY; AUTHOR AND CONSULTANT, WASHINGTON, DC

Even before the occupation of Iraq there was considerable debate in policy circles on what "regime change" in Iraq should mean. Some advocated modest change—removing the head of the regime—the Saddam family and its support system—but leaving the rest more or less intact to run the government. This would have meant a smoother transition at less cost to the US. But it would have left much of the Ba'th and military apparatus in tact and, in the end, brought only minimal change to Iraq.

A second choice, the one ultimately followed, opted for more radical change—a thorough dismantling of the system, the better to create something new in its place. This had the virtue of clearing the field for new construction, but, as is now apparent, it has come with a high price tag. Radical change has created a political, military and psychological vacuum that has to be filled—by us—or by others we can hastily assemble from abroad or inside Iraq. This policy has had several unintended consequences. I would like to address two of the most important of these.

1. *Destruction of the Central Government:* The first is the destruction of the central government in a country overwhelmingly dependent on it. As a counterbalance—and a welcome one—there has been significant decentralization of administration, with the development of municipal councils and governance at provincial levels. This is a positive development, but it cannot substitute for the role of a central government in a relatively advanced country like Iraq, and too much decentralization, if left unchecked, can be counterproductive. It can lead to renewed factionalism; the development of party militias and increased control by local potentates. A balance has to be reestablished—and soon. There are several reasons for this, which can be demonstrated by a few statistics.

First, demographics in Iraq show that over the last several decades much of the population has shifted to the central region. The Kurdish population in the north has undergone drastic uprooting and resettlement as well as gassing. The shi'ah population in the south has been oppressed, neglected and pushed out of the country. This has left the "center" top heavy. (See Annex 1) By 2003 half of Iraq's population lived in its five central provinces. (Baghdad, Ninewah, Anber, Salah-al-Din and Diyala). Almost a third of these live in Baghdad. Only 13 percent of Iraq's population lives in the three northern provinces of Dahuk, Irbil and Sulaymaniyyah; and only 32 percent in the nine southern (mainly shi'ah) provinces, including Basra. In part because of decentralization, the northern and southern provinces have, for the most part been quiet. With the exception of violence against shi'ah clerics in Najaf—emanating from outside—there has been minimal violence in these two sections of the country. By contrast, it is the "center", with the bulk of Iraq's population, that is giving us trouble, including a persistence guerrilla insurgency. While Baghdad is not the center of the insurgency, it is not yet under control and its governance, is a problem.

Second, under Saddam, a large percentage of the population—especially its educated middle class—worked for the central government directly or indirectly. They were employed in the military, the police and the security services; they worked in the civil service, educational institutions and the media. Much of the industrial sector was also under government control. (See Annex 2) According to one set of statistics, almost 17 percent of the entire work force, some 826,000 was working for the government in 1990, exclusive of the military. If the military is added, (over 400,000) over a quarter of the population was supported by the central government. This group is now out of work while the government cannot function without them.

Third, not surprisingly this situation reinforced a culture of dependency on government and starved individual incentive and initiative. The political culture, as well as the reality on the ground, fostered the notion that the government was the provider of benefits, services and "perks". The role of the population, especially those employed by government, was to "obey the law" and follow the government's lead. These principles are clearly spelled out in fifth and sixth grade "civics" textbooks, written simply so children can understand them. One or two quotes may illustrate the point:

"The revolution provides services to citizens-housing . . . land . . . buildings and modern villages, . . . and services such as water and electricity. . . . We provide books and magazines . . . television broadcasting and cultural programs . . . and also guidance to the public . . . .

"All loyal citizens should] protect the revolution and maintain stability, prevent crimes, uphold the sovereignty of the law . . . and cooperate with the internal security forces and help them perform their duties . . ." (N.Y. Times, April 20, 2003)

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The US occupation has entirely reversed this situation. First, it has empowered local communities for the first time in Iraq's history. Municipalities, provincial capitals and local regions are now under local authority, often through a rough and ready election process. This has worked well in the north, which has been governing itself for over a decade, and in the south, eager to exercise some self government. It has not worked well in the center.

Second, the US has demolished much of the central government and its pillars, thereby weakening the center. Chief among these actions was abolishing the Iraqi anned forces. While it is true that the occupying powers found an army already dispersed and disbanded, it made no attempt to reconstitute this force at any level. On the contrary, it made it clear that the "old" army would not be reassembled. Instead, a new one would be built from the ground up.

Third, Iraq's notorious security services were disbanded, including special forces and various units of the Republican Guard. These presumably included the police. While no one would suggest reviving or maintaining Saddam's intelligence and security forces, the absence of these forces, as we saw during the looting, left a huge security void the coalition was not able to fill.

Fourth, the Ba'th Party was outlawed and all members in the top three levels of the party were banned from public employment. This may have involved 25,000 to 30,000 members who had manned the key positions in the massive public bureaucracy. While most party members at lower levels, including much of the educated middle class—possibly over a million—were in the party for career reasons and not for commitment, many may have felt uncertain about their future. They may also have been intimidated by the Ba'thists who were fired but threatened to return. In any event, the bureaucracy at lower levels did not come back to work or take charge of a new administration as apparently anticipated. Once again, the gap has been difficult to fill.

Much of Iraq's educated middle class, the group that we need to run the bureaucracy, to fill the security gap and to direct its education system, is located in these central provinces, especially Baghdad. Much of this population is now unemployed and sees little prospects of future employment in its previous profession. Its expectations of a better future (like our own expectations for a smooth transition, far too high to be realistic) now are badly damaged. Will this large and important class of Iraqis—its "moderate, silent majority" cooperate with the US in building a better foundation? Or will it become alienated, passively resist cooperation or worse, turn against us as the militant minority is urging? There is a strong strand of nationalism and a long tradition of anti-colonialism in Iraq stretching back to the British mandate. This often creates strong peer pressure to demand immediate self government. Such demands, from militants, will be increasingly difficult to resist. But most of this middle class in the center knows that it needs the help and support of the US—and wants it—until it has a government that can stand on its feet and meet the challenge of the extremists. It is the center—not the north nor the south—yet—which is giving us trouble. We must address this problem

2. *A Radical Change in the Distribution of Power.* The second consequence of the occupation has been a radical change in the distribution of power. Again, there is much that is beneficial about this change. The new Governing Council—and the ministers—are now representative of the ethnic and sectarian distribution of the population. They represent a wide diversity of political parties ranging from religious, to nationalist to leftist. And they have brought to power a number of exiled Iraqis with political experience gained outside Iraq, a new phenomenon in Iraq. The most important shift, however, is in the ethnic and sectarian balance on the Council. By contrast, a snap shot of the Ba'athist government in 1998 showed that at upper levels (RCC and Regional Command of the Party) at least 61 percent were Arab sunnis; only 28 percent Arab shi'ah and 6 percent Kurds or Turkman. (See Annex 3). This imbalance has characterized most periods in Iraq's history which has substantially underrepresented the shi'ah, who constitute about 60 percent of the population, and the Kurds who constitute about 17 percent. Arab sunnis are a minority of only 15 to 20 percent, yet they have always had twice their number in political posts and a hugely disproportionate number at the top.

The new Governing Council has reversed this distribution of power. Of the 25 members, 13 or 52 percent—a slight majority—are shi'ah; and five each—about 20 percent are Arab sunnis and Kurds. There is one Christian, one Turkman and three women. At least half are exiles, not including the Kurdish parties which had been functioning in the north; only a minority had been living in Iraq under Saddam's rule, giving them a smaller voice. While this change will bring fresh air from outside and experience in dealing with more open political systems, it may cause some resentment from insiders.

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While the make-up of the council is representative, it has also caused some trouble—mainly from those left out or whose fortunes have been reversed. Some of this is obvious. The supporters and beneficiaries of Saddam's regime in the sunni triangle are the most disaffected and this area is the source of much of the continuing insurgency. The regular army which probably expected to play some role in the new regime is also unemployed and reportedly disaffected. The Baghdad middle class, many of whom were nominal party members and are used to entitlements are also unhappy with their reversal of fortune as well. While some of these individuals are irredeemable, most need to be given a stake in the new regime and not left out in the cold.

The heavy emphasis on religious and ethnic background in the Governing Council also points to another change from past regimes—the open emphasis on ethnic and sectarian politics. While always a subtext, these affiliations are now front and center, pointing to cleavages in society which are more pronounced today than at any previous time. Unless they are reconciled—and reduced in importance—they could spell trouble ahead. In any ensuing struggle for power—and there unquestionably will be one—these factors will now be more important. The Arab sunni community is not the only one to watch.

