

UNITED STATES INSTITUTE OF PEACE

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UNEDITED TRANSCRIPT

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IRAQI VIEWS OF THE CONSTITUTION,  
REFERENDUM AND ELECTIONS

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LAITH KUBBA  
SPOKESMAN OF  
IRAQI PRIME MINISTER  
IBRAHIM AL-JAAFARI

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MODERATED BY  
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UNITED STATES INSTITUTE OF PEACE

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P-R-O-C-E-E-D-I-N-G-S

(3:00 p.m.)

GARY MATTEWS, USIP: Good afternoon everyone. And welcome to the United States Institute of Peace. It's great to see such a fine turnout for this terrific program here and very, very pleased to have Laith Kubba, no stranger to the Institute and to Washington in his capacity as spokesman of the Iraqi Prime Minister. And it's just going to be a great afternoon.

I will immediately turn over to -- turn to Daniel Serwer, our Director of Peace and Stability Operations who also lives and breathes these issues a great deal. And we're looking forward to it, both of you.

Thank you.

MR. SERWER: Thank you, Gary. It's a particular pleasure to welcome Laith back to the Institute. I think he was our most frequent speaker on Iraq before the war and our -- what shall I say, the fact that the Iraqi government has recognized his great talents and put him in a position of great responsibility and importance is great satisfaction for us to see.

In fact in the foreign service, when you like somebody you say he is a solid citizen. And Laith,

1 who has just confirmed to me that he is actually a solid  
2 citizen of three countries, the U.K., the United States,  
3 and Iraq. And I say that with great respect and  
4 affection.

5 This is the first of a series of events. I  
6 want to mention a few of the others that we will be  
7 conducting this week. Tomorrow we'll have a discussion  
8 here from ten until twelve, a very good panel on Iran,  
9 Iraq, and the United States, a critical triangle.

10 On Thursday from ten to eleven-thirty,  
11 we'll have Peter Galbraith who negotiated on behalf of  
12 the Kurds I think it is fair to say. I've been calling  
13 Peter a born again Kurd finally.

14 PARTICIPANT: He's an honorary Kurd.

15 MR. SERWER: An honorary Kurdish citizen.

16 And we hope eventually -- we are co-sponsoring -- sorry  
17 I should have said -- cosponsoring with NDI and IRI on  
18 the Hill at 5:00 p.m. on Thursday a session with Hajim  
19 al-Hassani, the Speaker of the Iraqi Parliament. And I  
20 hope to have sooner rather than later a panel discussion  
21 on the Constitution, the referendum, and the elections  
22 from the point of view of smaller minorities in Iraq.

23 So we have a full program of events ahead  
24 of us. I'm sure as the referendum approaches and the  
25 elections approach, we'll have many more activities.  
26 And I'm welcome to suggestions from those of you who are

1 either old or new friends.

2 It really is a pleasure to have you back,  
3 Laith, and we look forward to what you are going to have  
4 to say to us.

5 DR. KUBBA: Thank you.

6 Thank you, Dan, and I want to thank the  
7 Institute for having me back. I think I recall three  
8 years ago nearly myself and a few colleagues gave an  
9 outline that was just months before the war on what was  
10 ahead of us and what we were thinking at that time.

11 And I'd like to go back off into these  
12 thoughts and to re-caliber my thoughts to see what we've  
13 got right and what we've got wrong.

14 On April 9th there were many unknowns of  
15 what was likely to happen. Does Saddam have weapons of  
16 mass destruction? How is he going to use them? What  
17 sort of humanitarian crisis we'll have. And nobody  
18 focused much on what sort of political and social forces  
19 would be unleashed and which way they will take the  
20 country.

21 Since then, we moved a long, long way.  
22 Maybe I need to say I do represent the -- I'm the Prime  
23 Minister's spokesman but I'd like to talk at least in  
24 this session as much as possible expressing analytical  
25 views and giving my own insights into what's going on in  
26 Iraq.

1           And unless I say I think that this is the  
2 Prime Minister's position, I'd be much at ease just  
3 talking not from a governmental position but from my  
4 capacity as somebody who has been involved in Iraq all  
5 this time.

6           I do press briefings regularly trying to  
7 explain what the Iraqi government to the Iraqi media and  
8 to foreign media. And it's not easy because often the  
9 Iraqi government does not know what it is doing and I  
10 have to still explain it.

11           (Laughter.)

12           DR. KUBBA: Today I think it's going to be  
13 equally difficult because I know the issue on Iraq is  
14 hot on the U.S. domestic agenda. And as I try to  
15 address issues, I am aware of how people are looking at  
16 this -- all the issues related to Iraq from a U.S.  
17 perspective.

18           But while I was in Baghdad in the last few  
19 months, I was so much buried with day-to-day events,  
20 really what was evolving here in D.C. and I caught up  
21 with issues here through briefs friends gave me, did not  
22 feature back in Iraq. And I'm going to -- as I  
23 highlight some of them, please bear in mind that I am  
24 looking at these issues from an Iraqi perspective, too.

25           We've come a long way from April 9th until  
26 now. Irrespective of what happened in the first year

1 and what misjudgments, mistakes, or miscalculations took  
2 place, things started to go back on track when the TAL,  
3 which was the first landmark was put forward.

4 It was a document that was thought through  
5 many issues. And it was presented and it provided the  
6 first roadmap into what we're likely to see. And up  
7 until now, we are seeing the different social and  
8 political forces working hard within the framework of  
9 the TAL and trying to achieve their goals but sticking  
10 to the process and sticking to the rules that were set  
11 at that time.

12 There was a lot of arm twisting taking  
13 place before the TAL and after the TAL but I think one  
14 needs to highlight that by and large, the different  
15 forces, political forces that are engaged in government  
16 have adhered to the process. And this is important to  
17 be mentioned.

18 The second important landmark also that  
19 needs to be highlighted was the elections. And again,  
20 that was not a simple event. It was the first elections  
21 after a long time in Iraq, over 40 years, 50 years  
22 nearly.

23 It was done under very difficult  
24 conditions. It had a high turnout. It raised the  
25 morale of the Iraqis. It surprised everybody by how  
26 ready the Iraqis were to participate in a process again.

1           So again, that is something very positive.

2           And I think needs to be highlighted.

3           Despite the defects that were in the  
4 process at that time, by and large we had a process.  
5 And I think similarly what we had in the last two  
6 months, three months was real effort to produce a  
7 document. Again, another landmark, to produce a draft  
8 constitution. And every effort was put to make that  
9 draft as representative as possible.

10           Due to the defect we had in the elections  
11 back in January with very weak, I would say absent,  
12 nearly absent Sunni participation or participation from  
13 the three main regions, Mosul, Ninova (phonetic), Sal al  
14 Hadine (phonetic), which is Samura (phonetic), and  
15 Ramadi, the armed guard province.

16           Despite that defect, it took a while to put  
17 up a government, a coalition government. Again, that  
18 had lots of shortcomings. I will touch on them later.  
19 But most importantly, that government had two tasks.  
20 One was to see the day-to-day running of the country.  
21 Nobody expected miracles. The government had to work  
22 under conditions of extreme violence and challenges.

23           Oil pipes, I think, were hit maybe 200  
24 times in the last 200 days; on average once a day.  
25 Similarly power lines were hit. So it was extremely  
26 challenging. Maybe 500 car bombs went off in the last

1 year.

