

# Why achieving reconciliation in Iraq is possible: Suggestions for mechanisms and processes including a truth and reconciliation commission

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## Abstract

**T**he authors contend in this article that reconciliation in Iraq is possible, although it will not be easy to achieve. The article explores processes and mechanisms to achieve reconciliation in Iraq, emphasizing that the focus for reconciliation should be on solutions already presented by Iraqi history, culture and values. The authors provide several suggestions of reconciliation mechanisms such as focusing on national unity and rebuilding important cultural symbols that have been destroyed by the war. The article also argues that while the international community can, and should, provide supporting mechanisms to foster greater cooperation and communication among the different sects, ultimately only Iraqis can decide and set in motion the process to achieve reconciliation on both an individual and the national level.

## Introduction

The ongoing high level of sectarian violence in Iraq seemingly suggests that political reconciliation is unrealizable and unattainable. Nevertheless, some measure of reconciliation is achievable, not in the short term, but over a longer period of time. This does, however, depend on what steps are taken to address the factors causing the conflict.

The possibility of reconciliation in Iraq is no pipe dream. The recent power-sharing arrangement between previous foes in Northern Ireland is a beacon of

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hope for everyone, including Iraqis.<sup>1</sup> In many places around the world where conflict seemed intractable and irresolvable, groups at loggerheads with each other for long periods of time have found common ground and achieved some degree of

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reconciliation. At the minimum they have been able to live alongside each other in relative peace. Such examples include South Africa, Namibia, Angola, Mozambique, Northern Ireland, Sierra Leone, Liberia, Nigeria, Cambodia, Chile, Argentina, Honduras and Guatemala. Extreme violence typified many of these transitions. For example, at least 16,000 people died in the four

years leading up to South Africa's transition to a non-racial democracy in 1994.<sup>2</sup> Yet, South Africans were able to set aside their historical differences to build a new nation based on human rights and the rule of law principles enshrined in the constitution.

Achieving reconciliation may seem more difficult in Iraq where approximately 60,000 deaths<sup>3</sup> have occurred since 2003, and an estimated 600,000 executions were carried out under Saddam Hussein.<sup>4</sup> At present, the indiscriminate civilian bombings and extrajudicial executions add to the psychology of violence that pervades Iraq. The executions have also contributed to the formation of negative perceptions in the eyes of those who were supporters of the old regime. Violence in the streets of Iraq continues to add to the decades of political turmoil Iraqis have already endured. In this context individuals and groups seem unwilling to set aside the use of violence as a means to achieve specific goals in the new Iraqi state. Street violence increasingly used along sectarian lines would seem to imply that the Iraqi people are more committed to violent division than they are to peaceful reconciliation. When asked in polls, however, it does not seem that ordinary Iraqis want division or violence.<sup>5</sup> The use of force is nevertheless persistently employed by individuals and groups. Therefore, effective methods to deal with violence need to be found.

In this context it may seem facile to assert such a plainly observable fact, but understanding the complexities that explain why individuals are fighting, what they are fighting for, and whether or not they want to reconcile is a prerequisite for attempting resolution. Not identifying the problems is precisely why no solution to the political violence in Iraq has been forthcoming. The solutions must contain a number of components, including a robust and enduring reconciliation program focused on achieving a political resolution to the conflict as well as lasting reconciliation among the different layers of Iraqi society. Until now, the reconciliation strategy pursued has focused on political reconciliation at the expense of lasting reconciliation in Iraq's social strata. Still, the U.S. has an important role to play in supporting the short and long-term reconciliation plans pursued by Iraqis.

Unfortunately, achieving reconciliation has been given short shrift in light of the apparent necessity to fight violence using force. While some measure of stability may be achieved by limiting the ability of those wanting to commit violent acts, this approach cannot realize a long-term positive result. In fact, focusing on Iraq's problems with American and Iraqi troops simply delays the first of many steps necessary to achieve solutions that are acceptable to all. Delays can often cause conflict to be-

come more intractable and can reduce the willingness of the parties to compromise and negotiate a way forward.

There are alternatives to using force when dealing with conflict. South Africans learned this, and so have countless other societies in the midst of political transition.<sup>6</sup> As Archbishop Desmond Tutu has noted “Reconciliation is the most natural thing in the world. But it is also a complicated thing.”<sup>7</sup> Complicated tasks are not impossible tasks. They simply take more thought and planning to ensure that everyone is in favor of the proposed solution, and that they agree to cooperate and abide by the methodology chosen. It is with this in mind that the issues facing Iraqi reconciliation are examined.

It is easy to consider reconciliation in Iraq an impossible goal. When daily reports of suicide bombings and civilian deaths circulate in the media, there seems little cause for hope. But focusing on the impossibility is not solution-oriented. Instead the focus for reconciliation should be on the solutions already presented by Iraqi history and culture.

This article explores ways in which Iraqis can use national discourse to regenerate the idea of a national community, which is critical if reconciliation is to be achieved. The discussion begins with a general overview of what reconciliation means. While everyone understands this term differently, a framework for understanding reconciliation is outlined by Erin Daly and Jeremy Sarkin in *Reconciliation in Divided Societies: Finding Common Ground*. After a general discussion about reconciliation, the article shows that there are seeds of reconciliation in Iraq and in Islamic tradition that can be nourished. The nourishment must come from within and from outside sources. The article discusses the mood of insecurity in the country as well as Iraq’s experiences with forming historical memory and state nationalism as a backdrop to explain why reconciliation now seems so difficult to achieve. Those in power, not the people themselves, have defined the people’s history. Finally, the article concludes with some suggestions for achieving reconciliation in Iraq, including the possibility of a truth commission process.<sup>8</sup> If implemented, the proposed non-judicial mechanisms would help to promote peace and reconciliation in Iraq. The recommendations naturally begin with Iraq and Iraqis, but the international community has a vital role to play in facilitating the country’s reconciliation.

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### **Reconciliation: The Case of Iraq**

A major problem facing Iraq today has to do with the psyche of the nation: there is a distinct lack of optimism about the future.<sup>9</sup> Few Iraqis have hope that the violence can be overcome or that people who have been scarred by the violence since February 2006 will ever be able to forgive their one-time neighbors and friends. A number of other factors complicate the resolution of difference between Iraqis. Insurgent violence perpetuates insecurity. Sectarianism—real and imagined; discrimination; and the concealment of atrocities and events widely known to have happened hinder the development of a working trust. Conflict exists over the distribution of natural resources and the state fails to satisfy basic human needs of the Iraqi people including

electricity, clean water, and access to medical facilities. Political factors include the U.S. occupation; the imbalance in the political distribution of power—exacerbated by the U.S. occupation but rooted in history; and the poor oversight which allows corruption to reign. Moreover, leaders have failed to correct misperceptions of America's role in Iraq, and of special interests using media channels, in particular the facts surrounding the bombing of the Al-Askariya shrine, also known as the "Golden Mosque." There are certainly other problems at the national and local levels that have not been mentioned here, such as the constitutional arrangement, but these are some of the principle forces keeping parties from coming to agreement on how to move towards a unified Iraq.

Instead of causing further divisions in Iraq, it is time for individuals and groups to articulate a strategy that approaches reconciliation on all levels. Does reconciliation require de-Ba'athification, or does it entail the politics of inclusion? Certainly, recent evidence indicates that where national policies are wanting, individuals are taking action to promote reconciliation on an ad hoc basis. The possibilities for peace in Iraq are many if Iraqis can focus on specific measures that will unite them through compromise in the common interest. This section sets forth a solution-oriented proposal for Iraqi reconciliation.

Reconciliation can occur in various layers, including among individuals or for a group.<sup>10</sup> Whether to resolve an internal conflict, an interpersonal one between two individuals, or conflict at the community level in the interest of a common goal, reconciliation is sought for a variety of reasons. One person's reason for wanting reconciliation may differ from another person's, but in the end, it is about making differences fit together. In one way, individual reconciliation is deeply personal. It may be something that no one else notices, realizes or understands. Since political conflict engenders a wide range of personal traumas and because the individual is the basic unit of society, a failure to achieve individual healing will impede the ability of the society to achieve national reconciliation and reconstruction.

This is borne out in the experiences of the individual survivors of mass violence.<sup>11</sup> Psychologists believe that most trauma victims need a sustained and carefully developed course of treatment that helps the survivor to understand what happened in order to move forward. Survivors may require two types of healing: one cognitive, one psychological.<sup>12</sup> Cognition entails understanding, while psychological healing must occur by remedying the emotional and physical effects of the trauma in question. These interventions can be summarized as safety, remembrance and mourning, and reconnection.<sup>13</sup> Regardless of how each individual achieves safety, remembrance and reconnection, the state has a large role to play to ensure that the victims' needs are met.

In Iraq, as in many places around the world, the individual's association with the community is an important part of daily life. For this reason, there must be reconciliation on a community level.<sup>14</sup> Interpersonal reconciliation is the level at which the larger society begins to address cleavages that separated them like harsh words, mistrust, theft, or an act of violence.<sup>15</sup> Community level reconciliation has one foot in the private realm and one foot in the public realm.<sup>16</sup> It is demonstrated through passing conversations between neighbors. Small signs of acknowledgment that begin to rebuild trust in a community may never amount to friendship, but they do illustrate some degree of acceptance. Sometimes communities have informal ways of

achieving bilateral reconciliation. In Indonesia, a local method of reconciliation calls for three steps. First, the two or more people concerned must acknowledge the injustices that have been perpetrated on the victims. Parties then listen to what victims or friends and family of the victims say, and they do not interrupt them in order to defend their actions. Rather, the aim of the process is to appreciate and be aware of the facts and feelings from the standpoint of those communicating.<sup>17</sup> Step two involves parties reaching a consensus on what it would take to make things right.<sup>18</sup> Parties in Iraq have recently shown that this is possible now.<sup>19</sup> As a final step, the parties clarify their vision of the future.<sup>20</sup>

Community reconciliation at the interpersonal level does not usually intersect with the formal justice system and the courts because the goals are different.<sup>21</sup> For a community, the goal is healing and repair rather than retribution.<sup>22</sup> The challenge for any community is finding a way to allow for self-expression that does not threaten or impede the development of a national identity.<sup>23</sup> This is especially problematic in Iraq. To the extent that violence is perpetrated among communities, it may be that reconciliation must occur within the community before it can occur between other communities involved in violence. Intra-community reconciliation means re-integrating refugees and insurgents at the same time.<sup>24</sup> Affirmative steps must be taken on the part of those returning to the community to prove that they are committed to unity.<sup>25</sup> These can be symbolic gestures, but behavior goes a long way towards resolving internal doubts about the possibilities of building a peaceful co-existence among victims and perpetrators.<sup>26</sup> Some of the most effective programs promote reconciliation indirectly.<sup>27</sup> Instead of sharing their attitudes towards each other, they participate together in such activities as building houses, making food, or providing medical care. Over time, these experiences foster a sense of solidarity and community among participants. Grassroots organizations and non-government organizations may help communities to resolve internal and external divisions, but the will to reconcile must be present for their efforts to bear fruit.

