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## S U M M A R Y

The approval of the Iraqi constitution in the October 15 referendum does not put Iraq on the path to stability and democracy but pushes it toward division into largely autonomous regions. And this new momentum is probably irreversible. Whether it will lead to a catastrophic descent into greater violence or even ethnic cleansing, or to a managed transformation into a loose federation of regions enjoying extreme autonomy, depends on whether it becomes possible for Sunni Arabs to form their own region, as Kurds already have and Shias are bound to do once the constitution is in effect. The central thrust of U.S. policy in Iraq must now be to help Sunnis organize an autonomous region and to convince Shias and Kurds that it is in their interest to make this possible. Paradoxically, announcing now a timetable for the inevitable withdrawal of U.S. troops from Iraq could give Washington additional leverage in influencing all sides to accept the necessary compromises. ■

## Back from the Brink: A Strategy for Iraq

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Sunnis were the losers in the referendum process, overwhelmingly rejecting the constitution and yet unable to muster the two-thirds majority in three provinces that would have invalidated the document and forced the constitution-writing process to start again. (The major reason for the failure was that two of the predominantly Sunni provinces contain large minorities who voted in favor of the charter.) Sunni rejection of decentralization and federalism was not purely based on nostalgia for a past in which they dominated Iraq but also on sound pragmatic reasons. With virtually all Iraqi government revenue deriving from oil, there is no future for any province or region that does not have access to an adequate share of oil revenue. The constitution, however, does not guarantee that a Sunni region will have such access. On the contrary, it strongly suggests that it will not.

A last-minute agreement reached just days before the October 15 referendum allowed for several months of discussion on constitutional amendments beginning after the December parliamentary elections. This agreement offers a narrow window of opportunity to avoid disaster, but only if negotiations focus on the few issues that are important now, not on those that appeared crucial until recently. The exact

wording of articles concerning the role of *sharia*, political and human rights, and the position of women is of secondary importance now, because the system that has emerged from the negotiations is so highly decentralized and its center so weak that the federal constitution will not influence how such issues are addressed by the regions. For example, *sharia* will weigh heavily in a Shia region and much less so in Kurdistan. The new negotiations must focus on two issues. First, institutionally, they must clarify the rules by which the regions relate to each other and to the central government, including, explicitly, financially. Second, politically, they must make it possible for Sunnis to build their own region and thus accept the federal solution.

An agreement on these issues is imperative because it is becoming clear that the U.S. presence in Iraq will be reduced during 2006. The U.S. military has been declaring for months that the force of arms cannot solve Iraq's problems. If a military solution is not possible with 140,000 or more U.S. troops in the country, it will be even less so as the number decreases. The U.S. public's willingness to fight a costly war and to invest heavily in Iraq's future is clearly waning. Antiwar sentiments are mounting within the United States, members



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of Congress are getting nervous about an open-ended commitment, approval ratings for President George W. Bush are at an all-time low, and U.S. mid-term elections are swiftly approaching. Most important, U.S. military commanders openly assert that they cannot provide a military solution to what is essentially a political crisis and send contradictory signals about the readiness of the new Iraqi army. President Bush's protestations that the United States will stay the course and remain in Iraq until the country is stable sound increasingly hollow.

Withdrawing from Iraq while it is on the verge of civil war, and when parts of the country risk turning into an Afghan-style uncontrolled territory, would have long-term repercussions for the security of the United States. The political system that the United States has helped set up in Iraq—not the one it envisaged, to be sure, but the one that is emerging as a result of Iraq's realities and poor U.S. policy choices—is a house of cards. Iraq could easily splinter, with Kurds and Shias focusing inward on their own regions and abandoning Sunni provinces to turn Iraq into the equivalent of a failed state where nobody is in control and civil war and ethnic cleansing escalate. Before withdrawing its troops, the United States must do what it can to ensure that the political system of weak federalism that has emerged, while not ideal, is at least workable. That means helping to form a viable Sunni region.

### **Accepting Ethnicization of Iraq and Minimizing Its Consequences**

Since 2003, Iraq has undergone a process that has unfortunately become quite common in multiethnic or multireligion countries when an authoritarian regime is removed. Politics becomes not competition among parties advocating different ideas and programs, but conflict among ethnic or confessional groups. It happened in many of the republics of the former Soviet Union and in Yugoslavia and most of its successor states, above all Bosnia. In a milder version of the same problem, return to multiparty politics in Africa led to

the emergence of parties with an ethnic basis and in the Middle East to the rise of Islamist political organizations. Postauthoritarian politics has become the politics of identity in most multiethnic countries.