The shi'ah, as a whole, have accepted the new order because they understand that they have a chance to become a political majority for the first time in Iraq's modern history. In the past, rejectionist policies from the shi'ah have resulted in a permanent reduction in their political influence, an outcome most shi'ah leaders do not want to risk again. But the shi'ah community is hardly homogeneous; even the minority of shi'ah who want to see a more religious state are divided among moderates, conservatives and radicals. Much of the shi'ah community is uncomfortable with occupation and wants an earlier, rather than a later, end to it. The shi'ah risk a political split over this issue, particularly from militants like Muqtada-l-Sadr, a radical young shi'ah cleric who has mobilize thousands of poor, unemployed followers from 11Sadr City" in Baghdad. The killing of shi'ah clerics (Abd al-Majid al-Khu'i; Muhammad Baqir al-Hakim) has increased tensions within the community and turned the attention of some to the "sunni" opposition. A further decline in the security situation—and more killing of shi'ah luminaries—could split the community, erode support for the Governing Council and exacerbate communal tensions. These eventualities must be avoided at all cost.

The Kurds also represent another future fault line in the system. Though the north has been very quiet and the Kurds are supportive of the coalition, one reason is that the Kurdish parties have made substantial gains in achieving their future goals. They have the dominant voice in Kirku's municipal council, and they have also expanded their influence—though it is not a controlling one—in Mosul. They, of course, are anxious to preserve their gains in the new constitution and can be expected to drive a hard bargain on self-government in the north.

As the constitutional process proceeds, there are likely to be two key issues that have to be resolved, and will require difficult bargaining among Iraqis. The issues are real, and only Iraqis can resolve them. The first is the role of the shi'ah in the state. Even if shi'ah representatives maintain a majority of seats on any governing body, the role of religion in state and society remains to be determined. This is a key issue for several important shi'ah parties—especially SCIRI and the Da'wah. Those shi'ah politicians who want a greater role for religion will have to face many shi'ah secularists; who do not; even more significant, they will have to face a large sunni community, Kurd and Arab, that views religious precepts differently.

The second issue is the role of the Kurds in the state and how much self-government Kurds will have under the constitution. While Kurds themselves want "federalism", they define this as an ethnic Kurdish area—Kurdistan—in the north, other Iraqis prefer a federalism defined on administrative terms, e.g. based on provinces. If the former is adopted, where and how will the boundaries of "Kurdistan" be determined, particularly in mixed districts like Kirkuk? And if there is an ethnically defined Kurdistan, does that open the door to self-governing units in other areas, such as the shi'ah south or the "sunni triangle"? What happens to Baghdad and the center? What happens to the cohesion of Iraq as a country?

Constitutional deliberations, however they come about, and the drawing up of an electoral law on which representation will be based, will open these issues. I believe that they will be difficult to resolve and that the Iraqis need a reasonable time period, in a relatively secure environment, to resolve them. They also need some deadlines, however, to work toward without which the process will not move to a conclusion. Since various committees of Iraqi exiles have already examined these issues, six months ought to be ample time to come up with a draft. If the constitution is to be discussed, modified and ratified by an elected assembly—and to be legitimate it should be—that could take some time. (The British ran into difficulty when they

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went through this process in the 1920s and it took two years). Once this task is accomplished, a new election and the establishment of an assembly—and a government—should not take too much longer. About eighteen months seems a reasonable time frame to me to accomplish these processes. But any new government will need support, especially in the security area, for a longer period of time, while Iraq's new army and police take shape. Any foreign role after the new Iraqi government is set up, however, should be low profile and subsidiary, and would be helped by the umbrella of international support.

WHAT DOES THE US NEED TO DO?

What does the US need to do, both to address the consequences of the changes that have taken place in Iraq since the fall of the regime, and to facilitate a sound and effective constitutional process?

(1) *Reduce and Neutralize the Insurgency.* First, as all have noted, it needs to reduce and neutralize the insurgency, easier said than done. It seems likely, even under optimal conditions, that some level of armed opposition will continue for some time, and if other problems are not addressed (jobs, crime, electricity) it could grow and spread. Dealing with the insurgency should be turned over to Iraqis as soon as a capability can be developed, with due supervision exercised to make certain vengeance is not enacted and old scores settled. The units of the army that were disbanded, including some of its officer corps, can be hired back, with proper vetting. They should be put under civilian control. Local tribal leaders can also be used, judiciously, not only to provide intelligence but to keep order in their regions in return for benefits. Iraqis are far more likely to know how to identify insurgents, to vet reliable Iraqis, and to deal with their own region than are Americans who do not know Iraq or speak the language. Even the idea of using local militias, under central government supervision could be tried. However, these should be regarded as short term solutions, to deal with a problem that is seriously threatening Iraq's reconstruction and its conslitutional future. They should not be allowed to derail the development of a national army, a national intelligence service and a police force, all under civilian control. Care must be taken that these solution do not empower tribal leaders once again; legitimize party and private militias; empower the "outsiders" in the Governing Council at the expense of the insiders and, in short, leave the new central government weak and ineffective.

(2) *Strengthen the Central Government and the "Center".* The gap left by the collapse of the central government and the decline and weakening of Baghdad and the center as a whole is part of the problem of restoring law and order. While decentralization is necessary, the process needs rebalancing, particularly in a country used to "taking orders" from a central government. A restored, and healthy center, will help prevent unraveling in the provinces. Staffing shortages need to be filled. The new government needs to rehire Iraqis, including the military and the bureaucracy faster, and to streamline the vetting process. (This will also help put the population back to work). If some unregenerated Ba'thists slip through the net, they can be weeded out in the course of time and replaced by a new generation.

Better and closer links need to be established between the new provincial administrations, and the central government, which should, once again, begin to knit the country together by providing services. However, these links should not simply function from the top down, but the bottom up. While central government representatives need to get out of Baghdad to the provinces, the reverse is also true. Mechanisms must be found to bring the new provincial administrators into contact with the central government, making certain the central government understands their priorities.

(3) *Strengthen the Middle Class.* The US should use its reconstruction money to strengthen the middle class—both an independent business class free of government control and an educated professional class—both of which are the backbone of any democratic state. In Iraq, this class generally cuts across all ethnic and sectarian boundaries and has, in the past, been the glue which has held Iraq together and encouraged a common and more progressive Iraqi vision. That class and that vision are still present in Iraq, but the middle class has been weakened through Saddam's oppression and sanctions. Spurring economic activity and small and medium business will help employment and develop an independent economic sector. We should keep a level playing field while we privatize and prevent the emergence of a new economic mafia. Opening the country to outside influences—in education, through think tanks; through professional exchanges—will help the educated class which is the backbone of government and civic society. The stronger this class becomes, the less will be heard of ethnic and sectarian differences. Accompanying the trans-

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formation must be an attractive, practical vision of the future for young Iraqis—in new careers and new opportunities.

This vision and these opportunities must come soon—especially in Baghdad and the center—or ethnic and sectarian tensions; rising opposition to occupation; and a deepening and spreading insurgency will end any hope for a stable, much less a democratic Iraq.

ANNEX 1

DISTRIBUTION OF IRAQ'S POPULATION BY REGION—1977-2002

(In Percentages)

Governorate	1977	1987	2002
Central Governorates:			
Total	47.5	48.8	50.8
Baghdad	26.5	23.5	32.0
Ninawa, Salah al-Din, Anbar, Diyala	21.0	24.4	18.8
Southern Governorates:			
Total	35.8	36.0	31.8
Basra	8.4	5.3	8.1
Babil, Wasit, Karbala, Najaf, Qadisiyya, Maysan, Muthanna, Dhi-Qar	27.4	30.7	23.7
Northern Governorates:			
Total	16.5	16.0	17.4
Ta'mim	4.1	3.7	3.9
Dahuk, Arbil, Sulaimaniyya	12.4	12.3	13.5

Sources: Republic of Iraq, Ministry of Planning, *AAS 1978*, p. 26; *AAS 1992*, p. 43. London Economist, Economic Intelligence Unit, *Country Profile, Iraq, 2002-2003*. (London) p. 18.

Taken from Phebe Marr, *The Modern Histroy of Iraq* (2nd edition) (Boulder, Colo.; Westview, 2003), p. 309.

ANNEX 2

CIVILIAN GOVERNMENT EMPLOYMENT

(Selected Years)

	1952	1968	1972	1977	1987	1990
Work Force (1000s)	n.a.	2324	2776	3010	4500	4900
Gov't Employees (1000s)	85	277	386	666	828	826
Percent of Work Force	n.a.	12%	14%	21%	18.4%	16.8%

Source: Faleh Abdul Jabbar, "The State, Society, Clan, Party and Army in Iraq," *From Storm to Thunder* (Tokyo: Institute of Developing Economies) March, 1998, p. 12.

Taken from Phebe Marr, *The Modern Histroy of Iraq* (2nd edition) (Boulder, Colo.; Westview, 2003), p. 309.

