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BAGHDAD • IRAQSEARCH [About Us](#) | [U.S. Citizen Services](#) | [Visas to the U.S.](#) | [U.S. Policy & Issues](#) | [Resources](#) | [.....](#)**ABOUT US**You Are In: [Home](#) > [About Us](#) > [Ambassador](#)**Ambassador**[About the Ambassador](#)**Ambassador's Speeches**[Former Ambassador's Speeches](#)[About the Embassy](#)[Latest Embassy News](#)[Programs and Events](#)**khalilzad speeches****Iraqi Draft Constitution Balances Islam, Democracy, Envoy Says****U.S. Ambassador Khalilzad urges parties to negotiate with "spirit of compromise"**

Baghdad, Iraq

August 23, 2005

Iraq's new draft constitution strikes a careful balance between the country's Islamic traditions and its democratic aspirations, according to U.S. Ambassador to Iraq Zalmay Khalilzad.

"This country is in the process of being built on new principles, but these principles of course cannot be divorced from the history and traditions of Iraq," Khalilzad told reporters at an August 23 press conference in Baghdad, Iraq.

He said the constitution prohibits the passage of any law that contradicts the principles of Islam, democracy or human rights. "This constitution with regards to rights is a synthesis," he said, "a synthesis between the Islamic traditions of this country and the universal principles of democracy and human rights."

The ambassador added that the draft document "contains the most far-reaching democratic and human rights commitments that exist in any constitution in this part of the world."

Iraq's constitutional committee submitted a draft constitution to the Transitional National Assembly August 22 but requested that the assembly delay voting on it for three days to allow negotiators additional time to discuss a few remaining issues. The negotiators may submit amendments to the text through August 25, at which time the assembly will vote to approve or reject the document.

Khalilzad urged all parties to approach these ongoing negotiations over the remaining issues with realistic expectations and a generous attitude in order to ensure the success of the political process.

"Everyone needs to continue to work with the spirit of compromise and with the view of taking the national interest of Iraq into account, to make this document a national compact in which all communities in Iraq see themselves as shareholders in regard to the future of this country," he said.

The ambassador said this is a time for Iraqis to reach out across ethnic and sectarian divides in order to establish a new foundation for the country.

Responding to a question about the possible role of clerics on the Supreme Court, Khalilzad said that the court will need a certain amount of expertise to fulfill its constitutional mandate of ensuring that laws do not violate the principles of Islam, democracy or human rights.

"There need to be experts on those three things added to the court since this will be a new responsibility for the court to have responsibility over the three sources: democracy, human rights, and Islam," he said. However, he dismissed the idea that this would make the Supreme Court a religious court.

He praised the negotiators for arriving at mutually acceptable compromises on the role of Islam in the government.

"There are people who want entirely a secular state and there are people who want to establish a Shari'a-dominated state and given the realities, I think where they have come out is right for Iraq at the present time," he

said.

Once the assembly accepts a draft constitution, the constitution will be presented to the Iraqi voters in an October 15 referendum. If accepted, the constitution will serve as the basis for a new round of national elections December 15.

For additional information, see [Iraq's Political Process](#).

Following is the transcript of Khalilzad's press conference:

Ambassador Khalilzad: Hello. I want to make two points before taking your questions.

Point one, the draft produced yesterday and presented to the Assembly was a significant accomplishment for Iraq and all Iraqis. The document contains the most far reaching democratic and human rights commitments that exist in any constitution in this part of the world or for that matter in many other regions of the world. Iraqis can take pride in those achievements and those recognitions that are in this document once they see it. I think enough attention has been paid to the accomplishment part of what has happened.

Of course as you all know there are a few items that there was not consensus on yet. Therefore the job is not finished yet. Everyone is committed to work hard and to get as broad a consensus as possible with regard to those final issues. Everyone needs to continue to work with the spirit of compromise and with the view of taking the national interest of Iraq into account, to make this document a national compact in which all communities in Iraq see themselves as shareholders in regard to the future of this country. Iraq is suffering and going through a difficult transition. This is not the time to achieve for oneself all that one can at the expense of others. This is a time to reach out across ethnic groups, across sects, to build this new Iraq on new principles. Not one person ruling the country, not one person being the constitution of the country, not dictatorship, but on the principle that respects everyone and everyone's rights. Not one that seeks to deny peoples' rights but rather that everyone's rights are respected. For our part, the United States is committed to work with everyone to make sure we get the broadest possible agreement with regard to the remaining issues on which there is no consensus or near consensus. They can count on us to be available to assist as we have done before. Thank you very much.