Several factors predisposed Iraq to the politics of ethnicity and confessionalism: The old regime was dominated by the Sunni minority; religious Shias were marginalized; and Kurdish nationalism was violently repressed until the end of the first Gulf war, when the U.S.–British no-fly zone allowed the emergence of a virtually independent Kurdistan protected from Baghdad's reprisals. Adding to these preexisting problems, the Bush administration pledged its commitment to the unity of Iraq in theory, but in practice made ethnicity and religion the determining factors in the composition of all advisory or governing bodies it formed from the earliest days of the Coalition Provisional Authority.

The ethnicization of politics meant different things to different groups. As the former dominant minority, Sunni Arabs became the defenders of the country's unity, as all once-dominant minorities do—from the Serbs in Yugoslavia to the Amharas in Ethiopia. Sunnis rejected decentralization and federalism, championing a pan-Iraqi and even pan-Arab nationalism that included a large dose of nostalgia for their previously dominant position. The Sunnis' stubborn rejection of a more decentralized political system was probably strengthened by the fact that proposals for federalism and decentralization were set forth at the same time that a radical policy of de-Baathification was unfolding. Decentralization and de-Baathification together amounted to a complete loss of power for the Sunnis, creating fear that they would become permanent second-class citizens unless they resisted the changes.

The Kurds, determined to maintain their autonomy, encouraged the politics of ethnic identity and pushed for an extreme form of ethnic federalism with a weak center. The Kurdish position antedated the war and the demise of Saddam Hussein, as well as could

be expected from a once-repressed group that was finally in control of its region. The only population group whose response was not easily predictable was the Shias, who in fact started out by rejecting federalism and ended up overwhelmingly accepting a constitution that sanctions an extreme form of it. With about 60 percent of the population, Shias initially favored a unitary system with a strong center, convinced that they would run the country. As a result, Shias pushed from the beginning for early elections. But when they started negotiating with the Kurds over the constitution in the summer 2005, they discovered that the autonomy of Kurdistan was a fact on the ground that they did not have the power to undo. They were forced to face the inevitability of Kurdish autonomy and probably its control over Kirkuk province and thus the northern oil fields, the reality of an extremely violent Sunni insurgency, and very slow progress in the formation of a new Iraqi national army. As a result, in early August the major Shia political party, the Supreme

Council for the Islamic Revolution in Iraq led by Abdulaziz al-Hakim, reversed its position, accepted federalism and decentralization, and called for the formation of a Shia region embracing nine of Iraq's eighteen provinces. Although other Shia organizations continued to express reservations, Shia and Kurd negotiators agreed to the present constitutional draft, which allows and even encourages the division of the entire country into autonomous regions. The virtually unanimous approval of the constitution by the Shia in the October 15 referendum makes the formation of a Shia region inevitable.

The constitution approved over strong Sunni opposition has created an untenable political situation. Kurdistan will remain as autonomous as it is now and will undoubtedly seek to control Kirkuk and its oil. Absent a major political shift, Shias will form their own region in the nine provinces where they dominate numerically and establish control of the southern oil fields. Both regions will have

### **Last-Minute Deal on the Constitution**

The constitution approved on October 15, 2005, is difficult to amend for several reasons. First, amendments must be approved by two-thirds of the Council of Representatives (the parliament) and by the majority of citizens in a referendum and signed by the president. Second, the sections on Fundamental Principles and Rights and Liberties cannot be amended at all for a period of two successive electoral terms—a minimum of eight years. Third, amendments that take away power from the regions can only be amended with the approval of the legislative authority of the region and with the approval of the majority of the region's citizens in a referendum.

An agreement reached on the eve of the referendum, however, creates a temporary exceptional process to amend the constitution after the December 15 election. On a one-time basis, the new Council of Representatives will be able to set up a committee to draft amendments within four months. The amendments must be approved by a simple rather than a two-thirds majority of the council and then submitted to another national popular referendum. If Sunni Arabs vote in the December 15 elections, they will be better represented in the Council of Representatives and thus in the constitutional committee than they have been in the past. In practice, however, Sunni Arab representatives will still be a minority and unable to push through amendments that weaken the power of the regions.

their own defense forces, as they are entitled to under the new constitution, which bans “militias” but allows them to continue existing under the guise of regional security forces. Kurdistan will easily change its relatively united militia (*pesh merga*) into an official defense force. The new Shia region will face a thornier problem, with a dangerously divided conglomeration of rival party militias vying for control of the regional security forces.

The central government—designed to be in charge of defense, foreign affairs, trade, and financial policy—may be even weaker in practice than it looks on paper. It risks being starved of revenue and will control a national army whose loyalty and motivation are questionable and whose training is consequently making slow progress. Moreover, the army may lose personnel to the regional security forces once they are officially set up. The government may not even be able to formulate coherent foreign and trade policies, because each region is entitled to have its own separate offices within Iraqi embassies.