ANNEX 3

ETHNIC AND SECTARIAN BACKGROUND OF POLITICAL LEADERS, 1948-1998

	Arab Sunnis	Arab Shi'a	Kurd/ Turkmen	[1] Other/ Unknown	Total
Old Regime 1948-58:					
Upper level [2]	24(61%)	8(21%)	6(15%)	1(3%)	39
Lower level [3]	17(31%)	23(43%)	12(22%)	2(4%)	54
Both levels	41(44%)	31(33%)	18(19%)	3(3%)	93

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	Arab Sunnis	Arab Shi'a	Kurd/ Turkmen	[1] Other/ Unknown	Total
Military Regimes 1958-68:					
Upper level [4]	30 (79%)	6 (16%)	2 (5%)		38
Lower level [5]	57 (46%)	43 (35%)	16 (13%)	8 (6%)	124
Both levels	87 (54%)	49 (30%)	18 (11%)	8 (5%)	162
The Ba'th Regime 1977-78:					
Upper level [5]	10 (48%)	6 (29%)		5 (24%)	21
Lower level [6]	13 (52%)	4 (16%)	6 (24%)	2 (8%)	25
Both levels	26 (57%)	10 (22%)	6 (13%)	7 (15%)	46
1986-1987:					
Upper level	9 (53%)	6 (35%)	1 (6%)	1 (6%)	17
Lower level	8 (38%)	4 (19%)	6 (29%)	3 (14%)	21
Both levels	17 (45%)	10 (26%)	7 (18%)	4 (11%)	38
1998:					
Upper level	11 (61%)	5 (28%)	1 (6%)	1 (6%)	18
Lower level	7 (26%)	8 (30%)	3 (11%)	9 (33%)	27
Both levels	18 (40%)	13 (29%)	4 (9%)	10 (22%)	45

[1] Includes Christians.
[2] Includes the regent, prime ministers, deputy prime ministers, and the ministers of interior, defense, finance and foreign affairs.
[3] Includes all other miniosters.
[4] Includes the president in place of the regent.
[5] Includes the RCC and the Regional Command of the Party, (RL).
[6] All ministers not on the RCC and the RL.

Sources: Phebe Marr, "Iraq's Leadership Dilemma," *Middle East Journal* 24 (1970), p. 288; Amatzia Baram, "The Ruling Political Elite in Ba'thi Iraq, 1968-1986," *IJMES*, 21 (1989), appendix 1; unpublished data collected by the author.

Taken from Phebe Marr, *The Modern Histroy of Iraq* (2nd edition) (Boulder, Colo.; Westview, 2003), p. 309.

The CHAIRMAN. Thank you again, Dr. Marr, for your testimony. We've appreciated it at each stage along the way as we've been visiting as a committee.

Let me commence the questioning and suggest we have a 10-minute round for Senators. I'll begin by indicating that as I heard you, Mr. Khouri, you mentioned, probably accurately, that for 90 years many people in Iraq, and perhaps in other countries as well, have been raising issues as to how life might change for the better. As a matter of fact, they have not been able to make much of a breakthrough in 90 years. Some of it may have been due to imposition by Europeans, some due to home-grown Iraqis, but nevertheless it is a rather dismal prospect.

As Dr. Marr has pointed out, it could be argued that the United States came along without going into the rationale for whether war should have occurred in Iraq or not in the first place. Nevertheless, one did. One of the two alternatives that you suggested was a rather limited outcome: namely the top leadership is removed, somebody else continues on, and therefore this yields a fair degree of stability. We don't have occupation, insurgency, because essentially somebody's left to handle that. However, that probably would not have met the point of the 90 years. It is not clear that that would lead to many resolutions of those same questions.

What we decided to do was, as Dr. Marr said, more radical. Central government is gone, civil servants are gone, a lot of things are

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gone, including the army, so it's an open terrain. Now in the midst of that, you say quite correctly that perhaps Americans don't understand the cultural things. We need to understand these better. We keep talking about liberty and freedom, talking about individual rights and privileges. You make the point that well, after all, Iraqis think more of family, of tribes, of collective situations. This may be true, but nevertheless it is sort of daunting if you are an American looking at this question today trying to think through human rights, democracy, freedom of religion, all these terms that were used this morning and probably will be used this afternoon, in addition to religion itself.

We had Senator Brownback, our colleague, pointing out or asking, almost pressing, as you recall, Ambassador Bremer to guarantee that there was not going to be an Islamic constitution, and that there was not going to be a tyranny to begin with in this whole process. For many of us that would make democracy rather suspect. Although people can say democracy is democracy, many have said that one of the problems of democracy in the Middle East may be thwe possibility of a "one time through." You have one vote, the new rulers are installed, and that's it, school's out, no more chitchat afterwards. That would be a great disappointment.

So in the midst of all of this, the constitutional group has been appointed. Some of you have questioned how they got there and the legitimacy of the product if there is not more of an election or selection of these people, and that's important. Ambassador Bremer, if he were here, might say that one of the problems is first of all the need to conduct a valid census to determine who is eligible to vote in Iraq. How do you do it? By districts or by tribe or by sector? How is the constituent of this constitution formed? These are important questions. Clearly there would be some differences and technically it's not clear how you get there.

In the midst of this, as Dr. Marr points out, and as all of us have been saying, time is going by rapidly. Occupation is resented and the pressures therefore upon Americans or whoever is there—if we get other countries and so forth—appears to increase as Iraqis become impatient with these people hanging around while they want to get on with life. And yet, at the same time, most of you counsel that we should take it a little bit slower, and make sure that the product of the constitution is done well, that the legitimacy of the elections that follow is assured and so forth, that the constitution at least literally geographically is done well, not made into something that can be tangled or disentangled and what have you.

To say the least, this is a daunting task as you pile one stipulation on top of another. In the midst of this Congress is being asked to vote for $87 billion with these hearings as a background. Now, in part, $64 or $65 billion, as pointed out, is to support American troops for another year. If they're going to leave we wouldn't need to spend the money. The other $20-some billion is literally a gift to the people of Iraq. It is no more or less than that.

Some of our group are talking about lending the money, getting stipulations, using collateral and so forth. Yet essentially you heard Ambassador Bremer rejecting this because he says Iraqis already are plagued by these debts of Saddam, $150 billion or $200 billion or whatever it may be, and some of the claimants, other countries,

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still want their money. In other words, the only protection Iraqis have right now is us. We'll have to talk seriously about how we approach the Russians, French, Germans, Kuwaitis, a whole lot of people, about forgiving a whole lot of debt.

Otherwise, whatever we're discussing here is overhung by a huge amount of debt. Countries that want their hooks into the country to get their money and are not going to be all that fastidious about the rudiments of democracy that we're talking about right now, might be willing to settle for a regime that fits their national interests, whatever they may be. So this, without putting too fine a point on it, is sort of a one-time opportunity for Iraq. No country has ever had such an opportunity before, in which literally a lot of dead wood has been cleared away. The question is, in a short period of time, while American money is coming in, in essence to provide lights that never were there, well beyond anything Saddam had to light up the country, as well as sewers and water and roads and all the rest of it, so that there will be some semblance of possibility for economic improvement, and so that Iraqis can focus on a constitution, on elections, and on something that is tangible.

I would just say finally that Senator Hagel, Senator Biden and I participated in the world economic forum panels. We were all on different panels. There were always members of the Arab League on the panels aswell as other people who were very interesting. We anticipated that a lot of these people at the forum might gang up on us as the representatives of the United States. Europeans, U.N. types, Arabs, all might be after us. Surprisingly, what we found was that most Arabs came to the conclusion that there aren't Arab democracies. Democracy just hasn't made it in the Arab world. They criticized themselves for their lack of any example of this whatsoever.

I make that point because of the glib thought that somehow people have been yearning for democracy all these years, it's just under the covers and all you need to do is finally give it a chance. That's the reason for this hearing. There is skepticism in the Senate as to whether democracy can occur at all in Iraq or if what arises has any bearing on democracy. There would be some form of governance, as there has been for 90 years. There have been monarchs and then dictators. Maybe there will be theocracies next; we don't know.

Is democracy possible? Is there at this point in the life blood of the country a yearning for compromise, for listening to others, a sense of individual rights and liberty or at least something pretty close to that, as well as some reverence for the role of women in all of this? Very tough questions, I think, given the 90 years that we've been discussing it.

I want any of you to, give me an optimistic view. What is there going to be at the end of the trail of this, after all the money is spent and all the difficulty has been sustained? Probably throughout all of this, despite our best hopes, insurgency will continue. We don't know from where. Iraqis killing Iraqis, quite apart from Americans, totally irrational, except in the minds of the killers, who presumably know what they are doing and who they want to kill. Who can give a ray of optimism to this situation? Yes, Mr. Khafaji.

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Dr. AL-KHAFAJI. Mr. Chairman, I know that anyone who ventures to say that he will give the response is a very tall order, so I don't—they are very, very——

Senator BIDEN. We Americans are easy. Just tell us you love us and we're OK.

Dr. AL-KHAFAJI [continuing]. And the story might not be pleasant. In 1958, sir, the first Arab woman minister was appointed in Iraq, and for the first time in the history of any Arab and Middle Eastern country, there was in the so-called law of personal status for the first time the equality of women and men, which is contrary, an explicit contradiction to the text of the Koran, was stated in Iraqi law. The United States opposed that regime and fiercely fought it as pro-Soviet and it was not a pro-Soviet regime, certainly it wasn't a pro-Soviet regime.