Question: LA Times - I just wanted to ask you with regard to certain criticisms coming from Washington, basically saying that your high profile involvement in the Constitutional process could backfire on the US and that the US has sort of staked too much on the outcome of what is essentially an Iraqi process - I was just wondering how you would respond to that.

Ambassador Khalilzad: As I have said many times before, we have a lot at stake in Iraq. American men and women are here fighting to assist Iraq to be a successful country and to stand on its own feet. To build new institutions in which Iraqis can have confidence. To defeat those, together with Iraqis, who seek to undermine prospects for success here and the Constitution is a very important means for achieving these goals. It is a foundation document that will give direction to the future of Iraq. We want to do everything that we can, recognizing clearly that this is an Iraqi document, produced by Iraqis but if our help is needed, we are prepared to be there, and assist. That will continue to be my mode of operation here but I want to reemphasize that the decisions are for the Iraqis to make. I am not going to them with a recipe for what their constitution ought to be. I have made it clear to everyone what our point of view is and some universal standards that everyone recognizes in terms of where we come from with regard to the constitution as whole.

Question: Kurt Semple - NY Times - Ambassador the draft constitution as it stands now is allowing clerics a seat on the Supreme Court in a role in adjudicating family cases. Islam the official state religion - No law may be legislated if it contradicts the quote "fixed beliefs of Islam." My question is, is the Constitution creating an Islamic state?

Ambassador Khalilzad: No I don't think it does but of course it depends on what you mean by that. Iraq is an Islamic country, meaning the majority of the population is Islamic but with regard to the issues that you raised, let me amplify a little bit. The constitution, the draft does say that no law can be against the established principles and provisions of Islam but at the same time the constitution says no law can be against the principles of democracy, at the same time the same s no law can be against the human rights enshrined in this constitution and there is a set of rights that are listed in the constitution. This constitution with regards to rights is a

synthesis. A synthesis between the Islamic traditions of this country and the universal principles of democracy and human rights. It in that sense sets a new path for the future that others could follow. The Afghan constitution, where I was also involved, attempted the same type of synthesis. I think Iraq has gone further in terms of enshrining individual rights. It would be unrealistic for people to expect that we can have a constitution in Iraq, given the forces operating here without a balance between the forces. Not only the ideas that I talked about but also the forces that are operational here. There are people who want entirely a secular state and there are people who want to establish a Shari'a dominated state and given the realities, I think where they have come out is right for Iraq at the present time. It is quite a positive document. For example, it gives 25 % of seats to women in Parliament. Like the Afghan constitution, this draft says that men and women are equal before the law. Like the Afghan constitution this draft does state what you suggested with regard to Islam being one of the sources of law here but along with other sources. We declare and broadly accept that the Afghan constitution was one of the most enlightened constitutions in the world, second to perhaps one or two others. I think we can say even more positive things about this one.

Now, coming to the court issue, there was a proposal to establish a constitutional court. There were concerns that the court might be a kind of religious court, checking whether the constitution is consistent with Shari'a, and that was eliminated. Instead the responsibility of the constitutionality of laws has been given to the Supreme Court, and there has been a discussion that since there are three standards that the constitution cannot violate, the laws cannot be against Islam, the laws cannot be against democracy, the laws cannot be against human rights. There need to be experts on those three things, added to the court. Since this will be a new responsibility for the court to have responsibility over the three sources: democracy, human rights, and Islam. Now, in the balance of forces, given where things are, I think that that's not bad. These are decisions that I'm reporting, but these are the decisions that the Iraqis have made for themselves. We should also not forget our own country's history, that when we were debating the constitution, when we were ratifying the constitution in the United States some of our states had state religions. This country is in the process of being built on new principles, but these principles of course cannot be divorced from the history and traditions of Iraq. We do not want to impose a cookie-cutter approach that America is this kind of a Republic and you have to follow it precisely. No, that's not American foreign policy, that's not our style of dealing with other nations. We respect other peoples' traditions, but we also believe in universal values that are relevant for countries that want to succeed, that have demonstrated their relevance, to have. We have tried to encourage Iraqis to consider those, but of course this is their country and they have to make their own decisions ultimately.