2 That was one assignment. Still the  
3 government had to provide these services. And the  
4 second assignment was to consolidate the political  
5 process, keep the coalition intact, and deliver a draft  
6 constitution on the deadline, the 15th of August.

7 They could have had an extension. They  
8 chose not to because the issues that were there would  
9 have not changed whether there was or wasn't an  
10 extension.

11 So the draft that was put represents the  
12 outcome of that process. There are many remarks I'd  
13 like to make on the draft. I have my personal views but  
14 they are not relevant to be presented here.

15 But I think what is relevant is to focus  
16 more on the process itself, the progress that was made,  
17 and to highlight that with what we have seen in the last  
18 two years, not a breakdown of Iraq but of social and  
19 political forces engaging themselves through rules they  
20 are trying to put at the same time they are in conflict  
21 with each other, they have different visions to which  
22 way Iraq must go yet they are trying to put some rules.

23 Nobody -- no group or political group or  
24 community was abandoning its self interest. In fact,  
25 everybody is pushing very hard to advance the  
26 perspectives they have. But still they are trying to

1 establish rules that everybody agrees to.

2 In that respect, I think there has been a  
3 great success. The Sunnis initially were invited to  
4 participate in the government. And some of them did.  
5 Not a great deal. There were five cabinet positions,  
6 including the powerful position of the Minister of  
7 Defense.

8 There was a Deputy Prime Minister. There  
9 was the Chair of the National Assembly, the President of  
10 the National Assembly. All these were done based on the  
11 realization that we must, the country must engage the  
12 areas that did not participate in the elections. And  
13 that was done successfully.

14 When it came to drafting the constitution,  
15 the principle was we must invite representatives. Not  
16 elected because they were no elections there. But let  
17 us try to find the voices that are willing to engage in  
18 the process. And they were invited to participate.

19 There was a gentleman's agreement that  
20 whatever draft should be adopted by consensus. That was  
21 not a legal requirement. But it was necessity. It was  
22 necessary to adopt that rule and that was the basis of  
23 engaging 15 additional members to the constitutional  
24 committee that started drafting the constitution.

25 Effort was put -- there were international  
26 experts trying to help the Iraqis draft a constitution.

1       What did we see in the last two months? We saw a fully  
2 fledged Iraqi driven process. What has been written in  
3 that 40-page document, nearly 200 articles, is very much  
4 an expression of what the Iraqis wanted to see.

5               Technically speaking, it cannot be  
6 described purely as a well thought through constitution.

7       It has many policy issues, statements that serve  
8 political purposes rather than the functions of  
9 government.

10              Rather than looking at the state structure,  
11 rather than looking at what the constitution is supposed  
12 to do, it became a platform for leaders and political  
13 parties to state what they want to state in that  
14 document. And hence, you see many articles that really  
15 do not belong there.

16              Other articles that were not well thought  
17 through were left for further legislation. I think in  
18 total there are 45 references in the constitution that  
19 refers to the need to legislate to cover that area,  
20 including what is equivalent to the Senate.

21              There is a House of Representatives. And  
22 in theory, Iraq should have a Senate. But there is only  
23 one line in the current constitution that says Iraq  
24 should have a Senate and the details of which would be  
25 passed in a law later.

26              All this, as I said, highlights that many

1 issues were discussed. We have a draft. And that draft  
2 is going to be put to a referendum. Now it is bound to  
3 be a draft that hoped to be a compromise. But there  
4 were issues that were impossible to reconcile or  
5 compromise such as the identity of the state and the  
6 structure of the state.

7           There were two competing visions. One  
8 vision looked at Iraq as one sovereign state that has  
9 one concept of citizenship, that its resources and  
10 borders are not divided. It's all part of that  
11 sovereign state. And adopted the concept of  
12 decentralization in a big way, both financial and  
13 administrative. I guess it looks more -- or the hope  
14 that if had looked more like the federal system in the  
15 U.S.

16           There was another competing vision to what  
17 the state structure should be and that looked more like  
18 the EU confederal (phonetic) system that wanted to see  
19 regions that had real powers, powers of states. And  
20 that those different regions come together in some form  
21 of federal structure that actually is just a  
22 superstructure overseeing those different regions.

23           Of course, it was impossible to have both  
24 at the same time. And what happened is that some rules  
25 were set for issues to be concluded in the future. But  
26 if one reads behind the lines, you would know which way

1 the state is going to go. If you know the politics of  
2 the country, if you know the dynamics, if you know what  
3 political players want, and if you know that Iraqis  
4 today want services right now, they want functioning  
5 government.

6 They want an effective government. And if  
7 they are given a structure that gives them an  
8 ineffective government, then they would -- and options  
9 for shifting the responsibilities of governments to the  
10 regions or to the provinces, then be sure this is  
11 exactly what is likely to happen.

12 Those are two different visions. And as I  
13 said, irrespective of which one is good for Iraq, this  
14 is for Iraqis to say.

15 There is a possibility that that  
16 constitution would be turned down. It's thin. And  
17 there is a possibility that it will pass by a thin yes.

18 I think one must not focus the attention  
19 that one is good and one is bad. I think this is the  
20 outcome of real effort by Iraqis. Many issues were  
21 spelled out. And at the referendum, there will be a lot  
22 of politics in trying to -- different groups trying to  
23 influence the outcome of the referendum.

24 But the -- whether it is a yes or a no,  
25 it's going to have a lot of consequences on the politics  
26 in Iraq.

1           Let me just -- I'm not adhering to the  
2 notes that I initially prepared but let me just go  
3 directly into some of the likely outcomes. And again, I  
4 can give an analytical view of what is likely to happen.

5           Let's go -- if it was a no, and that is a  
6 possibility depending on what attitude would leaders  
7 such as Moctar Delsader (phonetic) or Iyad Alawi, what  
8 position would they take publically on that draft. And  
9 many have reservations but bearing in mind it is a  
10 compromise, they would rather try to influence it now,  
11 amend an article here or an article there, really do  
12 their best to try to create consensus.

13           We only have four weeks left. I think  
14 those leaders would declare a position, Iyad Alawi,  
15 Moctar Delsader, and others. If they were to declare a  
16 no position, then there is a possibility that the  
17 country would get a thin no to the constitution.

18           And if it was a thin yes, then as I said,  
19 the dynamics are set to go in two different directions.

20           If it is a thin no, the good news about it is that it  
21 will convince the majority of Sunnis that participation  
22 pays and that the political process is a good thing.  
23 And maybe their weaknesses and non-participation can be  
24 fixed.

25           And maybe if they were to learn the  
26 negotiating skills of the Kurds or of the Shiites or

1 know how to mobilize, then they can have a much better  
2 impact. They can get what they want in influencing the  
3 process and getting the results through participation,  
4 not through violence.

5 That part has already been taken by few  
6 brave Sunnis. Some of them lost their lives. Two  
7 members of the constitutional committee have lost their  
8 lives. They were assassinated because of that. Many  
9 others were assassinated because they were calling for  
10 participation. And their hands will be strengthened a  
11 great, great deal if they demonstrate that they can  
12 communicate that point of view.

13 Of course implicitly here I need to  
14 elaborate who are the Sunnis because those who are seen  
15 and know need not necessarily represent all the Sunnis  
16 but I will comment a little bit about that and a little  
17 bit about the insurgency if time allows.