Reconciliation on the national and international levels<sup>28</sup> is particularly complex in the Iraqi case. When the central government is so weak that it can barely be said that a state exists, the idea of a single national identity seems problematic. Yet the question about what "Iraq" means can draw people together around shared values and common history. Reconciliation at the national level may be the widespread repetition of the individual and community layers of reconciliation on a national scale, or it can be thought of as accommodation of divergent interests. The first conception of reconciliation is problematic because it is unrealistic to think that the majority of individuals and communities will be able to generate cultural transformation.<sup>29</sup> In addition, some crimes are public crimes committed by agents of the state, and as such they are

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distinct from private crimes. A separate process of reconciliation must be established to acknowledge crimes of state and any possible collaboration or assistance on the part of the international community.<sup>30</sup>

A specific challenge associated with national reconciliation is that there must be a national identity.<sup>31</sup> Whatever shape the new Iraq takes, there will be a certain population which feels that it is possible and desirable to have a national identity. If national reconciliation has any significance, it is to unify the people, to create some common ground that is strong enough to overcome the intra-national divisions of the past.<sup>32</sup> Developing this common sense of belonging among diverse groups of people is highly problematic. The government will have to surmount deep-seeded fears and resentments between different groups, and it will need to establish a version of history that resonates with everyone to a certain extent.<sup>33</sup> The government must provide enough benefits to all of the people to make it worth their while to participate in the process of nation-building.<sup>34</sup> Without some level of reconciliation, the people's shared resources, managed by the government, will need to be deployed for conflict management, rather than on capacity building and constructive projects.

Reconciliation at the national level is fundamentally about accommodation.<sup>35</sup> It is about accepting the right of others in the state to have differing views, which should be recognized and welcomed as part of the national dialogue.<sup>36</sup> This takes dedicated and skilled leadership at the highest level.<sup>37</sup> National reconciliation is the development of a sense of national citizenship and loyalty to the nation.<sup>38</sup> Such loyalty can only supplement, not supplant, loyalties individuals feel at the community level. Citizenship and national loyalty broaden a person's associations and allegiances. This path can be pursued through cultural symbols, memorials and museums, truth reports, and trials, all of which are effective means of establishing unity. They are not, however, nuanced or comprehensive.<sup>39</sup> Implemented well, these mechanisms merely state what a new symbol is or create an opportunity for broad participation,

but for these mechanisms to have full force, individuals need to participate. At their worst, these mechanisms have the potential to be divisive and fuel conflict. Failure to achieve reconciliation at the national level does not, however, preclude reconciliation at the personal, inter-personal and community levels.

"Victory" in Iraq today must consist of securing opportunity and hope for Iraqis.<sup>40</sup> The U.S. should contribute to this goal by helping to lay the groundwork for opportunity and hope, all the more so because it has played such a profound role in the loss of that hope since 1991. Prime Minister Nouri al-Maliki has "failed to start an oft promised national reconciliation process."<sup>41</sup>

He has postponed the first meeting of a National

Reconciliation Conference three times since its original scheduled date of October 21, 2006, ostensibly due to escalated violence.<sup>42</sup> U.S. administrators are currently re-evaluating their reconciliation strategy<sup>43</sup> in light of this new climate of violence, which

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erupted among parties apparently aligned by Muslim sect. The latest postponement of the National Reconciliation Conference can be attributed to a lack of political will on the part of Iraqis and Americans to confront the true causes of conflict. Reconciliation eludes Iraq because of entrenched notions of identity described by sectarianism that do not accurately reflect differences among Iraqis. Perceived problems of difference have been resolved through violence by Sunni insurgents, Shi'ite militias and the Kurdish Peshmerga, but only national dialogue facilitated by nonviolent action and the rule of law can reconcile Iraqis.

One suggestion that might have a positive effect would be the establishment of a truth and reconciliation commission. Even though Iraqis are not familiar with truth commissions as such,<sup>44</sup> they do have "broad support for an official truth-seeking and historical memory preservation process, largely springing from desires to reveal to the rest of the world the truth about what happened in Iraq; prevent a repetition of the past; process personal experiences through a larger national narrative; and obtain information from perpetrators on those missing."<sup>45</sup> If they collectively seek truth and the desire to reveal the truth, but they are not familiar with international law norms related to truth seeking, something else must underlie their collective will.

### **Reconciliation in Islam**

Possible sources of support for reconciliation<sup>46</sup> in Iraq that have not yet been used by the Iraqi people lie in the Islamic faith. In August 2006, some Iraqis made renewed efforts towards reconciliation. Prime Minister Nuri al-Maliki launched his "national reconciliation program," which he described as a "wide door" open to all those who wanted to take part in rebuilding the country.<sup>47</sup> While the government effort is pursuing tribal leadership, it is unclear how effective tribal leaders can be among Iraqis who are more frequently turning to religious leaders for guidance.<sup>48</sup> Instead of targeting tribal or religious leaders, an alternative approach would be to encourage broad-based public participation in a national dialogue principled on Muslim notions of reconciliation and truth seeking. In any case, the process should represent the people's will, and not necessarily the will of the leadership.

Ultimately it is a matter for the Iraqi people to determine whether the post-invasion public order is to be based on posited law or law derived from a supra-human authority. Given that the majority of the Iraqi population is Muslim, it may further the goal of reconciliation to derive justification for truth seeking from Islam.<sup>49</sup> A mosque-based project to improve inter-communal relations among some 250 Sunni and Shi'ite women in different neighborhoods of Baghdad, including the notorious Sadr City, has focused on mothers and schoolteachers to create unity and stability among Iraqis regardless of religious denomination.<sup>50</sup>

If social reconstruction relies on institutions founded upon shared values and human rights,<sup>51</sup> more attention ought to be paid to the shared values of Iraqis, in particular those for which Islam advocates.<sup>52</sup> Guidance for the way Muslims live is found in the *Shari'a*, literally "way" or "path." The two main sources of the *Shari'a* are the Holy Qur'an and the *Sunna*.<sup>53</sup> Both the *Sunna* and the *Hadith*<sup>54</sup> offer insights into war. The *Hadith* also sheds light on the prescribed treatment of combatants after conflict. In general, great merit is given to those who engage in warring acts on behalf of the community. It is more difficult to discern what should happen to

those who cause violent unrest within the community, particularly when the conflict is perceived as a just struggle.

One way to answer this question is to look to the *Sunna* to see how Muhammad resolved community unrest during the years of his ministry. Muhammad's time in Mecca during the early period of his prophecy shows that unity requires compromise and reconciliation of differences. In Mecca, Muhammad attracted a great deal

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of criticism, from the Quraysh tribe (which controlled and populated most of Mecca), when he supposedly began to insult their ancestors:

Given the pre-Islamic system of kinship solidarity prevalent even in the disturbed urban environment of Mecca, the believers had little choice but to adopt an ascetic view and be willing to suffer on behalf of their religion. It was, after all, their own kinship relations that were persecuting them, and it was almost inconceivable to define one's own kinship group as the enemy.<sup>55</sup>

Reuven Firestone notes that after the community moved to Medina, the old Meccan kinship relations began to have much less of an impact on society. This adaptation was pragmatic. Through the Medina Agreement different kinship groups were paired and shared mutual responsibilities.<sup>56</sup> The Medina Agreement confronted the social differences in society by establishing the rights and responsibilities of the Muslim, Jewish, and other

Arab and tribal communities of Medina during the war between that city and its neighbors. It demonstrates a type of reconciliation that would have been impossible had the old kinship system remained in place.

Muhammad's transition from Mecca to Medina is referred to as the *Hijra* (cutting off of all ties to home and homeland for the sake of God).<sup>57</sup> Muhammad was invited to Medina to reconcile two subgroups of the tribe of Banu Qayla, the Aws and the Khazraj. While the likely source of the conflict was competition over limited arable land, the old pre-Islamic system of blood revenge had wreaked havoc on Medina and nearby lands. The situation had become unbearable for the people since nearly every tribe was aligned with one or the other kinship groups in the conflict. All the people were forced to be on constant guard against sudden attacks. People could be killed if they "wander[ed] into the wrong place at the wrong time."<sup>58</sup>

In Medina, much like modern day Iraq, it was unclear who was permitted (*harram*) to fight.<sup>59</sup> According to a well-known historian, al-Tabari (838-923), the people who were allowed to fight could have been: 1) only Muhammad and his companions, 2) only those who were being fought against, 3) only those who were wronged, 4) only the Emigrants or Muhajirun (those who went to Medina), or 5) everyone.<sup>60</sup> Muhammad's position of significant political authority over most of the tribal groupings of the settlement was the result of more than his reputation as a wise and honest



arbitrator.<sup>61</sup> R.B. Serjeant suggests that in establishing a formal Medina Agreement, the nature of his authority arises out of the institution of the *mansab*.<sup>62</sup> The *Mansabdar* is a holy man who establishes a sacred enclave by judging or arbitrating disputes between disparate and conflicting tribes, and in so doing, derives authority over broad tribal groupings.<sup>63</sup> Firestone points out that this pre-Islamic tradition establishes the precedent for Muhammad's position in Medina and eventually becomes the institution of the central "holy man" in Islam.<sup>64</sup>

While much scholarship is devoted to understanding when Muslims should go to war, reconciliation must necessarily concern itself with the question: "What happens when the fighting stops?" The Medina Agreement helps to answer this question. Forged in 622, the Agreement was built on the concept of diverse tribes living in one community. According to Firestone, "[t]he major, and indeed revolutionary, contribution of the agreement is that it begins the process of creating a single community out of disparate kinship and religious groups under the authority or supervision of Muhammad."<sup>65</sup> The Medina Agreement forms the basis of the Muslim *Ummah*,<sup>66</sup> which eventually unifies diverse Arabian populations into a religious, political and military force. Although the community referred to in the agreement is *Ummah*, a community is not necessarily defined by adherence to the religious teachings of Muhammad.

