

March 6, 2004: Big Hurdles in Iraq - Rocky Mountain News

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March 6, 2004 The scheduled signing of Iraq's interim constitution was delayed Friday when five Shiites on the 25-member Iraqi Governing Council balked at language protecting Kurdish self-rule and the proposed makeup of the presidency. It was a setback, to be certain, but not the meltdown some had hoped for. The charter, which the council unanimously agreed upon Monday, is indeed a remarkable achievement. It offers a plausible legal framework for a democratic Iraq that defines itself as an Islamic nation but that also embraces freedom of speech, assembly, press and religion. But as Friday's snag illustrates, the document leaves important issues unresolved.

For example, a "compromise" over the role for Islam sets up a potentially dangerous clash of legal interpretations, since it stipulates that no law may contradict "the universally agreed upon tenets of Islam," while the "tenets" in turn cannot violate the civil rights enshrined in the charter. That was not a mere "fudge," as The Wall Street Journal sheepishly called it in an editorial Tuesday. Rather, as Nina Shea of the U.S. Commission on International Religious Freedom warned, it was a "vague formulation" that "risks empowering unelected religious authorities to override basic rights in determining what is 'Islamically correct.'" The central defining question of whether Iraq will be a democracy with a bill of rights or an Islamist state was hence deferred - and won't be answered until a permanent constitution is drafted in a year. Neither did the interim document settle the issue of Iraq's political militias. This is troubling given that Shiite political parties have deployed their paramilitaries in force in Kazimiyah near Baghdad, the site of one of two bomb attacks Tuesday that killed more than 170 Shiites. Party leaders believe they can provide better security than either coalition troops or newly-trained Iraqi police. Friday's delay came after last-minute criticism from Grand Ayatollah Ali Sistani, Iraq's leading Shiite cleric. One objection involves a clause that says the new permanent constitution would not go into effect if two-thirds of the voters in any three provinces reject it. Sistani and his supporters see this provision as giving the Kurds, whose self-rule region includes three provinces in north Iraq, veto power over the constitution. The dissenting Shiites also rejected a single president as currently envisioned by the interim constitution. Under that plan, the transitional government, which is scheduled to take power June 30 and hold it until an elected government takes over in 2005, would be headed by three co-presidents - one Shiite, one Sunni Arab and another a Kurd. But the objecting Shiites fear the authority of the president, presumably a Shiite, would be diluted, and as an alternative want a five-member co-presidency that would give them a clear 3-to-2 majority. Can these details be ironed out? We remain hopeful because the council so far seems to understand what's at stake. Once the constitution is signed, Paul Bremer, the U.S. administrator in Iraq, should move quickly to expand the size of the council so the Shiite, Sunni and Kurdish populations feel it fairly represents Iraq's disparate society. Above all, his plan to maintain stability must try to ensure the survivability of the liberal democratic values the council endorsed this week.