18 Assuming that there is a no vote, that will  
19 consolidate the process. That's the good news.

20 The bad news, it's another one year of  
21 wasted time, another agonizing year of maybe sustaining  
22 foreign troops in Iraq to see it through, maybe a  
23 backlash from Kurds or Shiites in not being very happy  
24 with the result. Those are some of the possible  
25 outcomes, negative outcomes that will come out of a no  
26 vote.

1           As an Iraqi government spokesman, as a  
2 Prime Minister's spokesman, let me just correct that,  
3 because the Iraqi government is a coalition and there  
4 are many balances that need to be said here, but I can  
5 speak as a Prime Minister's spokesman.

6           I've said it in Iraq and I repeat it  
7 everywhere that those who say no are not less of  
8 patriots than those who say yes. What is important is  
9 that every Iraqi should register and vote.

10           And that the draft that this process has  
11 yielded is the best to the ability of what we had, of  
12 the electoral system that we had, of the level of  
13 maturity of all political parties, of the effort that  
14 was put to bring in the Sunnis, that is the best thing  
15 we produced.

16           We'd love to know what is the verdict from  
17 the country. If it is a thin yes, of course the good  
18 news is that this is another important positive landmark  
19 that we've concluded. The bad new, it might have a  
20 negative impact on the Sunni community, especially if it  
21 was a thin yes.

22           Those who would argue for violence maybe  
23 would have the upper hand. Those who were weak  
24 believers in the political process and participation  
25 would lose faith and hope. And maybe become either  
26 passive or negative. And that would be a setback.

1            Bearing in mind that for Iraq to be stable,  
2 we must have a buy in from all communities in Iraq.  
3 That's going to be quite a challenge for the new  
4 government even if there was to be -- and there will be  
5 elections in December. But what would have been adopted  
6 then as a constitution would unleash a dynamic of  
7 provinces becoming regions and regions locking in their  
8 authorities, the powers that they've gained beyond  
9 change.

10            The articles that are in the constitution  
11 that talks about constitutional amendments are carefully  
12 corrected to lock in a few things not open to change and  
13 leave others that are open to change.

14            So a yes vote would, as I said, move the  
15 country on. But it is going to be a tough ride. And  
16 for those who want to address and fix it again, as they  
17 try to fix the deficiency in the last elections would  
18 again have a hard time.

19            Maybe I will talk in the last few minutes  
20 just to stick to maximum half hour timeline on what are  
21 some of the key issues that are in the constitution that  
22 has been subject to a lot of public debates. I know a  
23 lot of attention has been focused on the role of Islam.

24            Well, back in Iraq this is not really an issue. I  
25 think people buy and large have strong religious  
26 feelings in terms of respect to Islam. They'd like to

1 have a couple of lines there spelling that position in  
2 line with whatever has been said in other constitutions  
3 in Arab countries and Afghanistan and others.

4 I don't believe there is the will of the  
5 institutions or the program or even the opportunity to  
6 convert Iraq into an Islamic state or an Islamic  
7 republic. It's just Iraq as it stands with its diverse  
8 communities, diverse political forces, is not positioned  
9 at all to become an Islamic republic by anybody's  
10 imagination.

11 However, if Iraq is set to move into  
12 different regions and provinces in cooperating  
13 themselves into regions with local governments immune  
14 more or less from the federal government, then yes.  
15 Parts of Iraq would become small Islamic states. And  
16 that -- just by looking at how Iraq is formed, that  
17 possibility can happen in some of the Shiite southern  
18 regions, maybe is some of also Sunni regions. That is a  
19 possibility.

20 On the question that is  
21 domination the draft now -- and there are, as far as I  
22 know, up until now no signed draft has been given to the  
23 U.N. so that the U.N. can print five million copies. It  
24 all hinges on how to describe the state of Iraq. Is it  
25 an Arab state or isn't it an Arab state?

26 And also the real debate behind it is that

1 Iraq, of course, has been always a sovereign state which  
2 has two main nationalities, predominantly Arabs. A  
3 second large nationality is Kurd. But there are other  
4 nationalities in Iraq.

5 And Iraq basically is multinational but it  
6 is predominantly Arab. It's Arab in its culture, in its  
7 history. And the Kurdish region, of course, has its own  
8 special identity. A lot of wording. If the Arabs are  
9 part of the Arab nation, should the Kurds be also stated  
10 as part of the Kurdish nation? Should the Assyrians be  
11 stated as part of the Assyrian nation?

12 All sorts of things would unravel. Maybe  
13 the constitution could have been silent about this and  
14 just avoided the whole debate. Nobody would have raised  
15 an issue. But that's what has been discussed and this  
16 is now -- has become an issue -- is Iraq or isn't Iraq  
17 an Arab state? And this can be divisive.

18 A second important issue, as I said, is  
19 what I talked about the good thing about the Iraqi  
20 constitution, it did not adopt ethnic or confessional  
21 political identities to Iraq, i.e., it did not state  
22 that the president should be a Shiite, a Sunni, or a  
23 Kurd. And the Prime Minister should be this or that.

24 It did not mention that at all. And even  
25 when it talks about the different provinces and regions,  
26 it does not talk about a Shiite province or a Suni

1 province. It talks about provinces.

2 Having said that, there are many lines  
3 implicit in the constitution that can be problematic.  
4 For example, Iraqis have the right to own property  
5 anywhere in Iraq so long as it doesn't impact the  
6 demography of the region.

7 And again, I mean a vague like this would  
8 be open to conflicts in interpretations and many, many  
9 issues in the constitution are left open to  
10 interpretation without many institutions wrote clear  
11 procedures on how to conclude them and resolve them.

12 But as I said, this pre-run or draft --  
13 it's a draft after all -- had fleshed out many issues on  
14 Iraqi's minds and on the different political groups.  
15 And I think had set the stage clearly for these issues  
16 to be debated and looked at much closer in the future.

17 I think I've covered half an hour. And  
18 maybe they were just opening remarks. And I'll be glad  
19 to take questions and maybe give more time for questions  
20 and answers.

21 MR. SERWER: Well, Laith, you fulfill our  
22 expectations in every way. You've opened up a lot of  
23 issues. And I'm tempted while people line up at the  
24 microphone, to ask the first question which you  
25 suggested already. Who are the Sunni? And what about  
26 this insurgency?

1 DR. KUBBA: Thanks for reminding me. Let's  
2 start with the insurgency. I guess there is a level of  
3 violence in Iraq. Twenty percent maybe. It's dramatic  
4 but in terms of numbers, it is not large. That is not  
5 going to be effected in any way whether the answer is  
6 yes or no to the constitution.

7 Those are diehard -- what we call them in  
8 Iraq -- techferi (phonetic) groups, rejectionist groups  
9 who just have a solid, dogmatic line. And are  
10 determined to kill anybody in their way who disagrees  
11 with them, whether they have been citizens, children,  
12 American, Iraqi troops, whoever. Those are determined.

13 Those started with foreign fighters moving in. But now  
14 they have developed into some local forces recruiting  
15 the youth.

16 I would say a good 80 percent in terms of  
17 numbers and organizations of the insurgency have a  
18 political agenda. They were born maybe early '04,  
19 January, February '04 before the TAL. They started to  
20 emerge and attract more former members of the regime.

21 The more the state and the government was  
22 ineffective in concluding issues, the more they have  
23 gained momentum. It is worth noting initially as -- the  
24 regime fell -- there was not resistance. The Iraqi army  
25 did not fight. The Baathist organization just  
26 disintegrated. But they are reemerging now. And they

1 are reemerging with arms. So we do have a dimension  
2 amongst the insurgency that can and must be tackled  
3 politically.