The purpose of the Medina Agreement was to mediate tribal conflicts in Medina. It created a single, common, political community made up of Muslims, Jews, and idolaters.<sup>67</sup> In the pact, the tribes retained most of their independent autonomy, but when disagreements arose, they were referred to God and to Muhammad. The agreement outlines political and military responsibilities of its community members ranging from the payment of blood money to mutual defense against outside aggression.<sup>68</sup> The community committed itself to defending newly defined joint interests. In so doing, they were able to "avoid the renewal of old intertribal intrigues based on kinship and previously contracted alliances and to prevent the establishment of new alliances with foreign elements not represented by the agreement."<sup>69</sup> The community in present day Iraq may be able to set aside apparent sectarian difference in a kind of *Hijra* if they are given an opportunity to define joint interests through local and national processes of dialogue and take actions to implement points of agreement.

While the Medina Agreement had its successes, eventually, individual sub-groups within the *Ummah* broke the agreement. Old ties caused conflict to re-ignite, and no single effort to define joint interests was sustainable over time. In one story, an elderly Jewish politician of the Bani Qaynuq', who felt frustrated by the new friendship between Aws and Khazraj communities, instructed a youth with a beautiful voice to go and recite poetry where the tribes were assembled together.<sup>70</sup> The poetry had been composed by men of both tribes about the most recent battle of the civil war between them, which reviled the enemies, glorified the deeds of prowess, eulogized the dead and threatened revenge. At first, the men of Aws and those of Khazraj applauded the poetry of the other side, but they began to argue and boast, shout abuses and threats, until they finally sounded the call to arms.

When the news reached the Prophet he gathered together all the Emigrants [from Mecca] who were at hand and hastened out to where these two hosts were already drawn up in battle order. 'O Muslims,' he said, and then he

twice pronounced the Divine Name, Allah, Allah. 'Will ye act,' he went on, 'as in the days of Ignorance, what though I am with you, and God hath guided you unto Islam, and honoured you with it, and thereby enabled you to break with pagan ways, and thereby saved you from disbelief, and thereby united your hearts?' At once they realized that they had been led astray, and they wept, and embraced each other, and returned with the Prophet to the city, attentive and obedient to his words.<sup>71</sup>

This story clarifies that efforts to establish a common interest must be ongoing, because there is a constant threat that old rivalries will re-ignite conflict. Joint values must be constantly evaluated and re-defined by the community.

Even though the Medina Agreement did not last for long it did have lasting effects. By showing a willingness to compromise it helped to establish Muhammad's status as a religious and political leader. Firestone identifies five sources of authority for Muhammad's projection of authority in Medina: 1) the successful manipulation of multiple sources of status in his prophet hood; 2) his personal charisma; 3) his status as being from a holy family assigned to the sacred enclave of Mecca; and 4) a religious component that crosses boundaries because the idea of a holy man in a sacred enclave "seems to have been universally respected" among all the members of the community.<sup>72</sup> The fifth source derives from the "universally respected" institution of the holy man that, given Mohammad's status as a holy man himself, created an all-inclusive political space in which to operate.<sup>73</sup> Indeed, as more Medinans became believers, the nature of the *Ummah* evolved from simply "a political association designed to mediate tribal conflicts to a religiously defined community taking over the all-important social and political role of the old kinship group,"<sup>74</sup> and finally to a holy community (*Ummah*).

As an example of reconciliation, the Medina Agreement is useful, but it also has flaws. It supports a principle of reconciliation because it incorporates the needs of individual community members, and resolves to work together to achieve a new, common goal. The kinship relationship between the *muhajirun* (the early Muslims who followed Muhammad on his Hijra) and the larger Quraysh tribe around the time of the *Hijra* was strengthened by a feeling of solidarity gained from the shared adversity of physical and emotional abuse they had each suffered at the hands of their Meccan kin.<sup>75</sup> In short, the feeling of brotherhood was facilitated by a common experience of suffering. There are, however, parts of the Medina Agreement that do not support unity. For example, the fact that article 36 allows for the continuation of violence if it is done in revenge ("vengeance for wounds") seems to suggest that the people were not ready to give up their right to retaliation, even if they generally accepted Muhammad's authority with respect to organized fighting.<sup>76</sup> Article 36 also says that no one may initiate hostilities without express permission from Muhammad. In a truly reconciled community, however, disagreements would be resolvable by non-violent means. Over time, the major feud between the clans of the Aws and the Kharaj was eliminated by the creation of the Muslim *Ummah*.

The Medina Agreement is used here to highlight the fact that Islam has the seeds of reconciliation in its value structure. Other examples from the Prophet's life, revelations in the Qur'an, and cultural institutions which have developed based on Qur'anic principles further support the notion that reconciliation is possible among Iraqi Muslims if they apply common idioms<sup>77</sup> in Islam. One could look in depth at

the Prophet's pilgrimage to Mecca in 628 and the events that took place after the signing of the Treaty of Hudaibiyah, or Quranic references to notions of justice and the importance of truth. Similarly, the institution of *qazi* in India offers insight into a cultural institution that emerged to handle conflict in mixed Muslim communities in a peaceful way. Where the Prophet felt the need to assert religious and moral values to temper cruelty and hostility, the Qur'an and traditions often admonished Muslims to be just in the fulfillment of their religious obligations.<sup>78</sup> After the principle of One God, the moral principles emphasized most in the Qur'an are uprightness, equity, and temperance. Some important Qur'anic references to justice are:

- God commands justice and good-doing...and He forbids indecency, dishonor and insolence. (Q.XV, 92).
- God commands you to deliver trusts back to their owners, and when you judge among men, you should judge with justice. (Q.IV, 61<sup>79</sup>).
- Of those We created are a people who guide by the truth, and by it act with justice. (Q.VIII, 180).<sup>80</sup>

In neither the Qur'an nor the *Hadith* are there specific measures to indicate what the constituent elements of justice are or how they may be realized on Earth.<sup>81</sup> Thus, scholars attempted to draw out the elements of justice from the work of commentators.

Abu Yusuf Ya'qub B. Ishaq al-Kindi was one of the first Muslim philosophers to discuss justice as a rational concept and as one of revelation.<sup>82</sup> He discussed how rational justice could be in harmony with Divine Justice in a way that was acceptable to believers.<sup>83</sup> His philosophy was primarily concerned with seeking the truth (One Truth or *al-haqq*) in its theoretical and practical settings, with an emphasis on the latter.<sup>84</sup> He distinguished between ultimate truth and practical truth and suggested that it was insufficient to know the ultimate truth; one must know the truth in practice.<sup>85</sup> Al-Sijistani attributed certain aphorisms to al-Kindi, one of which discussed when al-Kindi "was once asked: who is the most just man? 'He is the one who sticks to the truth, never to depart from it, nor to shrink from acting in accordance with the obligations imposed by it,' he replied."<sup>86</sup>

Acting for the cause of God is synonymous with the pursuit of justice in Islam, even if it means that you are seen as weak.<sup>87</sup> The following Qur'anic verse describes a Muslim's duty to work for justice and reject oppression and injustice on interpersonal and structural levels:

You who believe! Stand out firmly for justice, as witnesses to Allah, even as against yourselves, or your parents, or you kin, whether it be (against) rich or poor: for Allah can best protect both... Follow not the lusts (of your hearts), lest you swerve, and if you distort (justice) or decline to do justice, verily Allah is well acquainted with all that you do. (Q.IV, 135).<sup>88</sup>

Thus it is the believer's duty to seek justice and apply it, even if that means speaking out against yourself in the form of a confession, or speaking out against your family.<sup>89</sup> The Qur'an also provides guidance on other important values, such as accountability for all actions.

*Qazis* (also known as *Qadis* or *Kadis*) derive from Qur'anic principles. *Qazis* are individuals selected by the temporal ruler or "viceregent" of God to fulfill the administration of law and order for the justice and equity of all.<sup>90</sup> More important than the relationship to the ruler, the personal reputation and local stature of the *qazi* imparted quality to administration of social justice in Mughal India.<sup>91</sup> In India, "disaffection with the colonial machinery for policing and administering justice led to intermittent calls for a revival of the Mughal legal system, particularly the office of the *qazi*."<sup>92</sup> *Qazis* are the key law officials in each city and town, and in certain regions also the rural areas. The *qazis* solemnized marriages and settled political, religious and social disputes among Muslims.<sup>93</sup> Religious law *qazis* continued to exist in part of India, the Awadh, at least until the 1856 British annexation.<sup>94</sup> English mechanisms of dispensation of justice, for all practical purposes, rendered the office of the *qazi* redundant. Still, disputes relating to inheritance and property which were often based on lineage and marriage rules and formalities could only be fitly and justly decided by *qazis*.<sup>95</sup> Men who were pious, upright and well versed in Islamic law were selected from the two main sectarian divisions in Islam, Sunni and Shi'ite, to conclude the *nikah* (marriage contract) and settle all matters connected with divorce.<sup>96</sup>

Much like in the time of the Prophet's Medina, sectarian divisions proved to be a bigger obstacle in India than *qazi* judicial administrators could deal with, particularly as Shi'ite and Sunni religious leaders, fearing they were being treated unfairly, began to demand changes. Placing Muslims under a single legal code has always proved challenging since competing versions of religion at times call for differing legal interpretations, which leads to inconsistent and divergent rules. In India as in today's Iraq, no one wished to be subjected to rules not of their choosing.<sup>97</sup> There were many sects of Islam in India at the time and many in Iraq today. A single interpretation of a law by one Muslim sect and applied to others is an impossible challenge. The lesson of the *qazi* structure in India is that individuals selected by the community can come together, debate competing and common values, and reach consensus about a solution to a conflict. Applied Islamic law need not be a representation of a single interpretation by one leader or one sect; it can be the result of community effort. As has been noted, however, the *qazi* were abandoned in India. As in India, it is equally possible in Iraq that consensus-building institutions will be forsaken or ruled out by those individuals who do not have equitable treatment and unity as an ultimate goal.