Question: In the name of God, the most merciful, the most compassionate. From Al Dawa newspaper and television. Your Excellency, I have two questions. First, regarding whether the Iraqi constitution... something about the Ba'ath party are considering it a terrorist organization with its leadership. Will you intervene with regard to this issue? The second question, we know that your Excellency, you are a Muslim. Could you tell us whether you are a Sunni or a Shi'a?

Ambassador Khalilzad: With regard to the Ba'ath party, the current draft does speak about that. That is one of the issues on which there isn't a consensus or a near consensus. Based on the experience in other countries that have gone through big changes, where you've had a very oppressive regime, whether it's the Taliban in Afghanistan or Fascists in Germany or Communists in other places, or the racist regime in South Africa, in the aftermath of such transformation, there is a necessity for balancing the requirements of justice with the requirements of moving forward; reconciliation. Different countries find different ways to get to this and Iraq faces that issue now. There is the need for unity, for bringing people together, with accountability. I believe that in the coming days on this issue, there will be discussions among Iraqis to see what formula could be found, that would meet those two criteria, and for people who have committed crimes to be held accountable for those crimes. But to say a whole community or someone who was a member of a party, who had not committed a crime, should be painted, and be excluded, be marginalized from participating and contributing to the progress of the country is not helpful.

Question: --off microphone--

Ambassador Khalilzad: I'm optimistic that they will be resolved. The reason is that you have an almost two-thirds agreement on all of these

issues, that we want to encourage people to support. In particular of course, there is a concern that the Sunni Arab community, they did not participate as fully as others did in the previous election but they have a desire to build a successful Iraq. All communities need to see themselves participating, and in order to isolate the terrorist extremists who want to impede this nation's success, you need to win over the massive majority of ordinary Sunni Arabs to the political process. I think Iraqi leaders need to recognize that and many of them do, that every effort needs to be made to see what can be done to gain the broadest possible support with regard to these two or three issues of great significance. Given where we were at the start of this, I've been here four weeks now, and how far we've come on these three issues, it's just the need to expand the agreement. I'm hopeful. I think it can be done if everyone adopts the spirit of compromise, statesmanship, thinking about the long term, reaching out, building bridges of trust and confidence. Unfortunately, there is a substantial degree of mistrust of people reading things in words that to you and I perhaps will not have the same meaning. People need to be assured that they can be confident about their future. That there is nothing hidden here to be used to marginalize people or to disadvantage people. So, I think with that spirit, and our willingness to help, and the willingness of others that are here as friends of Iraq to help them, I'm positive that we can get to widen the support that exists, and we'll work as hard as we can to help.

Question: Mr. Ambassador, I'm Miguel Marques with ABC news. Hamum Hamoodi today indicated that the Sunni negotiators who are objecting to this plan don't represent Sunnis at large. Does the US believe that to be true?

Ambassador Khalilzad: Since the Sunnis did not participate in the election in sufficient numbers, the people who are in the Commission, some of whom were elected, are members of the TNA. And there were Sunnis who were not elected. At one level there is a question of how much, and from what part of the community they represent? On the other hand, they were selected to participate in the process, through a broad agreement, and every effort needs to be made to gain their support. The advice that I give to those in the Assembly, whether it's the Alliance or whether it's the Kurds, they need to have a generous attitude. Think of the longer term. Iraq cannot be governed if all communities don't see themselves as full shareholders in this country. Although the Sunnis are not adequately represented in the Assembly at the present time, it behooves the others to reach out, to be generous, to provide opportunities adequate to the size of the populace and try to reach broad agreement. I think they are doing that. I compliment them for that, for agreeing to extend and to provide opportunities. They don't in fact have to, because they have the necessary vote to push this constitution through without further modification. It shows a willingness to reach out, but at the same time it means that those who are not elected but nevertheless brought to a broad consensus to participate, need to be realistic and need to take into account that they cannot always have their way, that they cannot deny others' rights. We'll be working with all sides with the same spirit and the same attitude that I described.