4 For the first category, there is no other  
5 language other than force, intelligence, and just  
6 persistence. And mobilizing the rest of the country to  
7 fight them. For that second element of the insurgency,  
8 one can see if they can be brought -- not that they can  
9 be brought in, but if the Sunnis are brought in fully  
10 into the process, then that insurgency will diminish  
11 slowly if not rapidly.

12 So that is as far as the insurgency. When  
13 it comes to the Sunnis, again, it is unfair to describe  
14 former regime members as being Sunnis because a lot of  
15 them are Shiites and some of them even were Kurds. The  
16 were incorporated by the regime in various ways.

17 But the bulk of the Sunnis today are put in  
18 a corner. There are many of them secular nationalists,  
19 nationalists, I guess, patriots in that respect who want  
20 to see Iraq governed well. Who want to participate in a  
21 mainstream agenda, not in a religious agency.

22 They are a minority. I always quote  
23 Pachachi (phonetic), may trying to represent that voice.

24 He did not get many votes in the last election, maybe  
25 because there was weak Sunni participation.

26 A second category comes more from tribal

1 Sunnis. They are likely to win seats if there was to be  
2 elections. They, again, they are non-religious. They  
3 respect religion. They don't have a religious agenda.  
4 They would be easily integrated in the political process  
5 if they were just given fair chance. Many of them  
6 served in the previous regime. They can be brought back  
7 in without bringing them as Baathists but just as people  
8 in different regions.

9 And there is a religious element  
10 represented by the Islamic party and others who are not  
11 that strong. But they are vocal because there is no  
12 full Sunni participation. If the space is open wide for  
13 Sunni participation, then that religious element, I  
14 think, would shrink in its size and influence.

15 MR. SERWER: Please introduce yourself.

16 MS. CARADIKI (PHONETIC): Do I need the  
17 mike?

18 MR. SERWER: Yes.

19 MS. CARADIKI: Perry Caradiki.

20 MR. SERWER: Closer.

21 MS. CARADIKI: Perry Caradiki, Kurdish  
22 Human Rights Watch, an NGO working in U.S. and in Iraq.

23 Two questions. You mentioned -- and thank you for this  
24 wonderful update -- you mentioned the name of Iraq. And  
25 you were -- there was debate about it being an Islamic  
26 country and also being an Arab state.

1           And as you know, as you mentioned, Iraq is  
2 not only compromised of an Arab population but also  
3 Kurds and Assyrians, Cultiens (phonetic), Mendiens  
4 (phonetic), and others. And as far as religion is  
5 concerned, Iraq is not only an Islamic country but it is  
6 also -- there are non-Muslims as well.

7           And you mentioned the issue -- I'm very  
8 curious because during the drafting of the constitution,  
9 many of us from the civil society and many of the Iraqi  
10 women organizations and others have approached the  
11 Constitution Drafting Committee in regards to women's  
12 right. And specifically to Islamic sharia.

13           And I'm curious that that was not taken in  
14 consideration by the Constitution Drafting Committee.  
15 And how you feel and what the position is in regards to  
16 that. And then what does that mean for the future of  
17 women in Iraq.

18           Now we all know that Iraqi women are  
19 progressive and educated and Iraq is a pro-democracy  
20 country. But still that gives us, from the NGO  
21 community and civil society, a lot of concerns in regard  
22 to the future of Iraq and the role of women and their  
23 rights within Iraq.

24           Thank you.

25           DR. KUBBA:       Thanks.       Actually the  
26 constitution has many, many positive articles that one

1 can celebrate and proudly refer to.

2           Having said that, one must also say the  
3 previous constitution had many good positive articles  
4 about women. Often it is not the text, it is the  
5 reality that one needs to look at. Take, for example,  
6 the Kurdish region. There is no legal requirement that  
7 there ought to be one-third of their assembly women.  
8 But women have good position in the Kurdish region and  
9 they participate fully.

10           So to really just narrow down the debate on  
11 putting more articles would not necessarily address all  
12 the concerns that women have. I am more concerned, and  
13 I share your remark, that the Constitutional Committee  
14 listened to NGO's input. But it was not effective  
15 listening. It did not take on board many of these  
16 remarks.

17           There has been many activities in Baghdad,  
18 many conferences including, at least, I participated in  
19 one led by the State Minister for Women's Affairs Azhar  
20 al-Shaikhli (phonetic). A two day conference, excellent  
21 remarks, excellent debates. The county has different  
22 points of views.

23           Again, according to the current  
24 constitution, a lot of powers will be passed to the  
25 region and the regions then would decide what they want  
26 to do. In fact, the regions would draft their own

1 constitution within the framework of the broad  
2 constitution of Iraq. They would draft their own  
3 constitution. They would pass their own legislation.  
4 They will decide their own political and administrative  
5 system within the region.

6 And yes, within those cracks, I think a lot  
7 of women's rights can disappear. But an active -- from  
8 what I've seen in Iraq, there is a very strong women  
9 network, NGOs, excellent -- most impressive  
10 contributions they make. It doesn't worry me a great  
11 deal. I'm ore focused on having an open political  
12 system that will enable all Iraqis to participate.

13 MR. SERWER: Katrina.

14 MS. MICHAEL: Katrina Michael (phonetic)  
15 from Kurdish Human Rights. I little bit disagree with  
16 Dr. Laith because there is a lot of articles have been  
17 copied from Iranian constitution. And one of them that  
18 there is no women represented in the senator committees  
19 that we have in the constitution.

20 The second thing, I have a question  
21 regarding Article 90, do you think is this article is  
22 going not to divide Iraqi community? Each group is  
23 going to go after their sect or religion. And we have  
24 five schools only for Islam. What about others?

25 I feel in this constitution women and  
26 minorities are the first losers. And one of them I am

1 because I am both of them.

2 Thank you.

3 DR. KUBBA: I mean it is good to have, as I  
4 said, all these concerns expressed. And nobody expected  
5 a draft that will assure everybody and please everybody.  
6 It's just impossible to achieve.

7 My concern is not about simply putting  
8 these articles. My concern is about putting mechanisms  
9 and procedures to ensure that they are followed through.

10 There are lots of gaps in the constitution  
11 in that respect. Lots of issues that are left open  
12 without even a procedure or mechanism on how to conclude  
13 or how to follow up on them. And how to make sure that  
14 they don't go through.

15 So -- but that's -- as I said, that's a  
16 draft. It has the capacity to rectify and modify itself  
17 in due course. No constitution is born perfect. Some  
18 of the things -- if this constitution is adopted, some  
19 of the things are irreversible and some of the things  
20 are reversible. Some of them are open to legislations  
21 that will be defined only once we know what legislation  
22 will come out of it.

23 But as I said, those are issues. Let me  
24 just give you a feel. On April 9th, nearly all Iraqis  
25 thought that the real problem was Saddam Hussein. And  
26 some Iraqi political groups thought not only Saddam

1 Hussein but the Bath regime. And then people went  
2 further to say no, it's even the government of Iraq.  
3 And now people are saying maybe it is the state  
4 structure of Iraq.

5 And all sorts of things are opened up.  
6 That's a positive thing where having an open space with  
7 a lot of debates, public in Iraqi media.