### **Towards Other Mechanisms for Reconciliation**

Terms like "consensus-building," community-building, and *Ummah* cannot be used without political implications. Invoking the idea of a popular Muslim community to establish a legitimate state authority in post-colonial India did not help the Pakistan Movement achieve a unified state.<sup>98</sup> Powerful though the concept of *Ummah* may have been, it alone could not transform society.<sup>99</sup> Part of the reason for the lack of transformation is that pro-community leaders like Jinnah still had to "maneuver within the structure of imperial power even as they proclaimed the primacy of individual commitment and culture as the foundation of 'national' identity."<sup>100</sup> And although Pakistan has gotten older, "...the public assertion of Islamic 'community' continues to preoccupy many Pakistanis. For many, Mohammad Iqbal's concept of active com-

mitment to the ‘community’ as a foundation for political action continues to exercise a powerful appeal. Transcending the structure of local politics, this personal commitment has provided a foundation for the Islamic identity of society as a whole” but it has proved problematic.<sup>101</sup> The potential parallels in the new Iraq are plain.

Reconciliation eludes Iraqis because they have never imagined their community in a unified way even if their notions of nationalism have supported the development of an Iraqi nation state. The process of creating a national myth in the twentieth century demonstrates that those in power have manipulated sectarian differences to create a historical memory favoring one group. Paper tiger sectarianism<sup>102</sup> did not begin with the Americans – it began with Iraqis. Many Iraqis and others support the idea of one Iraq, but the appropriate mechanisms that will help to realize that goal are not in place. This section reviews the development of the Iraqi national imagination, the support for national unity even in the face of all the violence that has taken place, and offers some suggestions for how reconciliation in Iraq can be promoted.

***Reconciliation eludes Iraqis because they have never imagined their community in a unified way even if their notions of nationalism have supported the development of an Iraqi nation state.***

### **The Political Context of Reconciliation**

In Iraq, the United States invasion complicated existing power structures. Even if the impact on the country’s power structure in four years in the twenty-first century cannot be equated with the influence of Britain in the sub-continent over centuries, it should not be dismissed either. The fact remains that under the auspices of foreign control, the constitution of Iraq was re-written, elections were held, and new structures were created on top of pre-existing power structures based on tribal relations and sectarian divisions. Any allusion of *Ummah* by Iraqis will necessarily have to navigate among imperial power divisions as well as pre-occupation power structures.

An optimistic outlook for Iraq depends on the willingness of leaders to address divisions created in the past and those created during the occupation. Peace-building measures, as Michelle Maiese has stated, “should integrate civil society in all efforts and include all levels of society in the post-conflict strategy. All society members, from those in elite leadership positions, to religious leaders, to those at the grassroots level, have a role to play in building a lasting peace.”<sup>103</sup> As John Paul Lederach has noted, “reconciliation must be proactive in seeking to create an encounter where people can focus on their relationship and share their perceptions, feelings, and experiences with one another, with the goal of creating new perceptions and a new shared experience.”<sup>104</sup>

Reconciliation depends on a re-conceptualization of history to find a historical narrative that all parties in Iraq consider common. Competing historical narratives among Pan-Arabists, Iraqi nationalists, and communists defined Iraq’s pre-invasion power structures in the twentieth century.<sup>105</sup> However, for a “new” history “to become

more than a partisan ‘extremist’ story, the narrative often has to persuade not only the members of the in-group who will ‘benefit’ from the new interpretation, but also ‘others’: those whose own history will presumably be ‘diminished,’ or ‘tainted,’ by the new narratives.”<sup>106</sup>

Eric Davis offers the best account of this competition because he takes into consideration polarization exacerbated by lack of social reform, increased corruption, urban/rural differences among the Iraqi people, and the impact of ideology on understandings of collective identity.<sup>107</sup> He points to the effects of the 1920 Revolution and the mobilization of the populace—especially the middle class—as defining moments in the development of notions of political community. Iraqi notions of political community help to explain why reconciliation has been so difficult for Iraqis up to now, despite shared values for truth and justice found in Islam.

The Pan-Arabist myths emerged as dominant because their “imagined community”<sup>108</sup> used ethnic purity and cultural authenticity that excluded more inclusive forms of collective identity favored by Iraqists or communists.<sup>109</sup> Unlike the Pan-Arabist movement, which was by no means unified, the Iraqists and communists tended to favor cross-ethnic and cross-sectarian solidarity and tolerance for other cultures.<sup>110</sup> The Pan-Arabist ideology would later come to dominate Saddam’s Ba’athism. Since education is an important way for a government to express itself and its values,<sup>111</sup> an anecdote about Arabist and educationist, Sati al-Husri, helps to understand how the Pan-Arab myth took hold of Iraq’s national imagination through the re-writing of history.<sup>112</sup>

Sati al-Husri (1882-1968) was an educational bureaucrat who left an indelible mark on his time, and on decades to come.<sup>113</sup> Husri became a militant believer in Arabism with no tolerance for minorities or old traditions.<sup>114</sup> He belittled the role of the Persians in Islamic history. In 1920, he followed King Faisal from Syria, where he had attained the position of Minister of Education, to Iraq. From 1921 until 1941, Husri managed to banish an older, longer version of Iraqi history consistent with his view of the nation as a living entity. Wielding the power of the state, he prevented the Najaf-born poet Muhammad Mahdi al-Jawahiri from becoming a secondary school teacher because he feared the Persian influence he presumed would travel with the Bedouin’s melodic verses.<sup>115</sup>

After serving in the Ministry of Education, Husri served as dean of the law college, then the director of antiquities, all the while spreading his pedagogy. Fouad Ajami observes that

this invented history took on a life of its own. But in truth, before the Tikriti rulers terrorized the Shi’ite religious establishment and shattered its autonomy, a healthy measure of competition was always the norm between the Shi’ite seminaries of Iraq and those of Iran. Few Iraqi Shi’ites were eager to cede their own world to Iran’s rulers. As the majority population of Iraq, they have a vested interest in its independence and statehood. Over three decades, they endured the Saddam regime’s brutality, yet they fought its war against Iran in 1980-88. No fidelity to Iraq, though, could rid them of that Persian shadow. An American order that put the Shi’ite beyond the terror of their recent history in Iraq was inevitably cast as a foreign domination hacking away at a larger Arab truth.<sup>116</sup>

Inventing history was the Pan-Arab project. Far from being an inclusive process, the Arabists manipulated the truth about Iraq's cultural diversity, social class interests, and income gap between rich and poor at every opportunity.<sup>117</sup>

Understanding this process of exclusion—particularly of Persians—is critical for understanding why Iraq struggles to find a peaceful solution, because the practical result of the Pan-Arab project was an “unwillingness of the upper-class Sunni elite and would-be Sunni elite comprised of middle-class Pan-Arabists to accept Shi'ite and Iraqi minorities as full members of Iraq's political community.”<sup>118</sup> It is well known that Saddam Hussein further marginalized Shi'ites and minorities to consolidate his power. The manipulation of history in twentieth century Iraq using sectarian difference and a narrowly defined political community renders the twenty-first century conception of an inclusive political community a dream. Iraqis still define themselves by the categories they were given. As a result, there is often a failure to understand and value what a re-conceptualization of their collective identity might offer the nation-building process.

### **Support for National Unity**

September and October 2004 opinion polls showed that 69% of Iraqis regarded sectarian conflict as unlikely.<sup>119</sup> Even in June 2006, 78% disagreed or strongly disagreed with segregating Iraqis according to their religious or ethnic sects.<sup>120</sup> Eighty-nine percent believed that a unity government is extremely important to Iraq's future.<sup>121</sup> A similar survey of 5,019 Iraqis (the largest opinion poll to date) published on March 19, 2007 by the British company, Opinion Research Business, shows that by a majority of two to one, Iraqis prefer the current leadership to Saddam Hussein's regime and 64% of Iraqis still want to see a united Iraq under a central national government.<sup>122</sup> Even in March 2007, after waves of sectarian violence, Sunnis (57%) and Shi'ites (69%) agreed that the country should continue as one nation.<sup>123</sup>

Beyond public opinion, James Fearon argues that various factors can make power-sharing feasible in civil wars.<sup>124</sup> These include cohesion among the warring parties and a period of fighting that makes the relative military capabilities of the Sunni and Shi'ite forces clear. Although William Martel suggests that there is unity of purpose in expelling U.S. forces, Fearon disagrees.<sup>125</sup> But the situation in Iraq does not lend itself to power-sharing according to Fearon's criteria. This glass-half-empty approach fails to capture that compromises are possible in Iraq. A question certainly arises as to whether the current Shi'ite-led government has any real intention of transforming into an inclusive government based on national unity.<sup>126</sup> And yet certain members of the Shi'ite block have resigned national posts as a symbolic show of support for different Iraqi leadership.<sup>127</sup>

Iraqis who support the notion of a unified country seem likely to support reconciliation efforts. For example, the passage of the oil agreement in late February 2007 – one year after the bombing of the Al-Askariya shrine – demonstrates the belief that all Iraqis deserve a stake in Iraq's unified future.<sup>128</sup> In March, Al-Maliki invited neighboring countries and world powers to a meeting in Baghdad, hoping that it would help promote reconciliation.<sup>129</sup> At a press conference in May, he repeated his call for support from “any side” for reconciliation.<sup>130</sup> Some reconciliation efforts, however, receive more support than others. At the same time, thus far, the failures to achieve

cooperation and unity among Iraqis generally have not resulted from any lack of rhetorical support for reconciliation, but instead may be because the wrong efforts were pursued without success. Other efforts should be considered to promote reconciliation.