I'm saying this not in order to scratch the wounds. The United States is a leading country, therefore you might not remember that, and if I were an American, I wouldn't remember that, that's a little detail. But for the Iraqis themselves, for the collective memory, the skeptics have points to score. Now I know, as many of you know, that many will use it to manipulate it in order to steer some kind of anti-Americanism, and I, as thousands upon thousands Iraqis have, in our conscience have always distinguished firmly between a repugnant, even some kind of racist anti-Americanism and what I call a healthy critique, a friendly critique of U.S. policy.

In that sense, please have patience with us. When in April and May, during the euphoria of the fall of Saddam, a cab driver, many actually, cab drivers in Baghdad, and I'm quoting literal examples, would tell you, as much as this might look naive, that this whole war is a conspiracy between Saddam Hussein and the United States. And when you ask why, they tell you because all the Ba'athists are in place that was under retired General Garner and his team, all the Ba'athists are in place. They will do to us what they had done to us in 1991 when they encouraged us to revolt, now they are encouraging us to oppose, and eventually the Americans will withdraw and Saddam would come back.

Now, this is something that goes deep into the conscience and the hearts of people is that in 1974, sir, a question could be very justifiably asked, how can Portugal go into democracy, they have never had traditions of democracy before. That was Salazar, and the same could be said about Franco's Spain, the same could be said about Eastern Asia, the same could be said about Eastern Europe. And duly so 50 years ago a standard textbook in political theory would ascribe that to Catholicism, that was what we read in the 1950s, Catholicism is resistant to democracy, that's why Latin America, France, and Portugal are not democratic. Then orthodox Christianity, that's why Eastern Europe and Russia, and then we read about Confucianism, that's why Eastern Asia, simply because if you are democratic, you only plunge into democracy when you had no prior democracy. Once you are democratic there is no likelihood of a democratic nation turning into tyranny, so it's quite understandable that countries who go into democracy have no prior institutions about democracy.

We have to deal with this. Times have changed and many in the U.S. Congress and the administration have realized that. The sta-

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bility that my esteemed colleague, Dr. Marr, with whom I have so much agreements and also disagreements, with due respect, the stability is the residue of the cold war era when the idea was to reduce this region into a supplier of oil. Oil requires stability. Stability requires non-empowerment of the people because this might fall into the hands of our arch enemy, the Soviet Union. Let's keep tyrannies in place rather than open up the Pandora's box that might bring us the enemies, and even and I am proud that I was involved in the workshops of 2002 and in the IRDC, the Iraq Reconstruction and Development Council.

And we saw that with our own eyes, and you saw it in the front page of the New York Times when a Ba'athist minister was imposed by the Coalition Authority to be the new Minister of Health and Ambassador Bodine, who was the No. 2 under retired General Garner, was telling me, well, the doctors have imposed their nominee, a non-Ba'athist, and my reply was simple, yes, they will impose that, but do you want the Iraqis to come out and say, we imposed our nominee despite the United States or with the help of our allies. They forced the Coalition Authority to take their Ba'athist nominee.

The point is this, once you go into ideological debates, either from a total blanket resolution to keep each and everybody in place, or to remove each and every brick from the old regime out, then we are the victims of it, because how can you steer a mid-way, you steer it by empowering the people, by going into the ministries, trusting the people, and asking them, who was corrupt or criminal and who was not, and not by decreeing from the Presidential palace that any member belong to this or that rank or above will be removed or anyone in that or this place would be removed. By trusting the people we can go into that.

But I can tell you that Iraqis who in the first month produced 100, and now we have 120 dailies in Baghdad, despite the insecurity, this is chaos but it's a beautiful chaos, it tells you how much are Iraqis yearning for free expression. When people have no single authority religious within the communities, when many people tell you that, with due respect, I have nothing to do with them, when the supreme and I'm not a strong believer when the supreme musted of the Shi'i says that all we want is to say that the constitution will respect the enlightened teachings of the religions of God and according to Islam, Christianity, Judaism, and Islam are the recognized religions of God.

I don't think, sir—I know that I've taken much of your time—but in my closing, I don't think that democracy is democracy because and I wrote that several years ago that we do not expect Jeffersonian democracy to flourish in the day after, but even in Jeffersonian democracy, the African-Americans did not get the vote in the 1700s, the women did not get the right to vote at that time. It's when tomorrow when a Christian, respectable Iraqi would run for the Presidency, then we will go into the fight to amend a constitution that might now have reference to Islam.

The point is this: Can we force the inviolable rights of the individual in a new constitution? I think millions of Iraqis will fight for that. Can we then move from that, use that as a basis in 3 years to fight for the right that, yes, you said we take the teachings

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of Islam, but this is a Christian who wants to run for our President, would that do? And I think this is how we will build it. Europe didn't go into democracy on the first day that they established democracy. Women got the rights in the 1920s, 1930s, and some countries in the 1950s, and I think we are now, I wouldn't say in a better place, but at least in an equal place, so just give us the chance.

The CHAIRMAN. I'll return to my question later on, but I want to recognize my colleague, Senator Biden.

Senator BIDEN. Thank you. These are among the best hearings that we have. We have hearings for two purposes, one for oversight and one to learn. In one sense, we're learning from oversight hearings but we're demanding answers to determine whether or not commitments made or requests being made makes sense and are consistent with what the Congress wants to do and the American people. These hearings are—I find them the most interesting because I learn the most with such competent and prominent people with diverging views.

I'm going to resist what at least two of you know because you've been kind enough to come to my office repeatedly and let me question you and seek your input and knowledge. I'm going to refrain from doing what I would intellectually enjoy the most, pursuing some of these broader questions, and try to be a little bit pedantic, maybe my constituents might say a little more practical for a moment, and I want to raise with you what the flashpoints of the moment are, the decisions that the President of the United States has to make now, the decisions that the Congress has to make now, and get your input. And in the interest of time I'd like you all to be neither professorial or senatorial, and that is, try to give me a yes/no answer or as close as you can get to it. I realize there is no real clear yes or no, and I would, if we have time, come back and have you fill in, back-fill, your rationale for why you would reach the conclusion that you stated.

There are many of us who have been talking about internationalizing this effort. Now, none of that goes to any of the points that any of you raised here. But right now we have a Secretary of State at the United Nations trying to get a consensus from the Security Council that may be totally irrelevant to what the people in Iraq are concerned about. It may be relevant, it may impact positively, it may impact negatively, but the point is, at this moment, the first flashpoint, if you will, is whether or not the schools of thought and they're divergent but I'm going to just broadly categorize them in two camps. As Samuel Clemens once said, "all generalizations are false, including this one."

There are those who suggest that if the international community via the United Nations were brought in in a meaningful way, they would only be an impediment in moving toward self-rule for Iraqis, getting the lights on, getting the wells dug, getting the canals cleaned, getting the infrastructure up and running, and they would be an impediment. There are others who argue that whether or not they may slow it up is debatable but there's a need to take the U.S. stamp off of Iraq, and that is that right now there's a need to change the complexion, if you will, literally and figuratively, of the occupying force so it's not a U.S. occupying force alone, and further,

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that there is a need in order to establish legitimacy and get help from the rest of the world to bring the rest of the world into the deal in making decisions.

Some of the people we're talking about bringing in have not been particularly friendly to the Iraqi people over the last 90 years. The French, for example, who are our antagonists at the moment at the United Nations on the details here, are folks who have had experience or that the Iraqi people have had experience with. The United Nations has not been particularly popular with the Iraqi people or in Iraq for various reasons. And so the irony is the very people that some of us are saying we need to participate in this process to get a world consensus are folks who are not particularly popular on the streets, whether it's in Mosul or Baghdad or anywhere else in Iraq.

So here are the things I'd like you to respond to if you can. Is there any advantage for the Iraqi people or in a very way selfish sense, from my perspective as a U.S. Senator, for the United States of America to change the complexion of the occupying force while we are attempting to Iraqize—the phrase one of you used—the military force and the police forces of Iraq. That is not able to be well, I'm assuming none of you think that's able to be done immediately, that this very day to turn over to the Iraqi people, whomever that would be, say you take care of the military, you take care of the police, we're leaving.

I don't know many arguing that, so everybody's acknowledging there's some transition here, there's some transition time to get this as rapidly as we can to an Iraqi-elected government, an Iraqi-run police department, an Iraq-run military, Iraq-run security forces, right? Is that what we're saying? So it is an advantage or disadvantage or is it irrelevant that while that process is moving, how quickly or slowly is debatable, that it's good to have other forces, other uniforms, French, German, Portugese, Russian, Pakistani, Indian, forces standing on street corners or standing in barracks in Iraq? Is that a good thing or a bad thing? Anyone? Yes.

Dr. FELDMAN. Senator Biden, that will help us in Brussels; it will help us in Berlin; it will not help us in Baghdad. The bottom line is that international troops will be no better able to control the insurgence that exists or the foreign terrorist who are there than are our troops, because the key to controlling them is local intelligence and international troops won't have any advantage over our troops in doing that.

Similarly, in terms of getting the lights back on, there will be some time transferring power to the U.N. Their help is valuable but there is no reason to think they can do it better than our troops can do it. On the other hand, it will help repair some of the breaches in our international relationships that have come about over the course of the last year and it will eventually in the long run help the price tag for the American taxpayers.