8 The challenge we have now is to try to put  
9 it together in something that works because there is a  
10 real danger. If it doesn't work, Iraq can slide down  
11 into more violence. That prospect is real. The level  
12 of violence we have today is not isolated from the  
13 politics of Iraq. It is related to the politics of  
14 Iraq. And unless we fix it, we cannot fix that  
15 violence.

16 MR. SERWER: Thursday morning speaker, Mr.  
17 Peter Galbraith.

18 MR. GALBRAITH: Laith, welcome to  
19 Washington. And certainly I share your positive  
20 appraisal of the constitution which, I think, represents  
21 the last and best chance for Iraq to move forward.  
22 Indeed for Iraq to stay together.

23 But I'd like to ask you about the  
24 alternative. As you know, in Kurdistan in January, 98  
25 percent of the population voted in an informal  
26 referendum for independence. What would be your

1 position and the position of the Prime Minister if, in  
2 fact, Kurdistan in the end decided either because this  
3 constitution wasn't approved or even after this  
4 constitution was approved, that it really wanted to move  
5 to independence?

6 DR. KUBBA: As you know, this is a  
7 difficult question to answer.

8 (Laughter.)

9 DR. KUBBA: But I can give you my personal  
10 view easily. I can also give you the view of many who  
11 are on the Constitutional Committee amongst the Sunnis.

12 I mean everybody recognizes that there is a strong  
13 movement amongst the Kurds calling for a referendum on  
14 independence.

15 Many people on the Constitutional  
16 Committee, Sunnis, are saying why not? If the Kurds  
17 feel that their interests are served better in being  
18 independent, let it be. In fact, some of them are  
19 thinking that the Kurds, the political -- some political  
20 parties amongst the Kurds are pushing hard and making  
21 life difficult for the rest of Iraq to make that option  
22 more appealing.

23 That I'll give you two options and one is  
24 harder than the other. So -- and to a lot of Iraqi, as  
25 I said, looking purely from self interest, I can't look  
26 at that possibility.

1           The real fear is that looking at breaking  
2 down Iraq is not going to be a neat process that will  
3 lead to stability, that the other option is more  
4 appealing to try to work out procedures on how to  
5 coexist within Iraq.

6           There are many areas that are disputed, as  
7 you know, historically and ethnically. The difficulties  
8 do not stop here because then there is a regional impact  
9 on Turkey and on Iran. There is thinking amongst Iraqis  
10 that if the Kurdish area were to be given a special  
11 status more or less as a region, then let them not  
12 project that to the rest of Iraq because the rest of  
13 Iraq can stay intact.

14           But as I said, there are a lot of politics  
15 that cannot be isolated from what is taking place right  
16 now.

17           I can tell you a lot of Iraqis think -- and  
18 certainly among the Sunnis that they want to see a no  
19 vote. And they'll take their chances with how the Kurds  
20 would react to it. All indications are Kurdish  
21 interests are served best by staying within Iraq.

22           And that there is currently an imbalance in  
23 terms of power, influence, very much in favor of the  
24 Kurds overshadowing Baghdad. And that this imbalance  
25 needs to be really addressed. But these are political  
26 issues, not constitutional issues.

1 I think with the constitution one must look  
2 beyond immediate interests of political players. We  
3 need to look ten years ahead from now. What would be  
4 best for the Kurds? What would be best for the rest of  
5 the Iraqis?

6 MR. BLITT: Robert Blitt, the U.S.  
7 Commission on International Religious Freedom. Laith,  
8 it's good to see you back in Washington again.

9 I think there is a lot of confusion going  
10 around about what to make of the draft constitution.  
11 And I think that some of your remarks are kind of  
12 alluding to that confusion.

13 On the one hand, you said that Iraq looked  
14 to other countries, and you mentioned Afghanistan as  
15 one, for a model of text. But then on the other hand,  
16 you mentioned that Iraq wasn't going to be an Islamic  
17 republic. Afghanistan is an Islamic republic.

18 And one of the things that the Commission  
19 has done is a study that kind of sets out the spectrum  
20 of models within the Muslim world, predominantly Muslim  
21 countries, 44 different countries.

22 And it really does demonstrate that, you  
23 know, Afghanistan isn't necessarily the bar to which  
24 Iraq needs to be held because there is a whole other  
25 host of different models where Islam either doesn't have  
26 a role altogether or Islam is the official religion of

1 the state but not a source of legislation.

2 And also models where Islam is invoked but  
3 human rights are also invoked in the same instance in  
4 international human rights standards.

5 And I think that that is really what is  
6 coming out in the draft at least that I've read. It's  
7 almost two competing visions. One of human rights. And  
8 the other of a significant role for Islam in the way the  
9 country is going to chart its course and its future.

10 And what the constitution doesn't seem to  
11 do is set both of those components, the international  
12 human rights standards and the role for Islam on the  
13 same and equal footing to guarantee Iraq's international  
14 human rights obligations, the rights of religious  
15 minorities, and individuals to freedom of thought,  
16 conscience, religion, and belief, and equality for women  
17 in the same instance.

18 And one of the points that you made which  
19 is so true is that it seems like so much of the draft is  
20 kicking the can down the road.

21 And one of the provisions that is  
22 particularly worrisome is the way the supreme court is  
23 appearing to be set up where the draft seems to allow  
24 for Islamic experts or experts in Islamic jurisprudence  
25 to sit on the country's highest court and rule on these  
26 fundamental questions of what the human rights are going

1 to be and what the rule of Islam is going to be. Islam  
2 is the source of legislation and obviously the  
3 repugnancy clause that says no law shall be contrary to  
4 Islam.

5 I'm curious to hear from you what the  
6 vision of the Prime Minister is on how that's going to  
7 be set down in his view and his party's view in the next  
8 kind of legislature if the constitution is approved in  
9 the referendum. What does that mean having Islamic  
10 experts on the bench? As far as I know, that puts Iraq  
11 into the company of countries like Saudi Arabia, and  
12 Afghanistan, and Iran.

13 And it's very worrisome because there are a  
14 lot of little loopholes and vagaries in the draft of the  
15 constitution with respect to what on paper seem to be  
16 strong human rights guarantees. But things like Iraq's  
17 international human rights obligations are qualified by  
18 those human rights obligations being say in accordance  
19 with the fundamental principles of the constitution.

20 And then when you start going back into the  
21 drafting history, fundamental principles of the  
22 constitution is sharia.

23 So it's a long question, more of a comment.

24 But there is a question in there.

25 (Laughter.)

26 MR. BRITT: And I'm really interested to

1 here --

2 DR. KUBBA: Okay.

3 MR. BRITT: -- where the Prime Minister is  
4 going, what his vision of that means. If it is not  
5 going to become an Islamic republic, where is the line  
6 going to be with respect to provisions of guarantees for  
7 individual human rights and the role of Islam?

8 Thank you very much.

9 DR. KUBBA: Thank you. I mean to start  
10 with, I agree with your remarks on the gaps or gray  
11 areas or contradictions that are worrying between  
12 different statements on -- general statements on Islam  
13 on one hand on maybe broad democratic and human rights  
14 principles on the other. Who is going to judge how to  
15 reconcile these two?

16 I mean yes, it is an issue. And I think  
17 some of these need to be fleshed out more and spelled  
18 out more clearly.

19 I'm not worried about the issue of Iraq  
20 becoming an Islamic republic. And do not worry about  
21 whether it is -- what is written is similar to  
22 Afghanistan or if there is an article similar to  
23 something that has been written in the Iranian  
24 constitution or in the American constitution or in any  
25 other constitution for that matter.