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#### **Mechanisms to Promote Reconciliation Today**

Today, Iraqis still compete for power along sectarian lines because they can use historical myths to garner support. Only a careful re-evaluation of the true causes of conflict can address this problem, however, that re-evaluation requires the appropriate political climate to occur. Constitutional reform is necessary, but is unlikely to take place immediately. Re-casting historical myths in a new light of truths to identify where and why manipulation occurred is required first. Many different mechanisms could be used to discover the truth. One example is the Iraqi Memory Foundation, which has been working on a documentary to depict the lives of ordinary Iraqis during Saddam's dictatorial rule.<sup>131</sup> The oral history film project portrays Iraqis from mixed families and sects.<sup>132</sup> It shows that all people suffered under Saddam. Additional mechanisms may include symbolic measures, economic development, promotion of

reconciliation through sporting events, the commencement of a national dialogue, and a truth commission, if Iraqis believe that these mechanisms are feasible in the current political climate. Importantly, it is not sufficient to implement programs at the national level for a reconciliation plan to work. A comprehensive reconciliation plan must address individual, inter-personal, communal, national, and international reconciliation.<sup>133</sup>

Reconciliation is complicated, which is why so many observers have called for reconciliation without offering concrete mechanisms for promoting and achieving it. At the most basic level, reconciliation can be promoted by changing the current Iraqi power-sharing structure. The International Crisis Group called for a new political compact in December 2006 because "Iraq's ruling elite has shown no sign that it appreciates the need for true accommodation," and the procedures for constitutional review limit the scope of any modifications.<sup>134</sup> Constitutional reform is needed in Iraq because the Sunni Arab parties have not consented to the existing system. The lack of support for the national government from this important segment of the population causes obstacles to governance and contributes to a lack of national legitimacy for the current national government.<sup>135</sup> Passage of the federalism law is an example of one such obstacle, but there are many more.<sup>136</sup> As badly as constitutional reform is needed in Iraq, it is likely to take a decade or more to actually occur. For this reason, it is not the focus of the recommendations here. Instead, other initiatives should be of chief concern in the national reconciliation plan.



Reconciliation is possible in Iraq because the Iraqi people share a common history. Since 2003, not enough attention has been placed on symbols that would bring the Iraqi people together. To the contrary, the transitional justice focus on trials has had a negative effect on reconciliation efforts. Attitudes about the execution of Saddam Hussein differ between Sunnis and Shi'ites. More than 95% of Sunni Arabs questioned in a public opinion poll from February 25 to March 5, 2007 said they regarded the manner of Saddam's death as inappropriate and unlikely to help the cause of reconciliation.<sup>137</sup> Eighty-two percent of Shi'ites said the manner of death was appropriate, but only 62% thought the execution would lead to reconciliation.<sup>138</sup>

Symbols can help create a national culture.<sup>139</sup> Two important symbols require the immediate attention of the Iraqi government and the international community. The first is the Al-Askariya mosque in Samarra and the second is the Al-Sarafia bridge. Both of these monuments have symbolic meaning for Iraqis in general and Baghdadis specifically.

A concrete step towards reconciliation in Iraq would be to develop a plan to rebuild the Al-Askariya mosque in Samarra using a combination of funds from the U.S., Sunni, Shi'ite, and Kurdish communities. The "Golden Mosque," as it is known because of its golden dome, is one of the most important Shi'ite mosques in the world because it is the site where the twelfth Imam, Mohammed al-Mahdi (the "Guided One") disappeared in the 9<sup>th</sup> Century.<sup>140</sup> Even Samarra's Sunni population holds the shrine in high regard. The expression "to swear by the shrine" is used routinely by both communities.<sup>141</sup> Although no thorough investigation of the bombing that took place on February 22, 2006 has been made public, many observers trace the bombing of the shrine to fighters loyal to al-Qaeda.<sup>142</sup>

The first step in fixing this unaccountability is to publicize the truth about the events that took place on February 22, 2006. Knowing exactly who was involved is important since there were fighters dressed as Iraqi police who participated in the attack.<sup>143</sup> The next step is to rebuild the shrine in a well thought out, broad-based effort. Financing has been a challenge. Shortly after the bombing, U.S. Ambassador Zalmay Khalilzad and General George Casey committed the U.S. to using its funds for reconstruction.<sup>144</sup> Prime Minister Nouri al-Maliki announced a plan in November 2006 to rebuild the Al-Askariya mosque.<sup>145</sup> His plan included using funding from the UN/United Nations Educational, Science and Cultural Organization (UNESCO). UNESCO announced on April 30, 2007 that they were seeking qualified companies to submit sealed tenders for the technical supervision of urgent intervention works and the final restoration project of the Al-Askari Shrine in Samara, Iraq; the proposals were due by May 14, 2007.<sup>146</sup> At the time of publishing, no further action on the reconstruction of the mosque had taken place.

Reconstruction of the Al-Sarafia bridge is not as far along as the Al-Askariya shrine, in part because it was destroyed more recently, on April 12, 2007.<sup>147</sup> One view of the bridge is that it has symbolic meaning for Baghdadis because it provides a vital connection between two northern Baghdad neighborhoods—Waziriyah, a mostly Sunni enclave, and Utafiyah, a Shi'ite area.<sup>148</sup> The bridge itself was built by the British in the early half of the 20<sup>th</sup> century.<sup>149</sup> Again, al-Qaeda was suspected in the bombing, but no investigations have confirmed the perpetrators.<sup>150</sup> An Iraqi website suspects that "strange events" prior to the destruction of the bridge mirror events prior to the

Al-Askariya bombing, thus implicating the U.S.<sup>151</sup> At a minimum, investigations with Iraqi participants should discover who caused the destruction of this important national symbol. Then, it should be rebuilt. Rebuilding bridges has proven cathartic for other communities emerging from conflict and it may prove to be healing in Iraq too.<sup>152</sup>

Other symbols will be important as the Iraqi government decides that reconciliation is a goal worth pursuing. On May 14, 2007, for example, Iraq's political and cultural figures agreed that October 3, which was selected by the government as Iraq's national day, was "right" because that was the day that Iraq achieved independence in 1932.<sup>153</sup> On October 3, 1932, Britain officially ended its occupation of Iraq, and Iraq joined the League of Nations.<sup>154</sup> For Iraqis, seeing the Americans leave by October 3, 2007 could have proven to be healing, although the Americans did not have plans to that effect.

The U.S. has done some good in promoting reconciliation, albeit on an ad hoc basis.<sup>155</sup> One American military officer in northern Iraq, Kirkuk City, said that one of the best projects he ever implemented was the construction of a soccer field in a small town, Altun Kupri.<sup>156</sup> In 2004, a local resident had been asking him for three months to have some reconstruction funds to construct a soccer field. Not seeing the soccer field as a priority at the time, the military officer focused on other projects first. Eventually, the local resident's persistence convinced the military officer to provide funding. The soccer field was then constructed. Using the fire truck bought for the town by U.S. forces, grass was grown. Locals fenced off the field so nearby farm animals would not eat the grass and cause unsanitary conditions. As a result of the field's construction, residents gathered when the children played; adult males played soccer too. It became a focal point for the small city of 10,000 people. Although unlikely to occur in other, more dangerous parts of Iraq, the potential effect on reconciliation of a soccer field or other sport facility should not be undervalued. Similarly, monuments at the site in Ramadi where two soccer players were murdered in front of their teammates and spectators in early March 2007 may also prove healing.<sup>157</sup>

Other reconciliatory efforts might include reparations for a variety of harms caused and a truth commission.<sup>158</sup> The U.S. discussed a truth commission during the Future of Iraq project, but the Coalition Provisional Authority (CPA) left before initiating a truth commission process. A truth commission mechanism is not primarily designed to create community, but it can be one part of a nation-building process that identifies historical myths. After all, truth commissions offer a way

to come to terms with the past, to reconstruct the social fiber of society, [which] is one of the most complex human endeavors. It is not just a rational intellectual exercise, but one that engages our deepest and most cherished notions of what it means to define ourselves and our memory, and to live in community and society.<sup>159</sup>

Weinstein and Stover have written that reconciliation without a truth commission process nevertheless requires a similar process. Iraqis will need to reconfigure their identity, revisit their prior social roles, search for common identification, agree about unifying memories—if not also myths, and enable the development of collaborative relationships if they are ever to achieve true reconciliation.<sup>160</sup>

Although a truth commission was explored for Iraq for the crimes committed pre-invasion, the mechanism was never implemented, in part because the CPA was under heavy criticism for failing to consult with the local population about its use.<sup>161</sup> The discourse on a possible truth commission to deal with Saddam-era crimes reflects a Western bias.<sup>162</sup> Talking about transitional justice in terms of Western notions of truth and reconciliation instead of applying principles found in Islamic law has given Iraqis a false sense of inferiority in the transitional justice context.<sup>163</sup> Iraqis have a common foundation in Islam where the values of reconciliation, truth-seeking, and compromise abound.

In specific circumstances, a truth commission can help achieve reconciliation by creating a space for dialogue about political violence committed by the state with the complicity of a relatively large segment of domestic society and internationals. Even before the onset of the latest war, international human rights organizations and Iraqis in exile discussed the idea of establishing a truth commission to confront the massive human rights abuses of the Saddam regime.<sup>164</sup> While there have been efforts to establish culpability for the crimes of the Saddam era, no authority has adequately addressed how crimes committed since the invasion will be handled. Iraqis will determine whether trials or some other form of justice will be used. It is likely that their decision will be based on Islamic principles of justice – even as the international community will try to rely on posited law in the form of the practice of states.

Whether through this kind of *Hijra*, a truth commission, or through *qazis*, Iraqis have the tools but not, at the moment, the necessary will to reconcile. To begin the process of generating the will, Iraqis from all walks of life should support the process of a national reconciliation dialogue that has already begun. In the process of the dialogue, it will be appropriate to continue the discussion about equitable oil revenue sharing, and as the Iraq Study Group recommended, send clear signals to Sunnis that they are involved in national life.<sup>165</sup> To commence this process, there could be an internationally-mediated peace deal.<sup>166</sup> In addition, the amnesty program must be complete. Any demobilization, disarmament, and reintegration program is bound to be a long-term process that will require broad international support. Since the Baker-Hamilton report recommended more engagement with Iraq's neighbors, regional talks have included reconciliation on the agenda. Against this backdrop, high-level national security figures from Iran, Jordan, Kuwait, Saudi Arabia, Syria, Turkey, and Iraq agreed to “support Iraqi reconciliation, a common objective that is inextricably linked to protecting their own national security interests.”<sup>167</sup>

Achieving reconciliation in Iraq is going to depend on a long-term commitment on the part of Iraqis, Americans, and other countries, particularly those in the region. Despite Bush's public endorsement of Prime Minister Nouri al-Maliki in early December 2006, the administration continued to have misgivings about his commitment to two basic issues central to stability: implementing a reconciliation program and disarming militias that are fueling the sectarian violence.<sup>168</sup> Whether Maliki is the right man for the reconciliation plan is a moot point. However, his plan and the recommendations from the Iraq Study Group do not go far enough to address all of the layers of reconciliation needed in Iraq today.