So there are definite advantages to proceeding with that course but they are not going to be felt on the ground primarily in Iraq.

Senator BIDEN. Does anyone disagree with that?

Mr. KHOURI. I would agree generally, but I would say there is a significant advantage to internationalizing it because it would completely change the climate and the perception of the United States' role in Iraq and I think if you were to do this, which I

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would urge you to do, I would urge the U.S. Government, is I think it must be coupled with a more clear American explicit explanation of what it is that the United States would like to see happen on the democratization issue, not only in Iraq but in the whole region, because one of your problems is not just that you're an occupying force in Iraq militarily occupying Iraq, but people suspect and are concerned about American motives in the region, and remember Colin Powell last year, at the U.N. I think, said that the United States wants to—I don't remember the word he used—reshape the Middle East I think was the word he used, or redraw the region or something like that.

You know, we've been through this film before. We've been through this film several times, not only in the 20th century, we've been through it with Napoleon, we've been through it with Alexander the Great in the third century B.C., so this is nothing new to us. So I think it's critically important to get the United States out of this situation it's in right now as being an occupying power that has motives to change the values and systems of people in the region. That's how the United States is perceived and internationalizing it would help that.

Senator BIDEN. There's a lot to discuss and let me go to the next question because my time is going to be up. A debate at the United Nations now I'm oversimplifying again, but to make the larger point. We're saying constitution first, vote second. Others are saying vote first, constitution second. The French position is right now get an elected government, even though I don't know how you do that since there's no voter rolls, there's no way to make that judgment initially, but vote, then write a constitution, vote for constituent assembly, then write a constitution.

We're saying write a constitution, then have a vote, not only on the constitution but on the constituent assembly. I realize there's permeations of each of those things, but generically we understand what we're talking about, rapidly go to a vote—whether rapidly means weeks, months, 2 months, 3 months—then draft a constitution, or do the reverse? Yes, sir.

Dr. AL-KHAFAJI. Sir, I think that, and it's in my written comments, when we say, I think many Iraqis say in 6 months we can have a constituent assembly. The constituent assembly by definition would not be the permanent elected government of Iraq, but it will give a semblance of legitimacy. Do we have——

Senator BIDEN. How would you do that constituent assembly? Would you have just a nationwide vote, not based on provinces or anything, putting people up in slates for each of the offices? How do you get that?

Dr. AL-KHAFAJI. Yes, sir. The one non-interim constitution that we have in our history as a modern state is the one that was adopted in 1926 after a constituent assembly was elected in that tribal, at the time, peasant society. Now we have a country which is 70 percent, 72 percent, to be precise, urban. I do not claim that the population censuses are precise, but at least from the rations of the Food for Oil program each and every family has a register with the Ba'athist government order to receive the cards, so we can do that on a national level. There will be distortions, yes, but it will at

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least have the claim to legitimacy much more than a body that's not elected.

My point is this: Does the United States have to cede sovereignty to that constituent assembly? No. That will be a transitional government. The United States will state what it does not, the red lines that it does not want Iraq to cross beyond, aggressiveness, weapons of mass destruction, the type of authoritarian government, and through that, it can reduce its military presence without eliminating it altogether, and I think as the poll that you mentioned, Senator, and many of the distinguished speakers today, I think that through that Iraqis no Iraqi, with a few exceptions want the Americans to leave now. The point is that to internationalize the economic decisionmaking——

Senator BIDEN. No, look, I understand that. I'm a plain old politician and I'm trying to figure out, I'm sitting in my state that's in chaos, forget Iraq, and I'm trying to figure out how I hold an election, just the mechanics, unless you take the existing constitution in 1928. Wasn't there a constitution in 1953?

Dr. AL-KHAFAJI. In 1958.

Senator BIDEN. In 1958. Unless you take one of those, it's a very practical thing. We went through 200 years of debating about whether it was one man, one vote, in *Baker* versus *Carr* to determine whether or not it's based on geography, based on population. So there's a very practical question: Who makes the judgment as to how you break up the country? Is everyone elected at large? Do you elect 200 people at large? Do you elect people by district? If you elect them by district, what districts do you choose?

Dr. MARR. Senator, you choose the districts that are there. We have to remember that Iraq is an organized country——

Senator BIDEN. So take it exactly as that. That's the easy——

Dr. MARR [continuing]. There are districts. The Kurds did this. It may have been messy——

Senator BIDEN. No, I got it. I'm taking too long. So what you're saying is, take the existing political structure, not as it relates to values and laws, but as it relates to divisions of constituent assemblies, how you would choose it, and start from there. Is that what you're saying?

Dr. AL-KHAFAJI. Yes, sir.

Senator BIDEN. OK, that's important.

Dr. AL-KHAFAJI. As for the internationalization of security——

Senator BIDEN. No, no, no. I'm going to be just a very simple, plain old local county councilman here. I'm trying to figure out how you do this because I've learned from my experience in Kosovo, which is different, in Bosnia, Afghanistan, this is one house at a time, one neighborhood at a time, all these grand schemes don't mean a damn thing if there is not some very practical ability to be able to implement whatever it is you say you're attempting to do.

Noah, excuse me for using first names. You're all doctors, so if I say doctor, you'll all answer.

Dr. FELDMAN. Please, Senator. Bottom line, talking basic politics.

Senator BIDEN. Yes.

Dr. FELDMAN. An election held quickly gives a huge advantage to the two people, the two groups that can organize the fastest.

Senator BIDEN. Absolutely, you got it.

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Dr. FELDMAN. They are the Ba'athists, who can easily reorganize, and Islamists, especially more extreme Islamists. So a fast election prior to a constitution is a very high-risk proposition. It's not one that I would entertain lightly.

Senator BIDEN. But obviously there's disagreement on that.

Dr. AL-KHAFAJI. Well I have been opposing the Islamists and the Ba'athists much longer than I think many others have been, so it would be more terrifying to me than many others about spending the rest of my life in exile, sir. First, we are talking about at least what is suggested to you is something like 6 months, 6 months with improvements, slight improvements in the everyday life of Iraqis would not bring that likelihood.

This is what we have been terrified by all kinds of tyrannies from Syria to Iraq, et cetera, that a regime creates a void and then terrifies you, if you do not vote for me, then the Muslim brothers or et cetera will come in. I think that this is not the case. If the majority of the population were pro-Ba'athist now we wouldn't have two dead Americans per day, and I really feel sad for each and every drop of blood. We would have seen hundreds in a country the size of Iraq the way you described it.

Senator BIDEN. I understand your point.

Dr. AL-KHAFAJI. What I think is this, that in the 6 months if you have some kind of slight improvement, at least in the expectations of Iraqis, then we would not have will there be Islamists? Yes, there will be Islamists, and it's not good that we just shut our eyes and pretend they are not, but we have seen the Islamists that have been working with the Coalition Authority and we have seen Islamists——

Senator BIDEN. I don't have a problem with this. I'm just trying to figure out practically how you'd go about it. Last question I have: My latent fear here is, to use an overused metaphor that everybody's been using in the last year and a half, that a perfect storm is brewing here, and the perfect storm is the neoconservatives who are going to want to get the hell out of here as quick as they can, the liberals in the Democratic Party are going to want to get out as quick as they can, and the American people generically are going to want to get out as quick as they can. And the irony of all ironies is all those folks in the Middle East who think we don't want you to have sovereignty are absolutely dead wrong.

There is going to be, I predict to you, if something doesn't change quickly, a desire to confer sovereignty on whoever will stand up and say, I'm Iraqi, because the pull to get out of Iraq is going to be so strong. And Iraqis are going to get what they wish for. This ain't an imperial nation. This ain't one who is going to want to hang around there, and the American people understand oil isn't enough. This was never about oil. There ain't that much money there. It's costing us more money than all the money we can possibly get if we took every damn oil well and every bit of the oil revenue for the next 5 years.

And so you're going to get what you asked for. You're going to get, my concern is you're going to get the American public from left and right saying, get out. OK, Saddam's gone, done, we're leaving, on our way. You're going to watch American troops leave here more

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rapidly than you can possibly imagine. That is my prediction to you and I'm not a bad politician. I may not be as good as I think I am on foreign policy but I'm pretty good at American politics. I'm telling you what's coming if we don't get this straight.

Now here's what you all are saying. You're saying three things. Look, you need Iraqi intelligence to be able to figure out how to deal with this. More foreign troops aren't going to matter, and by the way, you're stating the obvious truth. Iraqis know the neighborhood better than we know the neighborhood.

Now how do you get that Iraqi army, that Iraqi police force, and that Iraqi business establishment? The business establishment of the Iraqis that existed before existed essentially at the sufferance of Saddam Hussein. You wanted an export license, you went to Saddam Hussein. You wanted to be in business, you went to Saddam Hussein. So now we're saying, look, here's what we're going to do, we're going to go out there and make sure that the Iraqis are able to contract, the Iraqis can bid on building the road, building, importing this or that or whatever and not foreign business. I think that's a very good thing, but who are the ones ready, as Noah said, relative to the parties?