26 The reality is Iraq is a country which is

1 diverse in its ethnicities, in its confessional beliefs.

2 And even amongst the Shi'a, which is the largest group  
3 in the country, the mainstream school of Najaf that  
4 dominates the thinking in Iraq is apolitical. Sistani  
5 himself does not believe that the clergy should rule.  
6 That's his belief. And within that, the Prime Minister  
7 very much aligned himself.

8 Cery (phonetic) is more influenced maybe by  
9 the model of Iran. And maybe has been pushing some  
10 articles on the constitution that you've mentioned. But  
11 let me tell you, if there was to be an election, and  
12 there will be an election next December, but if that new  
13 elected body was to draft a constitution, it will be  
14 very different from what you have today for two reasons.

15 A, because the country has gone through one  
16 year of maturity. This is the first time the country  
17 has voted. This is the first time they've realized they  
18 did not vote the best people to office. And I can give  
19 you a long list why people believe that they have not  
20 voted the best people into office. There is  
21 disappointment. So on the next round of election, they  
22 will elect different deputies.

23 Also on the next round, there will be  
24 strong Sunni participation. And they are equally  
25 concerned about having a religious state whether it is  
26 dominated by Shi'a or even by other Sunnis having seen

1 some of the extremists operating in their neighborhoods.

2 So for many reasons, I believe there are  
3 sufficient social and political forces and now maturity  
4 that will act against the drive towards having a  
5 religious state.

6 If that constitution is adopted, it allows  
7 different provinces to become regions immune from  
8 central government. And yes, as I said, in parts of  
9 Iraq, this might emerge to become more religious states  
10 or more religious-controlled regions.

11 MR. SERWER: Please.

12 My name is Bilou Wahab (phonetic). I'm an  
13 Iraqi Fullbright Scholar doing a masters degree at the  
14 American University School of International Service.  
15 All the questions seem to be about religion. And I have  
16 a remark and a question.

17 I was reading the draft constitution and I  
18 couldn't help myself laughing at the phrase that says  
19 about freedom of worship or rituals when it says that  
20 practicing the rituals -- I mean people have the freedom  
21 of practicing the rituals, including the Husseinia  
22 (phonetic).

23 And I went back to see the American  
24 constitution if it grants Americans to celebrate the  
25 Christmas. Why should such a specific item be in a  
26 constitution, which is supposed to be the grand paper or

1 charter of a nation. Anyway, that's just a remark.

2 My question is the very points and  
3 negotiable articles that brought the Iraqis together I  
4 think will divide Iraq eventually. With Kurds having  
5 their own federal state in the north and then giving the  
6 right to any other three provinces to have the federal  
7 region, and you just mentioned that the southern region  
8 may be an Islamist region and the Sunnis may have an  
9 Islamist one. And the Kurds will have everything but an  
10 Islamic one.

11 Don't you think that the constitution  
12 itself will eventually lead into the division of Iraq?  
13 Thank you.

14 DR. KUBBA: I mean on your first remark,  
15 surely constitutions shouldn't go and detail and  
16 elaborating on what type of worship, et cetera. Those  
17 were statements made basically to please constituencies,  
18 to credit those deputies that have done something for  
19 your community.

20 But really they have no real role in a  
21 constitution that is meant to give a framework for  
22 different social, political currents to compete on how  
23 to conduct public institutions and how to run  
24 government.

25 The current constitution gives a framework  
26 for not only three provinces to become regions. But

1 even a province can automatically call for and become a  
2 region with all the powers transferred from the federal  
3 government to the region. Yes, it creates a very weak  
4 federal government and a very strong regional  
5 governments without clear definitions of may overlapping  
6 issues and authorities.

7           Would it lead to a breakdown? Maybe, maybe  
8 not. It will be -- it might fragment Iraq but keep it  
9 loosely put together. And in the future if there is any  
10 issue, yes, each region can break down.

11           I'm more worried about management of the  
12 country. I'm more worried about external influences.  
13 These are all issues. But whichever -- as I said, these  
14 are points of view. I have my personal views on it.  
15 And I try to restrain myself from expressing them  
16 publicly.

17           (Laughter.)

18           MR. SERWER: Please.

19           MS. DARDOFF: Good afternoon. Wei Dardoff  
20 (phonetic). I'm the Public International Law and Policy  
21 Group.

22           Dr. Kubba, I'm wondering if I could ask you  
23 about a specific provision in the constitution and  
24 particularly the constitution or the draft constitution  
25 provides for an office of religious endowment. And I'm  
26 hoping you can tell us a little bit more about this.

1 And particularly what does it entail? What kind of  
2 entity -- will this entity play any kind of political  
3 role? Who are the figures that will be part of this  
4 entity?

5 Thank you.

6 DR. KUBBA: That's simple. There is  
7 actually -- there used to be a ministry for religious  
8 endowment. They wanted to take that out of government.

9 So currently they have created two endowments. Once  
10 called the Shi'a Endowment and the Sunni Endowment.  
11 Their assignments is basically to look into issues such  
12 as Haj (phonetic) and organizing how people go to Haj to  
13 negotiate with the Saudi government, et cetera.

14 The government doesn't want to do it.  
15 People feel the government -- there ought to be somebody  
16 that should look after their interests in that respect.

17 So the idea was to create that religious endowment. It  
18 does not have a political function.

19 MS. SISSONS: Good afternoon. My name is  
20 Miranda Sissons (phonetic) and I work at the  
21 International Center for Transitional Justice in New  
22 York.

23 I have two probably -- or two questions I'd  
24 like to ask. One is that certainly in the western  
25 media, it has been mentioned that one of the sticking  
26 points of constitutional negotiations has been

1 understandings and wording about the Bath party. And I  
2 wondered if you could elaborate as on how we should  
3 understand that, the dynamics around that? And what  
4 influence the wording and those expectations have on  
5 people's beliefs about whether there will A, be a  
6 viable, open field of political participation in Iraq.

7 And secondly, about people's hopes, fears,  
8 and understanding of the de-Bathification process on  
9 future institution building for all those important  
10 institutions that have yet to come.

11 DR. KUBBA: This has been a contentious  
12 issue, highly controversial because the way de-  
13 Bathification took place in Iraq was mismanaged. Not  
14 only -- it's been ill defined so many criminals who were  
15 not Bathists got away with staying in their positions.  
16 And many academics -- somebody who teaches biology --  
17 they lost their jobs because they were Bath party  
18 members or senior Bath party members.

19 So really it was ill defined. But worse,  
20 it was ill practiced. The commission that looked into  
21 it had some irregularities. People were complaining,  
22 either being blackmailed or all sorts of things were  
23 taking place. And it's been used to look I have a file  
24 on you. If you don't do this for me, then I'll go and  
25 expose your file.

26 And to put it in the constitution was not

1 very wise. But it was highly political. There were  
2 groups who were pushing for it. And as I said, this is  
3 the confusion.

4           Instead of looking at -- the basic role of  
5 the constitution is to look at social and political  
6 contradictions, to set up structure of state, to inform  
7 political decision-making process, to give legitimacy to  
8 specific processes. All these are not to do with  
9 settling scores with former members of the regime.

10           And it doesn't even assure that we are not  
11 going to have a return of a Nazi-type organization.  
12 This needs to be looked at separately and other  
13 measures. But it was put there for political reasons.  
14 And as I said, like the issue of the Husseinia, many  
15 issues are put there to please constituencies.