Local communities will need to discuss how reconciliation can best be achieved largely because each neighborhood is dealing with different circumstances. While

it would be best for these dialogues to be conducted after provincial elections, no structural impediment should stop individuals who seek local remedies from speaking out. Clearly, the risks of taking a non-violent approach are still too high. If and when non-violence is viewed by community members as the right approach, more Iraqis will feel comfortable contributing to their own reconstruction. Local communities may attempt implementing something like a *qazi* to handle lesser disputes if that will help bring neighbors together. Western advisors may not be well-placed to think about all the different mechanisms that Iraqis wish to try, but the international community should support them and trust that Iraqis know what is best for Iraq. Carlos Pascual, former Coordinator for Reconstruction and Stabilization at the U.S. Department of State, has recommended creating a regional fund to share the costs associated with refugees.<sup>169</sup> The international community should be open to these options if Iraqis want them.

It is no wonder that Americans are handing Iraqis an ultimatum regarding reconciliation.<sup>170</sup> The American plan has not worked. President Bush's new plan did not include three very important aspects of a potential solution to the problems in Iraq: there was no plan to bring about a political solution to the Sunni-Shi'ite divide; no firm commitment to provide economic relief to Iraq, where unemployment is reaching 60% in many areas; and no indication of how the U.S. plans to regain the confidence of the Sunni population who are resisting both the new Iraqi regime and U.S. occupation.<sup>171</sup> Despite the rhetoric about non-military solutions to the problems in Iraq, the surge is 99% military.<sup>172</sup> It is unfair and anti-democratic to ask Iraqis to meet the deadlines imposed by American priorities. Iraqis from all sides have voiced the same complaint.<sup>173</sup> Either America has an independent national interest for having troops in Iraq or it does not. If it does not have a strategic interest in being there, American troops should withdraw regardless of any achievements (or lack thereof) on the reconciliation front.

For too long, people assumed that Iran would not want major instability on its western border. However, as of January 2007, it seemed "at least as likely that Iran is willing to accept some instability in Iraq as a worthwhile price for a historic defeat of the United States, reducing America's influence not only in Iraq, but throughout the region."<sup>174</sup>

Carlos Pascual argued recently that there are three compelling reasons to negotiate with Iran and Syria. The first is so that the U.S. can "disabuse Iran of any belief it can drive us out of the region through a defeat in Iraq."<sup>175</sup> Secondly, talking would "at least marginally elicit greater help from some countries" in terms of troop deployment, accepting refugees, providing economic aid, etc.<sup>176</sup> Third, negotiations would provide the groundwork of a mechanism that may prove useful in the future when either the time is more ripe for a peace deal or when the civil war mutates into a broader regional conflict.<sup>177</sup> But no one should expect a regional negotiation to solve the war in Iraq.<sup>178</sup> "Americans out" and "regional players in" is the same problem that many young democracies face. The government becomes accountable to outsiders rather than the people who matter—Iraqis.

Only Iraqis can decide to reconcile on the individual, interpersonal, community and national levels. The international community can help by supporting mechanisms that Iraqis think will lead to greater cooperation and compromise

among the sects. If Iraqis need more economic support to help get fighters out of the street, then that should be the international priority as well. Recent efforts, like the “Iraq Compact” for reconstruction that was announced on March 17, 2007 by UN Secretary-General Ban Ki-moon and Iraqi Vice President Adel Abdul-Mahdi, reflect nearly a year of negotiation about Iraq’s reconstruction priorities.<sup>179</sup> The more that average Iraqis become invested in the process of nation building, the more likely it will be that reconciliation is realized, perhaps only on local levels at first, but, hopefully, ultimately at the national level.

### **Conclusion**

Over the last ten or fifteen years a focus on achieving reconciliation has become a priority for countries in transition around the world. Various states have taken a multitude of steps to promote reconciliation in their quests to achieve peace and stability. As has been noted by Sarkin and Daly, “reconciliation is a mechanism for dealing with the past that is forward-looking—constructive and transformative rather than punitive or retributive”.<sup>180</sup> To achieve reconciliation, amongst other goals, countries such as Burundi, Liberia, Morocco, Nigeria, Peru, Ghana, Sierra Leone, and Timor-Leste have recently had truth and reconciliation commissions.<sup>181</sup> A number of countries, including Fiji, Australia, Rwanda,<sup>182</sup> and the Solomon Islands, have ministries of reconciliation. Achieving reconciliation is usually an individual, community, and intra-state issue; however, reconciliation is also relevant between states and even between states and other international actors.<sup>183</sup> This is certainly the case in Iraq where the role of the U.S. is critical, as are the roles played by other international actors, including Iran and Syria.

Whether or not reconciliation is possible and which mechanisms will succeed depends on a myriad of factors. Certainly lessons can be learned from other country experiences, but they must be adapted. Attempting to simply copy or duplicate what has been done elsewhere cannot have the same result in a different context. While countries with similar conditions can often take a specific piece of legislation or policy and use it, the way it is introduced, explained, publicized and so on, will be different. It may, however, still fail simply because it is deemed to belong to another country or another context. Thus, each country needs to set its own agenda to deal with the past, move forward, and ensure reconciliation, by taking into account its history, socio-economic context and a range of other variables.

Reconciliation is possible in Iraq. This may be possible in the short term on the individual and inter-personal level through common idioms found in Islam. Long term reconciliation is possible at the community and national levels if the proper

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groundwork is laid by the free exchange of ideas among the people in a national dialogue. It seems clear that reconciliation is not as foreign a concept to Iraqis as many in the West would like to believe. However, it will be very difficult to achieve without a concerted and ongoing effort. The commencement of this effort is long overdue. The United States would best be served by making a lasting contribution towards a results-based reconciliation plan in Iraq, rather than by imposing a deadline for a reconciliation plan that lacks broad-based support. Of the tools available to promote the rule of law in countries transitioning out of conflict, a truth commission process is a useful tool to address a contested history. Through open dialogue, Iraqis can transform their society. Ultimately, the Iraqi people must design the appropriate reconciliation framework using shared idioms to confront aspects of Iraq's political history, without resorting to sectarianism.

## Endnotes

- 1 Kirsten Mcconnachie, Kieran Mcevoy, and Lesley Mcevoy, "Reconciliation as a Dirty Word: Conflict, Community Relations and Education in Northern Ireland" *Journal of International Affairs*, Fall/Winter 2006, (60) No. 1. 81.
- 2 Human Rights Committee of South Africa. *Human Rights Review South Africa 1993* (Braamfontein); Sarkin, Jeremy "The Development of a Human Rights Culture in South Africa" *Human Rights Quarterly* 20: 628 (1998); Sarkin, Jeremy, *Carrots and Sticks: The TRC and the South African Amnesty Process* (Antwerp: Intersentia 2004).
- 3 Iraq Body Count, available at <http://www.iraqbodycount.org/> (accessed March 19, 2007).
- 4 Documental Centre for Human Rights in Iraq; Steven Cass, "In Iraq, Civilian Deaths Have Fallen Since the Start of War", *Global Business Network* (April 2003), available at <http://www.gbn.com/ArticleDisplayServlet.srv?aid=2400&msp=1242> (accessed March 19, 2007).
- 5 BBC, March 19, 2007; ORB, March 18, 2007.
- 6 Adrian Karatnicky and Peter Ackerman, *How Freedom is Won: From Civic Struggle to Durable Democracy*, (Washington D.C. Freedom House 2005).
- 7 Archbishop Desmond Tutu, in *Reconciliation in Divided Societies: Finding Common Ground. Philadelphia*, Erin Daly and Jeremy Sarkin (Pennsylvania: University of Pennsylvania Press 2007).
- 8 In general, truth commissions seek to confront the past by compiling a factual record of the conflict, listening to and recording victims' stories, and recommending institutional changes that will prevent the recurrence of violence (Naomi Roht-Arriaza. "The New Landscape of Transitional Justice", in *Transitional Justice in the Twenty-First Century: Beyond Truth Versus Justice*, Naomi Roht-Arriaza and Javier Mariezcurrena eds. (Cambridge University Press 2006), 10).
- 9 BBC, March 19, 2007
- 10 Erin Daly and Jeremy Sarkin, *Reconciliation in Divided Societies: Finding Common Ground* (Philadelphia, PA: University of Pennsylvania Press 2007).
- 11 *Ibid.*, 44.
- 12 Judith Herman, *Trauma and Recovery: The Aftermath of Violence – From Domestic Abuse to Political Terror* (New York: Basic Books 1997), 41.
- 13 *Ibid.*, 156-157.
- 14 Daly and Sarkin(2007) 69.
- 15 *Ibid.*
- 16 *Ibid.*, 69-70.
- 17 *Ibid.*, 76.
- 18 *Ibid.*
- 19 Silvia Spring, "Fragile Calm in Mahmoudiya," *Newsweek Blog*, Oct. 24, 2007, available at <http://blog.newsweek.com/blogs/checkpointbaghdad/archive/2007/10/24/fragile-calm-in-mahmoudiyah.aspx> (accessed 11/30/2007).
- 20 *Ibid.*