The probability that the federal government will be able to influence the policies of the regions in other domains is remote. Although the new Iraqi charter expressly states that the constitutions of the various regions cannot contradict the federal constitution, Article 177 makes it very clear that

“the regional authority shall have the right to amend the application of the national authority within that region,” except on matters over which the federal government has exclusive power. For example, a region could not issue its own currency, because issuing currency is the prerogative of the federal government, but it could decide that personal status issues such as marriage, divorce, inheritance, and more broadly the position of women will be governed exclusively by *sharia*.

This weak central government will supposedly govern the provinces that do not form their own region—at present, the Sunni provinces, the contested Kirkuk province, and, importantly, Baghdad. Because Sunni Arabs are at most 20 percent of the population, the Sunni provinces will be run by a central government dominated by Shias and Kurds. This is not a scenario to which Sunnis can willingly agree.

### Helping Sunnis Join In

Sunnis reacted to the ethnicization of Iraqi politics by rejecting federalism and trying to block the approval of the constitution—a strategy that was bound to lose. Once Shias accepted federalism, there was no way for Sunnis to stop the division of Iraq. At this point, Sunnis are confronted with a stark choice: continue opposing federalism and

### What about Baghdad?

The constitution states that Baghdad cannot be annexed by any other region but makes no provisions on how it should be governed. If Iraq is divided into a Kurdish, a Shia, and a Sunni region, Baghdad is bound to become a self-governing entity.

It will not be an easy entity to govern. It has more than six million inhabitants, of which an estimated 35 percent are Shia and the rest is divided between Sunni Kurds and Sunni Arabs. In the October 15 referendum, 78 percent of Baghdadis voted in favor of the constitution, showing they accept the idea of decentralized government even if they do not know what it will mean for the city.

With its mixed population, Baghdad could easily turn into the flash point for large-scale civil conflict. Or it could become a model of coexistence, if some security can be achieved and some real thought is given to how to govern it—which, so far, is an utterly neglected issue.

become a kind of colony of the central government, or form a province of their own. Continued opposition to federalism will only feed the insurgency, whereas setting up a Sunni region would give ordinary Sunnis a stake in the system and a chance to govern themselves, although it would not alter the position of hard-core insurgents. The obstacles to the emergence of a viable Sunni region are considerable. This is where the United States should concentrate its efforts and exercise whatever influence it has.

The most important of these obstacles is revenue. The Sunni region has no oil, particularly if the Kurds succeed in annexing Kirkuk. Because almost all government revenue in Iraq is derived from oil (\$18 billion out of a total of \$19 billion in 2004), there is no chance that a Sunni region could become viable on the basis of its own resources. This means that Sunnis would have to be assured of a reasonable share of oil revenue to accept a federal solution and set up their own region, but the constitution does not provide such assurance. On the contrary, it is quite alarming from the point of view of the Sunnis. To be sure, the constitution states clearly that “oil and gas are owned by all the people of Iraq in all the regions and governorates” (Article 108). However, it then states that the management of *existing* oil and gas fields, as well as the development of a future oil and gas strategy, will be undertaken by the federal government together with the governments of the producing regions and provinces. Because the predominantly Sunni provinces do not produce oil, Sunnis will have no voice on these matters.

The constitution also states that oil and gas revenues must be distributed in a fair manner in proportion to the population distribution in all parts of the country, but again, the reassuring first statement is contradicted by the fine print. Fair distribution will also involve compensatory payments to be made for an unspecified period to “the damaged regions which were unjustly deprived of them by the former regime, and the regions that were damaged afterwards” (Article 109). The exact distribution will be determined by a

law over which Sunnis, bound to be a minority in the parliament, will have little say. Moreover, for the Sunni non-oil-producing provinces, the constitution is completely silent on the topic of how the revenue from new oil and gas fields will be apportioned, or how those fields will be managed. Thus, despite the initial statement that oil and gas belong to all Iraqis, Sunnis have good reasons

## Sunnis have good reasons to be concerned about how much oil revenue they would receive.

to be concerned about how much oil revenue the Sunni provinces or a Sunni region would actually receive.

Clearly Sunnis cannot accept the federal constitution unless they are guaranteed more than it presently offers. The U.S. needs to promote broad negotiations on the issue now so that Sunnis can form their own region and strengthen their autonomy. The issue is too important to be discussed by a small committee or decided by the parliament by a simple majority vote. All Iraqis need to understand the implications of not reaching an agreement on the issue of the distribution of oil revenue. Without contravening the newly approved constitution, the United States should encourage the Iraqi government to set up immediately a broad-based advisory commission to discuss the issue and make recommendations to the parliament. The new parliament will eventually make the decision, but the discussion needs to start as soon as possible and be as broad as possible. For once, the process should not be rushed and should not be limited to a discussion behind closed doors among a few politicians. The elected provincial councils need to be consulted, and so do tribal leaders and religious authorities who influence public opinion.