Question: I am sorry I did not make myself clear - he was suggesting that they could certainly go ahead on Thursday without them but also they wouldn't necessarily need them in October either - that Sunnis would vote for this in October, does the US believe this?

Ambassador Khalilzad: Of course we do not know what will happen but what we would like to see happen is to make an effort by those in the majority who have votes in the Assembly to reach out in part because it is the right thing to do to but because ultimately without that the country will not work if these three communities are not together. Ratification of the constitution will be very important; to have it broadly ratified as well. The issue you raise, of how representative particular individuals are since they were not elected but they came into the process through a broadly accepted means, they need to be realistic. They cannot have the attitude that either they get their way or they will not participate or they will oppose the Constitution. Nobody at the end of the day, even whether you talk about the UIA or you talk about the Kurdish party is entirely happy with the document. One day we will all tell stories about what the issues were, how compromises were reached, some of your have already discovered them in your articles and reports but at the end of the day compromise has to be made. In our own history, again, there was a struggle between states with big populations and smaller states, to have two houses of government with one based on population. The Iraqis need to do the same. I know compromise is harder here and confidence in each other is limited. They have been governed in a particular way by a leader that is no longer ruling them but they need to move forward and we will do what we can to help.

Question: Al Marshriq newspaper, Your Excellency, two questions, first, are you working now with the Sunni Arabs to convince them to change their position or are you just giving them advice through press conferences; second do you believe that your success in the experience of Afghanistan made the American government send you as ambassador to Iraq in this period and how do you compare the two constitutions, the Afghan and the Iraqi constitution?

Ambassador Khalilzad: With regard to my interaction with the groups, as I have said many times, I am here to help and I am available at any time for anyone in the leadership or political groups who might need our help. We have already had meetings today with some Iraqi leaders, we will be meeting with others and hopefully they will have joint sessions to see what more can be accomplished. With regard to my experience in Afghanistan, I think it is relevant. We worked together with the Afghans in drafting their constitution, of course I was involved in a variety of other things too on behalf of the United States; building national institutions, building a national army where there were multiple armies before, building a single national army, building a police force, demobilizing, decommissioning, and reintegrating militia forces that existed, and of course election preparations. I have had experience on behalf of the United States to assist Afghanistan. Of course Iraq is different than Afghanistan and Afghanistan is different than Iraq but there are some fundamental things that are the same and so I regard my experience there to be useful. Before I went to Afghanistan I dealt with Iraqi Arabs, so I know some of the Iraqi leaders and that is also a reason why I have had a very close relationship with them ever since I arrived here. They have welcomed me. I have frankly been reluctant to participate in some of the sessions where they wanted me to but at the end of the day, when they say we want you to be here, and I think my job is helping, I have accommodated them. With regard to your point on the Afghan constitution versus the Iraqi constitution, I think these are two different countries. Both constitutions, both are enlightened constitutions in my view, both deal with issues of reconciled histories and traditions having to do with Islam, political forces that are Islamic with the realities of the modern world, commitments that they have in terms of international agreements and human rights. There are certain rules and procedures in this world, ways of doing things that have worked and there are ways and rules and procedures that have not worked and I believe personally, and the US government view as well is that you know traditions that you have combined with universal values and standards to produce success. We have seen this work in Japan we have seen it work in Europe, we have seen it work in some of the Southeast Asian countries, and it isn't just that democracy is something that works in the West. People thought democracy would not work in Germany. They thought that German political culture was an authoritarian political culture. Before India became independent not many people, if you read the discussions in London and other places, thought democracy in India would work, well of course it has worked quite well. I tend to see human beings as essentially the same and that everyone aspires to basically the same thing, they want to be able to take care of their families, they want to live in security, they want to have increased economic opportunity and they want to be able to have a say in who rules them and that their rulers are accountable. People want to pursue their personal values without the state telling them don't do it or do it this way. This is a kind of synthesis that I talked about that we see in this constitution, that we see in the Afghan constitution and that we see in the constitutions of other countries as well.

Thank you very much.

[back to top ^](#)