- 21 Sarkin and Daly, 80.
- 22 Ibid.
- 23 Ibid., 81-82.
- 24 Ibid., 83.
- 25 Ibid.
- 26 Ibid., 87.
- 27 Ibid., 90.
- 28 Ibid., 96.
- 29 Ibid., 98.
- 30 Ibid.
- 31 Ibid., 99.
- 32 Ibid.
- 33 Ibid.
- 34 Ibid.
- 35 Ibid.
- 36 Ibid.
- 37 Ibid.
- 38 Ibid., 100.
- 39 Ibid.
- 40 Anthony Cordesman, "Iraq: Too Uncertain to Call," Center for Strategic and International Studies, November 14, 2003, 21
- 41 Bobby Ghosh, "Behind the Sunni-Shi'ite Divide," *Time*, Thursday, Feb. 22, 2007.
- 42 Mark Tran, "Iraq to Hold Reconciliation Talks", *The Guardian*, November 26, 2006; Bodeen, Christopher, "Iraqi Government Postpones Reconciliation Conference as Death Toll Climbs", *AP Worldstream*, October 15, 2006.
- 43 Robin Wright, "U.S. Considers Ending Outreach to Insurgents", *Washington Post*, December 1, 2006, A01; *Text of U.S. Security Adviser's Iraq Memo*, NY Times, November 29, 2006, at A10.
- 44 Iraqi Voices: Attitudes toward Transitional Justice and Social Reconstruction (International Center for Transitional Justice and the Human Rights Center at University of California Berkeley) Occasional Paper Series (May 2004) 40.
- 45 Ibid, ii.
- 46 The equivalent Arabic word for "reconciliation" is "musalaha." Some argue that Iraqis do not use the word often and usually understand the concept in terms of "trust and unity" (Iraqi Voices, 43).
- 47 Mussab Al-Khairalla, "PM Maliki urges tribal unity in Iraq", *Reuters*, August 27, 2006.
- 48 Ibid.
- 49 Majid Khadduri, *The Islamic Conception of Justice* (Baltimore: The Johns Hopkins University Press 1984), 14.
- 50 United States Institute of Peace, *Progress in Peacebuilding: The Work of the U.S. Institute of Peace* (March 2007), 10.
- 51 Eric Stover and Harvey Weinstein, *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity* (Cambridge: Cambridge University Press 2004).
- 52 Iraq is approximately 97% Muslim; Islam is the official religion in Iraq according to Basic Principles of the Constitution of Iraq, 15 October 2005.
- 53 The prophetic *Sunna* focuses on the behavior and discourse of Muhammad through his involvement in the political, military and religious affairs of the young Muslim polity during his twenty-three year ministry (Reuven Firestone, *Jihad: The Origin of Holy War in Islam* (New York: Oxford U.P. 1999), 99).
- 54 *Hadith* are stories about the words and deeds of the Prophet. They are the oral tradition of what the Prophet did during his lifetime.
- 55 Reuven Firestone, *Jihad: The Origin of Holy War in Islam* (New York: Oxford U.P 1999), 114.
- 56 Ibid.
- 57 Martin Lings, *Muhammad: His Life Based on the Earliest Sources*. (First published by George Allen & Unwin 1983, reprinted 1986, 1988. rev. ed. The Islamic Texts Society 1995), 119.

- 58 Firestone, 115.
- 59 Ibid., 53.
- 60 Ibid.
- 61 Ibid., 116. *See also, Hadith*; Revelation 2:217 in response to the raid of ‘Abdullah b. Jahsh in 624 C.E.
- 62 The institution of the mansab alludes to the rule of a man over a sacred enclave.
- 63 Serjeant, “Haram and Hawatah” in Firestone, 117, n. 60. The institution of the mansab has evolved over time and taken on different meanings, but this was its original usage.
- 64 Firestone, at 117.
- 65 Ibid., 118.
- 66 Generally *ummah* means “community.” With a capital letter as used here, “community of believers.”
- 67 Ibid.
- 68 Ibid.
- 69 Firestone, 119.
- 70 Lings, 59, 127.
- 71 Ibid., 127-128.
- 72 Firestone, 57, 120-121.
- 73 Ibid. This is particularly important in the present context of Iraq where the value of including everyone seems to go unnoticed.
- 74 Ibid., 121.
- 75 Ibid., 130.
- 76 Ibid., 122.
- 77 An idiom is a description that characterizes the style, manner, or set of inviolable rules belonging to a particular set of people.
- 78 Khadduri, 10.
- 79 Compare with Q.IV, 58.
- 80 Ibid. *See also, Q.III*, 100, 106, 110; IX, 72, 113; XXII, 42; XXXI, 16, and others.
- 81 Ibid., 11.
- 82 Khadduri, 49, at 79.
- 83 Id. al-Kindi was probably born in 185/801 and died in the 9<sup>th</sup> century (*Id.*, n. 1).
- 84 Ibid., 80.
- 85 Ibid.
- 86 *Muntakhab Siwan al-Hikma* [Selections from the Preserve of Wisdom] of al-Sijistani, in Khadduri, , at 81-82, n.6.
- 87 Mohammed Abu-Nimer, *A Framework for Nonviolence and Peacebuilding in Islam*, 15 Journal of Law and Religion 217 (2000-2001), at 233.
- 88 Ibid. *See also, (Q.V, 9): O you who believe, stand out firmly for God, as witnesses to justice and let not the enmity of others make you swerve from the path of justice. Be just: that is next to righteousness, and fear God. Indeed, God is well acquainted with all that you do.*
- 89 Compare this to the general principle in the Western tradition that precludes spousal testimony if it could be incriminating.
- 90 Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam since 1850* (New York: Routledge 2000), at 139.
- 91 Ibid., 140.
- 92 Ibid., 148.
- 93 More comparative work should be done between *qazis* and *gacaca* courts in Rwanda. At first glance, there seem to be many overlaps; looking at *gacaca* as implemented in Rwanda may offer guidance to Iraqis if they choose to resurrect *qazis* to promote reconciliation. *See e.g.,* Mark A. Drumbl, *Lessons for International Criminal Justice from Rwanda*, Washington & Lee Public Law and Legal Theory Research Paper Series, Working Paper No. 02-13 (December 2002), available at <http://ssrn.com/abstract=355300> (accessed December 4, 2006); Jeremy Sarkin, *The Tension Between Justice and Reconciliation in Rwanda: Politics, Human Rights, Due Process and the Role of the Gacaca Courts in Dealing with the Genocide*, 45 (2) Journal of African Law 143-172 (2001).



- 94 Juan R. I. Cole, *Roots of North Indian Shiism in Iran and Iraq: Religion and State in Awadh* (Berkeley: University of California Press 1988), 139.
- 95 Jalal, at 148.
- 96 Ibid.
- 97 Ibid., 150.
- 98 David Gilmartin, *Empire and Islam: Punjab and the Making of Pakistan* (University of California Press, 1988), 225.
- 99 Ibid.
- 100 Ibid., 226.
- 101 Ibid., 232-233.
- 102 Paper tiger sectarianism is best understood as having two operative elements. First, the powerful construct notions of social difference that are based on religious sect and are imposed on the weak through the state apparatus. The second operative element is the *acceptance or belief* on the part of the individual that these constructed identities are dispositive; the individual behaves along the lines of sectarian difference. Both elements must be satisfied for paper tiger sectarianism to be a description of a problem. In Iraq, these two elements are satisfied, which makes it a useful idea to describe problems there.
- 103 Michelle Maiese "Peacebuilding" available at <http://www.intractableconflict.org/m/peacebuilding.jsp> (accessed March 19, 2007).
- 104 John Paul Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, D.C.: United States Institute of Peace, 1997), 30
- 105 For a useful resource on an earlier period of the historical development of the Iraqi community see, William K. Polk, *Understanding Iraq* (New York: HarperCollins, 2005).
- 106 Elazar Barkan. "Symposium. Holocaust Restitution: Reconciling Moral Imperatives with Legal Initiatives and Diplomacy. Between Restitution and International Morality," *Fordham International Law Journal* (2001): 46-47.
- 107 Eric Davis, Ch. 3, "Nationalism, Memory, and the Decline of the Monarchical State" and "Conclusion," in *Memories of State: Politics, History and Collective Identity in Modern Iraq* () (Berkeley and Los Angeles: University of California Press, 2005) 55-81 and 271-183.
- 108 Benedict Anderson, "Imagined Communities: Reflection on the Origins of Nationalism" in *Memories of State: Politics, History and Collective Identity in Modern Iraq*, Eric Davis (Berkeley and Los Angeles: University of California Press, 2005), 75.
- 109 Davis, 72.
- 110 Ibid., 77.
- 111 Daly and Sarkin (2007), 248.
- 112 Eric Davis offers a more detailed analysis of the key events that helped consolidate Pan-Arab dominance of the process of nation-building. See Davis, 55-108.
- 113 Fouad Ajami, *The Foreigner's Gift: The Americans, the Arabs, and the Iraqis in Iraq* (New York: Free Press, 2006), 170.
- 114 Ibid.
- 115 Ibid., 171.
- 116 Ibid., 172.
- 117 Davis, *Memories of State*, 69.
- 118 Ibid., 78.
- 119 David Ignatius, "Dangers of the '80 Percent Solution," *Washington Post*, November 23, 2004, A29.
- 120 International Republican Institute, Press Release, "New Poll Finds Iraqis Favor Unity," <http://www.iri.org/mena/iraq/2006-07-19-IraqPoll.asp> (accessed March 14, 2007).
- 121 International Republican Institute, Press Release, "New Poll Finds Iraqis Favor Unity," <http://www.iri.org/mena/iraq/2006-07-19-IraqPoll.asp> (accessed March 14, 2007).
- 122 Marie Colevin, "Resilient Iraqis Ask What Civil War?" *The Sunday Times*, March 18, 2007.
- 123 Opinion Research Business Press Release, "Despite violence, only 26% preferred life under Saddam," March 7, 2007, [http://www.opinion.co.uk/Newsroom\\_details.aspx?NewsId=67](http://www.opinion.co.uk/Newsroom_details.aspx?NewsId=67) (accessed March 18, 2007).