What I'm looking for from you guys, and I know you can't do it right now and I've gone way over my time and the chairman, because he's so nice to me has allowed me to do it, but I'm getting Mr. Brownback upset, I suspect, because he's got some even better questions than I have. But what I'm looking for, and you may not be able to do it now, but I'm looking for practically, you are sitting in Iraq today, Rami, you tell me, not this moment, you tell me who you put in charge of the police force. Who is it? Don't generically tell me let's move it quickly. I went and visited those guys. They're the Katzenjammer Kids. They could not arrest their grandmother.

This is an absolutely dysfunctional police force and it always was dysfunctional. You never had a police force. Look, the reason why there was peace and security for people walking the street in Iraq, if there was a murder in an apartment complex everyone was told to come down to the police station, no one went to the complex. And if they didn't show up, Saddam shot them. I can maintain order that way no problem, but the idea there was a police force with investigative capability, with an intelligence component, it didn't exist, it didn't exist.

And so I have a very practical concern here. I'm on Noah's team. I've been scarred by Kosovo and Bosnia. I learned one thing: early elections in Bosnia, guess what? All the factions won, the most radical of each of the factions, the Bosniaks, the Serbs, and the Croats, the most extreme elements of each of those took power and that was it. We did a little better in Kosovo. We kicked the can down the road. It didn't quite happen that way. We gave other democratic institutions a little more time to move along, not perfect, better, better.

So we're sitting here now and we're saying, let's turn over the army, let's turn over the police, let's turn over the business, and I'm sitting here thinking to myself, well, I tell you what, if we're going to do that that quickly, and we may have to practically, if we do that that quickly, and I'm not sure I'm going to vote $87 billion for that, because I think the chances of that succeeding are

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about as likely as this cup of coffee levitating and coming down and sitting on your table. I pray I'm wrong, I pray I'm wrong, but listening to the advice you all gave me before we went in and by the way, I want to say for the record, Dr. Marr, what you said today, you said a month before we went in, and you were right then and you're right now. Rami, you said 2 months before we went in that these things were going to happen, and you were right then and I think you're right now.

But I'm not even going to let you respond until after my friend from Kansas gets to speak, but I'm looking personally, just Joe Biden, I'm looking for practical ways in which, if you're sitting there in Baghdad in Bremer's spot, how do you turn over the power. Whether Bremer wants to or not, let me tell you, the American people want to get the hell out. They want out.

Everyone in the rest of the world thinks we like being a superpower. No one where I live, no one where I represent likes being a superpower. Superpower to them is like being the big brother in a family of 12 where the father holds you responsible for every single mistake the 11 kids make when he's away. They don't like it. They don't want one of their kids over there. They don't give a damn about it. They want their kids home.

So we better be really careful here about how we do this because we're going to end up with having created chaos in the region, Iran in the driver's seat, and a Turkish Islamic republic reconsidering their options, and the Pakistanis deciding, whoa, wait a minute, we have a better deal another way. Anyway, I'm sorry, Mr. Chairman.

The CHAIRMAN. Well, thank you very much, Senator Biden. Let me just say that the Senator has voiced many of the frustrations that many committee members feel about all of this. I think in fairness, the Senator from Delaware, the Senator from Kansas, who is still with us, and myself will probably still be here trying to think through how the Iraqi people might come to a better conclusion as opposed to colleagues maybe from the left, right, wherever, who are ready to bail out.

We are sort of a solid center of the situation who believe that we really must work constructively. We therefore appreciate your hearing us even as we hear you, because the injustice of all of this seems to be overwhelming. Having argued with people all morning as to why America should give $20 billion to Iraqis and to listen to what it seems to be consummate ingratitude for the whole business is difficult, but nevertheless life goes on. And so we will continue with the hearing, and Senator Brownback.

Senator BROWNBACK. You couldn't put it any better.

Senator BIDEN. Just one piece of humor here. Dr. Marr, when you and I were—I'm older than you, but when we were a little younger and you were a young female professor, they used to talk about women having to vent a little bit. Well, you know, men do it too sometimes. That's what you're witnessing here, OK?

Senator BROWNBACK. I thank you, Mr. Chairman, it's a good hearing and it's a good discussion here and I particularly appreciate Senator Biden's thoughts on this too. It is interesting, I was in the hearing this morning, and I'm on Appropriations so I'm going through that set of hearings, and it is, as Joe says, on the one hand, people saying $87 billion to do this and then you're say-

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ing, yeah, and we hate you for it or we don't like you for it or we think you've got illicit motives for it and it does represent a confusing set of stimuli involved in the process that you're presenting to us. Nevertheless, as the good Senator from Indiana says, this is where we are, and he's right.

And I would point out to those of you here and I've had Dr. Marr testify in front of me on the subcommittee, we had it in the region before this committee had considered it—for a long period of time—the issue of Iraq. We had the Iraq Liberation Act before that period of time. We were stewing and churning, how do we deal with Saddam, we had all these defense forces positioned in Saudi Arabia, maintaining no-fly zones, we had issues going on in the north. We've been churning on this for a goodly period of time and if any of you in going back to the region could communicate to people that we have nothing but the most altruistic of motives involved here, I hope you could convey that to people in your own personal experiences and in the places that you speak of.

We don't want Iraq. That is I don't. You could poll a million Kansans if you want to and I don't know if you'll find one that says that we want that. That is not our desire, but we do desire to move forward a set of ideals because that's been the nature of us as a country. And at the root of it is our notion of liberty and that we stand for liberty and it's a foundational principle for us and it's one that we stand for for our people and we've stood for around the world for other people and when we see others that don't have it we desire it for them. We abhor chains, for us or for anybody else. And that's really what motivates us more than anything else.

I want to go at a narrow issue and appeal to you. I heard your testimony, I've read portions of it, I've read some of your writings, and that's on the issue of religious freedom, religious liberty. I think this is a central issue in the founding of a constitution in this country. And I want to back up just a minute on this. I mentioned this this morning, Senator Lugar mentioned it in is comments as well, but I think this really deserves us looking at this "y" in the road and determining which way we as the United States want to proceed forward in pressing this issue: We go into Iraq on the issue of terrorism. We pass the Iraq Liberation Act on dealing with Saddam Hussein, we call for regime change in that, 1998, passed by Congress. This is really an issue started by Congress, signed into law by President Clinton.

So we're here where we are today. The President engages this policy, engages it after September 11, it probably didn't have the legs to move prior to September 11. After September 11, we changed as a country. We decided we're not going to let the terrorists come to us, we're going to go to them, and we're going to deal with regimes that allow terrorists to operate freely on their soil. So we're involved and we're here.

We go into Iraq and one of the key issues of why we go into Iraq is to say we want to spread democracy and open societies in the region, saying that this region is the one—apparently I haven't quantified this—but one of the most resistant to democratization and open societies in the world

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Rami I think you mentioned it, here we are in the, what, third generation or 300 years talking about this, the same questions you had 300 years ago. Why?

In Iraq, part of going in then was to say, OK, we're going to work on really having a model democracy open society that we hope will infect the region when they see how people operate so well. We have a number of Iraqis in the United States. I think Saddam ran out something like 17 percent of the Iraqi population fled during his tenure. A lot of them came to the United States, open society here, you know what, they did very well here by and large. I wouldn't say that of all Iraqis but the ones I've met they did very well in a nice, open society here.

Now, the issue of religious freedom, I don't think any of you could argue that is central to the background and the history of the United States' development as an open and free society, absolutely central religious freedom, just as absolutely it was the first people coming to the shores were seeking religious freedom. And then they offered and opened it up to everybody. They didn't say this is a Christian nation in the Constitution. As a matter of fact, there was a big—there were discussions about that. We still have discussions about this. My faith is very important to me. I don't want the government to set that. It's too important for the government to set that.

If we go to Iraq now and we're pressing and we're pushing for an open society, and we say in their constitutional convention, their constitutional drawing, you can go ahead and declare that this is an Islamic country in the constitution and we don't think that's very wise but we're not that adamant about it, I don't think it's the right thing to do, but we're not particularly adamant about that, I think we are leading them fundamentally down a wrong track that will not lead to the freedom that they need to have as an open, operating society.

And if we do it there it will be watched aggressively in the region in our hopeful spread for democracy, and we'll see other countries saying, well, OK, they can declare themselves an Islamic society even though probably our best example in the Islamic world, Muslim world, of a democratic country is Turkey, has a secular constitution, Indonesia, secular constitution. Then the Arab world, Lebanon, secular constitution. And by that I mean, I don't mean they're secular countries, far be it, they are not. But in their constitution, they do not establish this is the religion of this country.

And if we as a country just say, OK, all right, we really don't like this, but we think it's OK if you say that Iraq is an Islamic country in the constitution. For us, a constitution is about the rights of the individual, the responsibilities of the government. I don't see really where this even fits even in it at the outset of it under our thoughts of liberty, and you give maximum liberties to the individual, and here you're giving one and you're having it by the government. What spins out of that eventually or where does that go? Why didn't Turkey put that in their initial democratization efforts? And they wanted to say, we want an open society.