16           I do believe if we were to look at a new  
17 elected assembly and asked them to draft a constitution,  
18 I think through that maturity process, people would come  
19 up with a more thought-through draft and maybe some of  
20 these items will disappear.

21           But as I said, no process is perfect. That  
22 was a very good attempt. It was Iraqi driven. It was  
23 not U.S. driven. I mean this is very important to be  
24 said.

25           The experts, whether from the U.N. or USIP  
26 or from other institutions, could have done more, I

1 think. Although the Iraqis were cautious about their  
2 input but they could have done more. But that's what  
3 we've got. That's the best of what we've had in the  
4 last four, five months of serious work.

5 MR. SERWER: Thank you, Laith. I can't  
6 help but note that if some things are in the  
7 constitution to satisfy constituencies, that's not the  
8 worst thing that I've ever heard.

9 (Laughter.)

10 MS. SISSONS: I'm sorry, I had a quick  
11 second question --

12 MR. SERWER: Please.

13 MS. SISSONS: -- which was simply one of  
14 the concerns we heard -- some of us were at a meeting at  
15 CIS (phonetic) this morning, about the opportunities for  
16 voter and electoral consultation now in this very rapid  
17 period you have before the referendum.

18 And I'm wondering if you can tell us  
19 anything about efforts that will be not just through --  
20 well, through the political parties or through the  
21 electoral commission, or other means to educate Iraqis  
22 about what the choices they are making mean.

23 DR. KUBBA: Well, as I mentioned earlier,  
24 the U.N. was supposed to print and distribute five  
25 million copies. There are network of NGOs already set  
26 up in the country. I know many of them because I worked

1 at NED and I know the programs that fund many of these  
2 NGOs in Iraq. Many of them are real, active,  
3 underground, running all sorts of newspapers.

4 There is a governmental-sponsored  
5 ministerial committee that is also looking and raising  
6 public awareness. There are impressive debates and  
7 television, radio, and print, all about these  
8 constitutional issue.

9 So in that respect, there is a good deal of  
10 public awareness. I'm most impressed.

11 Areas of concern are we need to extend the  
12 registration period in Ramadi, in Mosul, and in Sala  
13 Hadine because simply there wasn't enough time. And  
14 people wanted to register and there wasn't enough time.

15 We need to have better protection in these areas. All  
16 this would impact the outcome of the referendum.

17 So these are some of the measures that are  
18 out there to raise public awareness.

19 MR. GUSTAVSON: Hi, Eric Gustavson with the  
20 Education for Peace in Iraq Center. It's great to see  
21 you.

22 Two questions. The first relates to what  
23 you've just been speaking about. Recognizing the  
24 defects of this previous elections, that Iraq was  
25 treated as a single district, and how that effected, in  
26 terms of the representation of all of of Iraq's 18

1 provinces, what's being done with the new electoral law  
2 to be able to address that?

3 And then secondly, you spoke to this  
4 earlier but I'd like more about the relationship that  
5 you see between security and stability of Iraq and the  
6 level of political participation.

7 DR. KUBBA: Thank you. That's actually  
8 important that there was a debate on the electoral  
9 system. The previous one, a single district, forced  
10 people to vote on lists that they didn't even know who  
11 were on the lists and who they were voting for.

12 Now the Assembly voted on the principle of  
13 18 districts and negotiated a slate -- negotiated 45  
14 seats to be left for a national list so people have a  
15 choice to cast their vote either in the province to  
16 people who they know, or to a national list that will  
17 pick up votes from all provinces. So that there is  
18 going to be a mixture. And I think deputies have to  
19 compete locally amongst each other.

20 So say, for example, in Tok (phonetic)  
21 there will be tribal leaders competing with maybe  
22 Barizani (phonetic) with the KDP. While in the past,  
23 all Kurds had to vote for a Kurdish List. So that's  
24 sort of variations that would take place and would  
25 shadow -- would leave its effect on the Assembly.

26 On the violence and political

1 participation, I would say Iraqi is at a juncture. We  
2 are currently witnessing a lot of violence in Iraq. If  
3 you look at the curves, at the currents, from February  
4 2004 until now, just by looking at the number of attacks,  
5 it tells you clearly that this violence is more  
6 organized, that there is an army out there. That this  
7 army exists in certain regions.

8 And if the political process does not work with  
9 those regions, then violence might increase in the  
10 country. That's a serious possibility. However, if the  
11 political process attracts more of those regions and  
12 citizens in, then I think that threat would diminish  
13 significantly.

14 As I said, part of it would remain. It can  
15 only be fought through better intelligence, better army,  
16 better police, better everything, better states,  
17 stronger state. But a good deal of it is political.

18 MR. YOUASH: Michael Youash, Project  
19 Director for the Iraq Sustainable Democracy Project.

20 I'm going to hit you with a few questions.  
21 And I'm going to try to refrain from putting policy  
22 analysis forward. But I wanted to get back to your  
23 comments about admitting weaknesses in the elections  
24 process around Mosul. And I wouldn't just say Mosul but  
25 North and Northeastern Nineveh Province Governorate.

26 Could you comment on what you think the

1 impact was of the disenfranchisement of upwards of  
2 possibly 150,000 Caldo-Assyrians, tens of thousands if  
3 not more Turkmen and other minorities in that area. And  
4 the impact it has had on the political process now.

5 And moving forward in terms of the coming  
6 processes, could you comment on what you think out-of-  
7 country voting, where it will go? Because you know that  
8 for example, specifically with Caldo-Assyrians. They  
9 are the third largest group in Iraq.

10 But they also have the distinction of  
11 having half of their population diaspora thanks to Bath-  
12 era policies and other types of human rights violations  
13 they've suffered. That's the first set of questions.

14 The other thing is, and then I want to  
15 thank USIP for putting on another great event in your  
16 presence. Thank you very much. I've raised an issue in  
17 this forum before. That in our analysis at ISDP, one of  
18 the things that we think, as Robert said, it's one of  
19 the cans kicked down the road, that we think could  
20 diffuse a lot of the tensions around Balkanization, what  
21 might be Balkanization in Iraq, of Kurd, Sunni, and  
22 Shi'a, is the use of local government as an avenue  
23 constitutionally.

24 And you see models in India 10 to 12 years  
25 ago made reforms to try and get this tension released in  
26 South Africa, where you could use local government to

1 get genuine buy-in that no group could ever be  
2 marginalized while not paying too many chips into the  
3 Balkanization camp.

4 And I think that is one of the ways to also  
5 retain protections for the lowest human rights common  
6 denominators in Iraq, the minorities within minorities.

7 And the last question that I have, it's a  
8 little bit particular. But I have to ask it. I am a  
9 Caldo-Assyrian. I'd like to know what your personal  
10 opinion is on the separation of Caldians from Assyrians  
11 in the constitution. Because as you know, it was a  
12 Bath-era policy to try and divide the people. It was a  
13 simple dividing rule thing.

14 It would be -- I think in a human rights  
15 analysis, what we've written about, it would be like  
16 trying to say Faily Kurds, because they are Shi'a, are  
17 now completely separate from the Kurdish nation. And to  
18 divide and rule them in that way.