- 124 James Fearon, "Iraq's Civil War," *Foreign Affairs* 86(2) (March/April 2007): 2-16.
- 125 Peter Grier, "US task: fight to end four wars in Iraq," *Christian Science Monitor*, February 27, 2007.
- 126 Peter W. Galbraith, "The Surge," *The New York Review of Books*, Vol. 54, No. 4, March 15, 2007.
- 127 Ibid.
- 128 Zalmai Kalilzad, "A Shared Stake in Iraq's Future," *Washington Post*, March 3, 2007, A15.
- 129 "Al-Maliki calls for regional meeting on March 10," *Reuters*, March 1, 2007; Edward Wong, "Iraqis Reach Accord on Oil Reserves," *New York Times*, February 27, 2007.
- 130 "Maliki open toward any side join reconciliation," *Al-Sabaah*, May 15, 2007.
- 131 Iraq Memory Foundation, "Oral History on Film Project," [http://www.iraqmemory.org/en/Projects\\_OralHistory.asp](http://www.iraqmemory.org/en/Projects_OralHistory.asp) (accessed May 15, 2007).
- 132 Ibid.
- 133 Daly and Sarkin (2007), 41-42.
- 134 International Crisis Group, "After Baker-Hamilton: What to do in Iraq," *Middle East Report* No. 60 (December 19, 2006): 13.
- 135 Ibid., 14.
- 136 Ibid. The definition of "federalism" in Iraq has been a contentious issue since independence. The dominant (Kurdish-SCIRI) notion is to allow for a Shi'ite region in the south in addition to the Kurdish region in the north (Id.). Other Shi'ite parties (e.g. al-Fadhila) and Sunni Arab parties have accepted the Kurdish region at the pre-2003 boundary but reject additional regions (Id.). The Sadristis oppose any federalism conceived during a period of foreign occupation (Id.).
- 137 "Pessimism 'growing among Iraqis'," *BBC News*, March 19, 2007, [http://news.bbc.co.uk/2/hi/middle\\_east/6464277.stm](http://news.bbc.co.uk/2/hi/middle_east/6464277.stm) (accessed March 19, 2007).
- 138 "Pessimism 'growing among Iraqis'," *BBC News*, March 19, 2007, [http://news.bbc.co.uk/2/hi/middle\\_east/6464277.stm](http://news.bbc.co.uk/2/hi/middle_east/6464277.stm) (accessed March 19, 2007).
- 139 Daly and Sarkin (2007): 100.
- 140 Bobby Ghosh, "Behind the Sunni-Shi'ite Divide" *Time Magazine*, Feb. 22, 2007.
- 141 Aparisim Ghosh, "An Eye for an Eye," *Time Magazine*, February 26, 2006.
- 142 Bill Roggio Blog, "Dome of the Golden Mosque Destroyed," The Fourth Rail: History, Politics, and the War on Terror, February 22, 2006, [http://billroggio.com/archives/2006/02/dome\\_of\\_the\\_golden\\_m.php](http://billroggio.com/archives/2006/02/dome_of_the_golden_m.php) (accessed May 15, 2007); "Iraq holds 'key al-Qaeda figure,'" *BBC*, September 3, 2006; Bill Gertz, "U.S. General Calls al-Qaeda 'public enemy No. 1' in Iraq," *The Washington Times*, April 27, 2007.
- 143 Ibid. 144.
- 144 UNESCO In the Spotlight, February 28, 2006, <http://unesco-science.blogspot.com/2006/02/rebuilding-mosques-in-iraq.html> (accessed February 7, 2007).
- 145 Ismael Zabeeh, "Iraqi Government Declares Plans to Rebuild Samarra Shrine," *Jafariya News*, November 10, 2006.
- 146 "Technical Supervision of urgent intervention works, final restoration project of Al-Askari Shrine in Iraq," PortAl Iraq, April 30, 2007, [http://www.iraqudates.com/p\\_articles.php/article/16915](http://www.iraqudates.com/p_articles.php/article/16915) (accessed May 15, 2007).
- 147 Lauren Frayer, "Suicide Bomb Collapses Baghdad Bridge," *The Guardian*, April 12, 2007, <http://www.guardian.co.uk/html> (accessed May 15, 2007).
- 148 Confidential communication (on file with author), April 15, 2007.
- 149 Frayer, 149.
- 150 Ibid.
- 151 Information from Occupied Iraq, <http://www.uruknet.de/?p=32082> (accessed May 15, 2007).
- 152 In Bosnia, UNESCO helped reconstruct the Mostar bridge to help reunite Bosnians, Serbs and Croats: "Heritage: Mostar, A Bridge to Peace," [http://portal.unesco.org/en/ev.php-URL\\_ID=2060&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=2060&URL_DO=DO_TOPIC&URL_SECTION=201.html) (accessed May 15, 2007).
- 153 Santa Michael, "Political, Cultural figures agree on selecting October 3<sup>rd</sup> as Iraq's national day," *Voices of Iraq*, May 14, 2007.
- 154 Ibid.

- 155 The United States Institute of Peace, a non-government, Congressionally-funded NGO has pursued many such projects. United States Institute of Peace, "Progress in Peacebuilding: The Work of the U.S. Institute of Peace" (March 2007): 9-12.
- 156 Confidential email communication, May 16, 2007 (on file with authors).
- 157 Alissa J. Rubin, "18 Iraqi Government Workers Kidnapped," *New York Times*, March 2, 2007.
- 158 Jeremy Sarkin, "Reparation for Past Wrongs: Using Domestic Courts around the World, especially the United States, to Pursue African Human Rights Claims," *International Journal of Legal Information* 32, 2 (2007): 339 and Jeremy Sarkin, "Holding Multinational Corporations Accountable for Human Rights and Humanitarian Law Violations Committed During Colonialism and Apartheid: An Evaluation of the Prospects of such Cases in Light of the Herero of Namibia's Genocide Case and South African Apartheid Cases being brought in the United States under the Alien Torts Claims Act," in *Bedrijven en Mensenrechten* Brems, eds. E. & Van Der Heede, P. (Antwerp: Maklu), 174.
- 159 Roht-Arriaza, "Transitional Justice in the Twenty-First Century," 13-14.
- 160 Stover and Weinstein, *My Neighbor, My Enemy*, 18.
- 161 International Center for Transitional Justice, "Iraq," <http://www.ictj.org/en/where/region5/564.html> (accessed October 19, 2006).
- 162 Daniel J. Hendy, *Is a Truth Commission the Solution to Restoring Peace in Post-Conflict Iraq?*, 20 Ohio St. J. on Disp. Resol. 527 (2005).
- 163 During the first meeting of the U.S. Department of State's Future of Iraq Conference on July 9, 2002, one Iraqi jurist commented that Iraq does not have much history with truth and reconciliation. Report of the Future of Iraq Project, Transitional Justice Working Group, First Session July 9 and 10, 2002 (*partially declassified*), 4.
- 164 Stover and Weinstein, *My Neighbor, My Enemy* 245.
- 165 Iraq Study Group Report, 65.
- 166 Carlos Pascual and Larry Diamond, "A Diplomatic Offensive for Iraq," Policy Brief #162, The Brookings Institution, June 2007.
- 167 The Marmara Declaration: Iraq and Its Neighbors Dialogue (meeting in Istanbul 21-23 March 2007 hosted by the United States Institute of Peace (USIP) and the Center for Eurasian Strategic Studies (ASAM)), [www.usip.org/iraq/marmara\\_declaration.pdf](http://www.usip.org/iraq/marmara_declaration.pdf) (accessed May 15, 2007).
- 168 Robin Wright and Peter Baker, "Iraq's Strategy Review Focusing on Three Main Options," *Washington Post*, December 9, 2006, A01.
- 169 Carlos Pascual, "Regional Diplomacy Potential," *Washington Times*, January 21, 2007, B03.
- 170 Helene Cooper and David E. Sanger, "Iraqis' Progress Lags Behind Pace Set by Bush Plan," *New York Times*, March 15, 2007. This article discusses the "notional political timeline" that includes arguably the hardest four issues for Iraqis to reach a compromise on: an oil law regulating distribution of oil revenues and foreign investments in oil; reversal of the de-Ba'athification laws; holding local elections; and constitutional reform.
- 171 Muqtedar Khan, "To 'Save Iraqi Democracy', Bush's War Will Target Shi'ites Too," *The News Journal*, January 11, 2007.
- 172 "Ranting at Reality on Iraq," New York Times Editorial, *New York Times*, April 26, 2007.
- 173 Ibid.
- 174 Carlos Pascual, "Regional Diplomacy Potential," *Washington Times*, January 21, 2007, B03.
- 175 Ibid.
- 176 Ibid.
- 177 Ibid.
- 178 Ibid.
- 179 Negotiations for the compact were launched in late July 2006. (United Nations Press Release, "United Nations and Iraq Jointly Announce Launch of Five-Year International Compact Aimed at Achieving National Vision of United, Federal, Democratic Country" (27 July 2006), <http://www.un.org/News/Press/docs/2006/ik552.doc.htm>); "Iraq Reconstruction Plan Revealed," ITV, 17 March 17, 2007, [http://www.itv.com/news/world\\_cb7d12f9add3ac5884bff2c18d083847.html](http://www.itv.com/news/world_cb7d12f9add3ac5884bff2c18d083847.html) (accessed March 17, 2007).

- 180 Jeremy Sarkin and Erin Daly, "Too Many Questions, Too Few Answers: Reconciliation in Transitional Societies," *Columbia Human Rights Law Review* 35 (2004): 693.
- 181 *Ibid.*, 101-168.
- 182 Jeremy Sarkin, "The Tension Between Justice and Reconciliation in Rwanda: Politics, Human Rights, Due Process and the Role of the *Gacaca* Courts in Dealing with the Genocide," *Journal of African Law* 45, 2 (2001): 143; Jeremy Sarkin, "The Necessity and Challenges of Establishing a Truth and Reconciliation Commission in Rwanda," *Human Rights Quarterly* 21, 3 (1999): 767; Jeremy Sarkin, "Preconditions and Processes for Establishing a Truth and Reconciliation Commission in Rwanda: The Possible Interim Role of *Gacaca* Community Courts," *Law, Democracy and Development* (1999): 223.
- 183 Jeremy Sarkin and Guilia Dalco, "Promoting human rights and achieving reconciliation at the international level (Part 1)," *Law, Democracy and Development*, 2006 (1): 69-99; Jeremy Sarkin and Guilia Dalco, "Promoting human rights and achieving reconciliation at the international level (Part 2)," *Law, Democracy and Development*, 2006 (2) (forthcoming).