I think you have a problem with blasphemy laws, which we currently have a great deal of problem with, much of the Islamic region of the world. I think you're going to get persecution moving

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from one group of Muslims to another or against Christians or Jews or Buddhist or Hindus. I question how inviting it will be into the country of having other people come in that really need to be in the country to help, banking system, or other that want to travel there, how welcome or open will they feel to this country. I really think this is a fundamental issue that we need to stand and say, this isn't about us saying we are against or for Islam. This is liberating and good for Islam too to have that separation of the church and state, and if we move away from something that's so foundational for us in our experience in building an open society and we didn't get it right at the outset for us I think we got a lot of things, the basics, pretty good, but we've been at this 200 years building an open society and we still struggle with it.

I really, really question that, and a number of you have worked on this issue and worked in the regions, have written on this. I really think we lead them down a bad path that will have extensive consequences for Iraq and for the rest of the region as well.

You've allowed me to vent, Mr. Chairman. I'd be happy to hear a response or two as well. Dr. Marr.

Dr. MARR. I would just say two things quickly speaking as an American, obviously. I must raise the issue here of the extent to which we as Americans and outsiders are going to be able to, and should shape, a constitution, a set of political arrangements in Iraq. I think we have to be very wary. As Isam said, there are red lines and so on. We certainly don't want to see clerical control over the state as in Iran and most of the red lines, I think, should concern our national security interest which is appropriate.

I understand the urge to remake and reshape Iraq, but frankly, this is political and this is something Iraqis have to do. I also make a distinction between liberalism and democracy, one man, one vote, et cetera——

Senator BROWNBACK. Let me break in on that and I'll let you complete it, but how much did we shape Japan after World War II?

Dr. MARR. Alot, but I think we're going to be in real trouble in Iraq trying to do this. We're in trouble in Iraq now and the whole religious issue is sensitive. Many states have the word "islamic" in the constitution but they don't really follow it very much. This is the point that I'm trying to get at. There's a rising tide of Islamic sentiment in the Middle East today. This is true in Iraq. The younger generation, both Sunni and Shi'ah, is more religious than I can remember in a long time. We're going to run up smack dab against a lot of cultural opposition there if we deal with religion and this is also true in the education system, which we're supposed to be reshaping too. This is really going to be seen as imperialism.

So I just caution here that this is the kind of cultural monkeying around that is really going to generate opposition. However, I do think that the problem is not whether the word "Islam" is in the constitution. As we all know, you can have a lot of words in the constitution that people are not practicing, including tolerance and so on. It really doesn't matter. We really need to work on supporting and nuturing more liberal values—tolerance, compromise, all of those things that make for the kind of society we want.

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There are ways in which we can spend that $20 billion, for example opening the country, encouraging exchanges because we need to get the attitudes and values to change, admittedly more slowly, to create tolerance. I don't want to say you don't have to worry about the words in the constitution but you can put words in a constitution, but if you've got a lot of people who are not going to adhere to it, it's irrelevant.

Senator BROWNBACK. What about Turkey and what about Lebanon?

Dr. MARR. Turkey has had nothing but struggles all through the years over this issue of how much religion——

Senator BROWNBACK. But are they as open a society as in the Islamic countries at this time and as successful probably, economically, and I don't think there's a question economically that they are.

Dr. MARR. It's now got an Islamic party in power. This is one of the issues facing the state. It's going to be interesting to see how they handle it.

Senator BROWNBACK. But do you have a better model for me of democratizing in the Islamic world?

Dr. MARR. Offhand I don't, but maybe my colleagues do.

Mr. KHOURI. Well, one of the, if I may——

Senator BROWNBACK. Does anybody have a better democratizing model than Turkey for me in the Islamic world?

Mr. KHOURI. Well, I think, if I may say, the question is slightly unfair, because I think what we've had in the Islamic world is a modern history in which the people in these largely Islamic countries have rarely been given the opportunity to form their own systems. In Turkey, you've had a system that's operated because the army has stepped in every 12 years and kept things on track, so——

Senator BROWNBACK. I'll let you go on, but I want to—do you have a better model for me of democratizing in the Islamic world, a country?

Dr. AL-KHAFAJI. Senator, with due respect, I don't see the Turkish one, if we take out——

Senator BROWNBACK. Then give me a better model.

Dr. AL-KHAFAJI. We don't have any Turkish Christians or Jews recognized today because——

Senator BROWNBACK. Just give me a better country model.

Dr. AL-KHAFAJI [continuing]. Because they homogenized by blood and then defined what is a Turkish citizen.

Senator BROWNBACK. OK, give me a better——

Dr. AL-KHAFAJI. That's why——

Senator BROWNBACK. Give me a better model.

Dr. AL-KHAFAJI [continuing]. That's why they forced all non-Muslims to go out and that I do not want. This is what I, in my writing——

Senator BROWNBACK. I'll let you go on, but if you don't have a country I want to go to Noah and have him give me a country.

Dr. AL-KHAFAJI. I would like——

Senator BROWNBACK. If you do have a country——

Dr. AL-KHAFAJI. If you allow me to comment on your——

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Senator BROWNBACK. I will let you. I just want to get an answer to this question.

Dr. AL-KHAFAJI [continuing]. To show how and where I totally agree with you.

Senator BROWNBACK. And if you don't, that's fine. I'll let you comment but I just want to get an answer to this question. Noah, do you have a country that's a better model?

Dr. FELDMAN. Indonesia is a far better example than Turkey, as is Malaysia, and in Malaysia, to take another——

Senator BROWNBACK. Indonesia has a secular constitution?

Dr. FELDMAN. It does, but its democratic process relied very heavily on the full participation of Islamic parties and the first democratically chosen President of the country and also the first President to leave office voluntarily in the country, Abdurrahman Wahid, was himself a cleric, a Muslim cleric, that's what he did for a living——

Senator BROWNBACK. I have no problem with that.

Dr. FELDMAN [continuing]. And a member of the Islamic party. So if I might, Senator——

Senator BROWNBACK. Let me ask you on Malaysia now, and you assert——

Dr. FELDMAN. An even better example.

Senator BROWNBACK. Malaysia as a better, as a better——

Dr. FELDMAN. It's also a better example, and in Malaysia one sees examples of the government very creatively drawing on Islamic institutions to create democratic institutions. So for example, the role of the traditional Islamic marketplace supervisor under Islamic law has been used as a kind of ombudsman for purposes of ensuring basic rights and economic liberties.

There's creativity in the Malaysian example. It's not that Malaysia is a perfect democracy by any stretch of the imagination. But, of course, none of the governments in the region are perfect examples. I think the serious concern is that if we share—and I do share, Senator, very deeply your commitment to creating religious liberty and spreading it through the region in a region where it's terribly lacking, the question is, what's the best strategy for producing that? And it seems to me the best strategy is convincing people, the 1.2 billion Muslims in the world, that democracy is not something that stands in opposition to their values, but that stands consistently with their values.

And many people in the Muslim world have the misconception that somehow in the United States we don't take our religion seriously. They think we're a secular society, which I think is inaccurate. I think we're a society in which people take their religion and their faith deeply personally and which it matters tremendously to all of their important life decisions, but that our state doesn't dictate religious outcomes. And in order to convince people in the Muslim world of that, we need to make sure that symbolically we show them that democracy is consistent with religion and we need to emphasize religious liberty at all costs——

Senator BROWNBACK. Let's take that point.

Dr. FELDMAN [continuing]. And insist on strong religious liberty while simultaneously allowing people, if they want some symbolic recognition of their religion in the constitution——

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Senator BROWNBACK. Now, wait a minute, now wait a minute. When you build something into the constitution, it's more than symbolic. I mean, if we're pressing this issue, if you build something into the constitution, it's not symbolic. This is critical in a constitution.

Dr. FELDMAN. Senator, I think the preamble to our Constitution, which does more than any other part of our Constitution to specify our values, is never invoked by the Supreme Court as binding for important constitutional decisions, and the reason for that is that——

Senator BROWNBACK. Oh, but being symbolic, you cannot say any part of the Constitution is just a symbolic. These words are interpreted and have deep meaning, particularly when you're talking about civil rights and liberties, and you're really setting a key pattern here.

Dr. FELDMAN. Well, I agree with that. I agree with that, Senator. It's important to get the values right, but if we insist, if we—first of all, assuming we could insist—if we insisted as a foreign power that the constitution not reflect Islam as a religion, which is the religion of the vast majority of Iraqis, we're opening the doors for opponents of democracy in the region—and they are legion and many of them are in fact serious Islamists—to say that the United States is engaged in an anti-Muslim project in the world.

And Senator, let me guarantee you of just one thing. That's a perception, which if shared by more of the world's 1.2 billion Muslims, guarantees that we won't succeed in spreading democracy in the region. So the question is do we want to throw out the baby with the bath water here.

Senator BROWNBACK. I think it would probably be tough to get more that would share it than now. I think it's pretty high right now. And let me just predict to you all you're the expert panel, Joe made a prediction earlier, I'll make a prediction to you if we put in, allow in, we say, you know, it's not a red line, I think somebody put a red line, if we put a red line, you can't create a Kurdish state, that's a foreign power intervention, we say, you've got to give equal rights Sunni, Shi'ite, we say that's red line if we allow this, we say you write in the constitution this is an Islamic country, you're going to see significant problems with this on down the road. It's going to be we've seen it consistently already.