19 Can you comment as to why the two were  
20 separated when it is known that it is simply a religious  
21 distinction? And there was -- if I can link it back to  
22 my first question about elections, in terms of the  
23 disenfranchisement, one of the only -- the only  
24 independently elected Caldo-Assyrian party in the  
25 process, and it was represented on the Constitution  
26 Drafting Committee by Mr. Yunadman Kina (phonetic) was

1       advocating that there should be a unification name  
2       because it is akin to a human rights violation to divide  
3       them.

4                       So that's three sets of questions, on the  
5       elections, local government, and the particular  
6       question.

7                       DR. KUBBA: Well, I wish I have the answers  
8       you wanted.

9                       (Laughter.)

10                      DR. KUBBA: On the use of Caldo-Assyrian, I  
11       know that the Prime Minister uses that phrase over time.  
12       How it was spelled out in the constitution, I don't  
13       know. But nobody has any problem with using Caldo-  
14       Assyrians as far as I know.

15                      MR. YOUASH: Do you think the Prime  
16       Minister will fix it?

17                      (Laughter.)

18                      MR. YOUASH: If I can be that direct.

19                      DR. KUBBA: Well, I mean he's, as you said,  
20       in all his statements, he is sensitive and he uses  
21       Caldo-Assyrians. I can tell you this, there is no  
22       problem there.

23                      But I think the issue raised about local  
24       government versus regional government is a critical one  
25       because the constitution does not spell out much about  
26       local government. And that's a valid point. And more

1 needs to be said there.

2 But again, this is a draft of 55 people who  
3 participated in writing it. Different views, different  
4 aspirations. I'm sure things can be rectified and  
5 looked at in the future. But out of the other point,  
6 out-of-country voting, last elections January, to our  
7 surprise, all of us, there was little vote from the  
8 Caldo-Assyrian community in Detroit, Chicago and the  
9 states.

10 And it took all of us by surprise because  
11 we -- there was every reason for them to participate.  
12 And that is something, I think, you need to -- we need  
13 to ask you the question rather than the other way  
14 around.

15 And on the protests that were made, I think  
16 in the last elections, they were loud and clear. And  
17 people hears them. That people strongly protested that  
18 some areas did not have ballot boxes, that some ballot  
19 boxes did not reach their destiny -- destination, et  
20 cetera.

21 So I mean these points are taken and I'm  
22 sure the Commission is going to look into them hopefully  
23 -- there is an independent commission, just to give you  
24 a feel, I called them on behalf of the Prime Minister to  
25 say please extend the period for Mosul because it is not  
26 sufficient. They need an extra two weeks.

1           And they bluntly tell us we're an  
2 independent commission. We don't receive your orders.  
3 We decide what we want to do which is democracy. So, I  
4 mean we've passed our request to the U.N. when we hoped  
5 the U.N. would go to them and basically say this is  
6 important, do it.

7           But those remarks that you've mentioned,  
8 I'm sure they have been received by the Commission who  
9 ultimately must decide on them.

10           PARTICIPANT: Laith, your remarks make me  
11 ask a question. Is this draft really the product of 55  
12 members of that committee? Is that an accurate  
13 description of the drafting process?

14           DR. KUBBA: Yes, it's a -- I mean those of  
15 you, and I'm sure Peter was there all the time watching  
16 the development of the draft, ultimately after flushing  
17 through all these issues, it is political leaders who  
18 have to meet and decide -- not the Constitutional  
19 Committee. It's the big guns who have to sit around the  
20 table and agree on each line that the Constitutional  
21 Committee failed to agree on.

22           And whatever compromise those leaders come  
23 up with is the one that is adopted at the end of the  
24 day. And those meetings maybe still going on until now  
25 because there is still one line that needs to be  
26 decided.

1 MR. SERWER: Please.

2 MR. CELEBRA: I'm Yasam Celebra (phonetic)  
3 from the Law Library of Congress. But I'm here in my  
4 personal capacity.

5 You have a lot of questions, substantial  
6 questions but mine is going to be just on the process.  
7 Article 61A says specifically the National Assembly  
8 shall rite the draft of the permanent constitution.

9 Now it didn't say how they should write it  
10 but it was common understanding that they have to vote  
11 in order to say that National Assembly wrote the  
12 permanent constitution. Your last word approved that.  
13 That political leaders have to go by each provision and  
14 say yes, we agree, or not agree.

15 The 15th date, which is August 15th, which  
16 is the deadline, it passed. But, of course, there was,  
17 I believe, some kind of a decision by the National  
18 Assembly to postpone that one week. By the new date,  
19 the 22nd, there was no vote.

20 And all of a sudden you came, I think, the  
21 press and said there is no need for vote. So how do you  
22 now consider that the National Assembly wrote that  
23 constitution? What is the mechanism that you can, if  
24 you are in a court of law, say yes, this was the product  
25 that the National Assembly wrote? When there is nothing  
26 in the TAL to say you appoint a 55-member committee and

1 whatever the committee does, this is what the National  
2 Assembly.

3 And I think some of the Sunnis already  
4 raised this question but not in a very strong way  
5 because I think there is no forum, vehicle them to.

6 So I would appreciate it if you can address  
7 this.

8 DR. KUBBA: I mean the simple answer to it,  
9 I'm not a lawyer. I don't know the answer. But I've  
10 asked the President of the National Assembly and he told  
11 me we have a draft -- the extension, they took a vote on  
12 it so lawyers, again, told me that this is all fine.  
13 They can have that extension. They have the power to do  
14 so.

15 And they assumed that the draft that was  
16 received is a formal draft. And that's the end of it.  
17 So technically speaking, they do have a draft. They  
18 don't have to ask for another extension.

19 The real problem is that if there are  
20 amendments to that draft that have nothing to do with  
21 the grammar or presentation but to do with substance,  
22 can they make amendments to it? Again, I don't know.  
23 This is a legal -- this must be asked to a lawyer.

24 I have heard some Iraqi judges and the  
25 members of the assembly, they were saying if X Article  
26 is changed, then I will challenge this and take it to

1 whatever court because this is illegal. Maybe, maybe  
2 not. I don't know.

3 MR. CELEBRA: Well thank you for your  
4 honesty.

5 MR. SERWER: Thank you. Let me ask you,  
6 Laith, if you have anything to add that you haven't  
7 gotten to?

8 DR. KUBBA: No, again, I think I tried to  
9 give insights into what's going on in Iraq. We get  
10 buried in day-to-day details of events. But the big  
11 picture when I look at -- there are many tracks. Of  
12 course, you can highlight the negatives and it quite  
13 challenging. Nobody, I think would live in dreams to  
14 say Iraq is perfect.

15 No, everybody knows that Iraq is not  
16 perfect. But there were many, many unknowns on April  
17 9th which way Iraq would go. Today we have an open  
18 space with people really expressing their views fully  
19 from independent Kurdistan to a Shi'a agent (phonetic),  
20 to an Islamic Republic, all sorts of views are out  
21 there.

22 And Iraq is still taking it. There is a  
23 lot of participation. And my confidence is that we're  
24 on the right track in terms of a process. We can make  
25 it quicker if we're a bit wiser. And we can afford or  
26 cannot afford to make mistakes. It just extends the

1 agony of the Iraqis. But I think ultimately we're going  
2 to get there.

3 MR. SERWER: Laith, I'm going to bring us  
4 to a close a little bit early. Iraq may not be perfect  
5 but it has a very, very good spokesman of the Prime  
6 Minister.

7 (Laughter.)

8 MR. SERWER: And we thank you.

9 (Applause.)

10 (Whereupon, the above-entitled interview  
11 was concluded.)

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