The second major obstacle to the formation of a Sunni region is the lack of clearly

recognized leaders among Sunnis. Several parties have emerged, as have people with leadership aspirations, but because Sunnis boycotted the January 2005 elections, it is impossible to gauge how much support any group or individual really has. Furthermore, potential Sunni leaders are being targeted by the insurgents. This is not a problem the United States can address directly. In fact it is one that Washington could worsen by embracing—and thus discrediting—particular leaders and organizations.

Indirectly, the Bush administration could help considerably by reconsidering its own attitude toward de-Baathification and by putting pressure on the Iraqi government to do the same. De-Baathification has been a murky process to date, carried out in fits and starts. Under the Coalition Provisional Authority, even low-ranking members of the party found themselves excluded. After June 2004, Prime Minister Iyad Allawi allowed

experience are by definition former Baathists. No country has ever been able to completely renew its entire leadership and management structure in the course of a few years. That is why the process of de-Nazification in Germany had to be reversed, why former communist politicians continue to play leading political roles in many postcommunist regimes, and why members of the National Party still sit in the South African parliament. Iraq should not be expected to be the exception. Former Baathists are bound to play an important role in the setting up and the running of a Sunni region and to a lesser extent in the central government. The line of exclusion needs to be clearly and rather narrowly defined. And if the prospect of a Sunni region where Baathists are influential is unappealing, it is worth considering that the alternative is even more unappealing—that Sunnis would continue to oppose the federal solution or, worse, to directly support the insurgency.

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the reintegration of some former members, including in the military. The government of Ibrahim Jafari took a much more hostile view toward former Baathists, as shown by the discussions about who could be a member of the constitution-drafting committee. This erratic process has created a great deal of uncertainty. It is also a major obstacle to the emergence of credible Sunni leadership, as well as to the rebuilding of a minimally competent administration, because people with

### **Leverage of Withdrawal**

The Iraqi constitution has created a weak federal system that gives most of the power to the regions. The system cannot be changed because the Kurds will not accept anything less than autonomy and the largest Shia organization also backs the strong region model. The system can only work if Sunnis have their own region, sufficiently funded and led in a way that satisfies the Sunni population. Kurdish and Shia leaders have so far shown no inclination to take the necessary steps to enable this, and Sunnis themselves have spent their energies in opposing a federalism that they cannot stop rather than in trying to bargain for concessions that would allow them to benefit from it. The only policy option now is to convince Sunnis to accept federalism and Shias and Kurds to

accept that federalism will only work if there is a viable Sunni region.

This is the goal for which the United States must work in the coming months. Its leverage in convincing all groups to accept this goal would be enhanced if the administration announced a timetable for drawing down the number of U.S. troops and eventually withdrawing completely.

By announcing a timetable for withdrawal, the United States would apply some leverage on Shias and Kurds to make the concessions needed to develop a viable Sunni region. The present Shia–Kurdish government can afford to be intransigent as long as it is assured of U.S. protection. If the prospects for U.S. withdrawal were clearly spelled out, Shias and Kurds would have a greater incentive to make concessions to achieve a political solution.

From a military point of view, announcing a timetable for withdrawal has substantial disadvantages. This is not, however, a traditional conflict but a struggle in which political and security goals are inextricably linked and in which political actions are at least as important as the use of force. Politically, a withdrawal timetable could help divide Sunnis and weaken the insurgency, particularly if it is accompanied by clear support for a viable Sunni region and a new policy on de-Baathification. Sunni politicians would be forced to develop a policy that goes beyond opposing U.S. occupation and to focus instead on how to find their place in the new, decentralized Iraq. Former Baathists and many ordinary Sunnis who lean toward the insurgency because they do not see a future for themselves in the new Iraq might also be enticed toward a more constructive, forward-looking position.

Announcing a withdrawal will not change the position of jihadists or of the

criminal element thought to constitute a significant part of the insurgency. Some have argued that announcing a timetable will only encourage hard-core insurgents to lay low and strike after the United States leaves. We should have no illusion that these elements do not realize that the United States will not stay forever. Insurgents already know that the mood in the United States about the war has changed and that it will be politically

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unfeasible for President Bush to maintain the present level of troops in Iraq indefinitely. Using the leverage of an announced timetable for withdrawal, the United States may be able to push Iraqis to use the agreed upon additional period of negotiating to address the issue of how Iraq can be made viable as a weak federal state. It will not be easy, but there are no other options left. ■

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THE IRAQ CONSTITUTION, Nathan Brown, commentaries and analyses on the Iraqi constitutional process, available at [www.carnegieendowment.org/publications/index.cfm?fa=view&id=17620](http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=17620).

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