Dr. FELDMAN. Senator, would you concede though that on the other side of the——

Senator BROWNBACK. I'm just predicting to you guys and then you can come back in 5 years and it's in and you'll say, look, I told you that wasn't true. And I'm telling you from my experience I think you are going to be off and you will wish that we would have identified this as a really critical issue.

Dr. FELDMAN. Senator, I think you're likely to be right about that, but the question is, if we do draw a red line there, what problems will we face down the road? It's entirely possible that those might be much worse problems.

Dr. AL-KHAFAJI. May I comment, sir, now?

Senator BROWNBACK. Please, I told you I—unless the chairman has to go.

The CHAIRMAN. Please go ahead.

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Dr. AL-KHAFAJI. I'm afraid that we are discussing a hypothetical question and I'm sorry if that is disappointing. Never in the history of Iraq, nowhere today, nobody including the most extremist is talking about an article in the proposed or an ex-constitution in Iraq that says Iraq is an Islamic country. Let me just show where the delicate difference is, if you allow me.

Senator BROWNBACK. That nobody's saying that Iraq is an Islamic country in the constitution?

Dr. AL-KHAFAJI. In a constitution, no, sir, no serious person. I'm sure there is one or some political leader. The question is——

Senator BROWNBACK. Let me just read from Dr. Feldman's testimony to make sure I get it right. "At the same time it is unlikely that the majority of Iraqis would agree to the omission from their constitution of a provision describing Islam as the official religion of the state. Every Arab constitution has such a provision." And then you go on to talk about that.

Dr. AL-KHAFAJI. Sir, there was about the national the nature of Iraq as an ethnicity, there was a huge debate whether it is an Arab country or not, and the democratic Iraqis, Arabs and Kurds, naturally, as well as the Kurds, fought that, whether Iraq is part of an Arab nation or not. About Islam, the whole debate revolves around this: an article that used to be in the constitutions, Islam is the source of legislation or Islam as a source of legislation. Until now, we and by we, I mean all generations naturally we fought that "the" that cursed "the" because once you put "the" source of legislation then you are putting all other sources as blasphemous, as you said.

Senator BROWNBACK. OK. So let me ask you on that, does that not outlaw Shari'ah law then in Iraq?

Dr. AL-KHAFAJI. Iraq has a penal code which is literally taken from the Napoleonic code.

Senator BROWNBACK. No, but I'm asking you in the constitution to be written, does that outlaw Shari'ah law in Iraq? Does that say it's not we are not going that's a red line, not going to Shari'ah law?

Dr. AL-KHAFAJI. That's where the fight between democrats and tyrants should go in Iraq, and I totally agree with my colleagues, and it might look ironical with you, too. We do not, as human being, would not like others, as you said that the government decides for us what my religion is. Please imagine an Iraqi being told what he or she should think about religion by the U.S. Government. You said quite rightly, sir, that you would not like a government, your government to tell you how your system of beliefs should be made, but the implication is that the U.S. administration should tell Iraqis how they should form their system of beliefs. I as a——

Senator BROWNBACK. No, then I'm not declaring. I'm not saying you declare any religion the state religion of Iraq.

Dr. AL-KHAFAJI. Exactly. Until now, until now and this is not drawing a rosy picture and modestly speaking I claim to know our history, the region's history, there were bloody clashes between Muslims and Christians in the 19th century, Damascus and Lebanon. There were none in Iraq. There were no clashes, civil clashes,

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between Shi'is and Sunnis in Iraq. Is this an ideal solution? Not necessarily. Is there a sense of difference? Yes, there is.

The idea is this, how to go from here to a better situation, and I think that if we can put into the legislation that no authority has the right to declare any other person or group blasphemous, that would be a turning point in our history.

Senator BROWNBACK. That would be very helpful.

Dr. AL-KHAFAJI. For us as Iraqis, Senator, for us tyranny could take the form of secularism and Stalin and Saddam Hussein are no different from an ayatollah for us, because it's tyranny whether it's secular or fundamentalist.

Senator BROWNBACK. Well, I want to declare as I close, Mr. Chairman, I am not trying to impose any religion on Iraq.

Dr. AL-KHAFAJI. I quite understand that.

Senator BROWNBACK. You say that in our history this has been a big, long struggle, and wisely the Founders started off by saying no state-sponsored recognized, identified, religion. It's good for the country, it's good for the religion.

Mr. Chairman, thank you.

The CHAIRMAN. Thank you very much, Senator Brownback. Let me just conclude with a small question now. A constitutional group has been appointed as I understand it. Correct me if I'm wrong as to who is to form this constitution, but should the group that is in place or in formation be the one? If not, who should do the work on the constitution, which we all agree should be happening in a timely way? Or do you take the position that you do not try to do the constitution at this point? Do you constitute some people either by election or by appointment as the governing group and then work on the constitution? What advice, if you were giving it to Ambassador Bremer and CPA, would you give? Yes.

Dr. MARR. I'm just going to take a crack at it and I'm sure you're going to get different answers. Those writing a constitution should be a pretty representative group because these issues have to be fought out. However, a smaller group is better than a bigger one. I would feel comfortable if this small group came up with a draft, and then it was published and discussed, and so on. But if this constitution isn't ratified, and discussed by a larger group, which perhaps has the ability to amend it, its legitimacy is going to be in question.

The CHAIRMAN. OK. Mr. Khouri.

Mr. KHOURI. I would just make the general point that these decisions have to be made by the Iraqi people. If you want to democratize Iraq you should democratize it democratically, in other words consult with Iraqis a lot more and a much wider range of Iraqis than has been the case to date. And the dilemma that Senator Biden and all of you have mentioned is a very real one. The United States is in what is known as a pickle. You're in a very difficult situation and it's not easy to get out of it.

The way to get out of it is to make clear that these major decisions have to be made through a consensus of Iraqis and this illustrates the point that I made in the beginning, which is if you start getting into details about religion and the constitution and who does the constitutions and these little nitty-gritty details, you're never going to find a satisfactory solution, you're always going to

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be accused of trying to impose American values. I think it's much better to look at the society there, what are the values that they have that you share, and I would say in the case of say the religious issue in the constitution, it's the principle of the consent of the majority and the protection of the minority, the rights of the minority and the will of the majority.

If you can make it clear to the Iraqis and other Arabs that's what you're doing, they will be very eager to work with you, and I think that would diffuse a lot of the tension.

The CHAIRMAN. Dr. Feldman.

Dr. FELDMAN. Senator, just for clarification, the constitutional preparatory committee as presently constituted doesn't plan to write the constitution. They plan to propose just a mechanism for selecting a constitutional convention or a constitutional drafting commission that will then produce the draft of the constitution. And they're considering a range of options including a constituent assembly option, including the option of having a group nominated by the Governing Council and ratified by a national referendum, up or down, including a process of selection and election together.

So I would advise Ambassador Bremer, and did advise Ambassador Bremer, that the process question is one best left to the Iraqis at this stage to make a proposal on.

The CHAIRMAN. What was your recommendation in terms of the timeframe of this group? I think Ambassador Bremer mentioned that they were going around the countryside visiting with lots of people. At what point will they bring their work to conclusion?

Dr. FELDMAN. They need to complete that national canvass, but I think this preparatory committee should conclude its deliberations in the next 2 months in order for us to go forward very rapidly with creating a convention.

The CHAIRMAN. Very well.

Dr. al-Khafaji.

Dr. AL-KHAFAJI. I'm not very much in difference with my colleagues, Mr. Chairman. I think that you have to give some form of legitimacy. We would do injustice even to these esteemed colleagues who are on this constitutional committee if we show them as imposed by the coalition or even by the Governing Council. Let a constituent assembly decide on them or let it just choose a committee out of it, but give it some form of legitimacy, sir.

The CHAIRMAN. Meanwhile, as we all would, I suppose, recognize, the United States and other countries that work with us have to keep a security situation in which all this can keep going on. That is not easy. As all of you have pointed out, even while we're trying to maintain the security situation, and pass on responsibility to Iraqis to take more and more responsibility as they're prepared to do that, both Americans and Iraqis will be attacked. Some will lose their lives. This is a process that is tortuous for everybody involved.

There is good reason for timeliness of movement. At the same time there is, I think, a feeling on the part of most of us in the Senate that the product of all of this needs to be a good one or history will find all the parties sorely deficient, and the Iraqi people will suffer the most because the deficiencies will be visited and left with them. So we appreciate very much your wisdom and your can-

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dor today and your willingness to think along with us in what I think has been a very productive hearing as far as our own understanding goes, as well as, through the record, for the illumination of our colleagues.

Do you have a further comment?

Senator BROWNBACK. No thank you, Mr. Chairman.

The CHAIRMAN. Very well. We thank you and the hearing is adjourned.

(Whereupon, at 5:07 p.m., the committee adjourned, to reconvene subject to the call of the Chair.)

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HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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