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## **UNAMI OCS Commentary on the Constitutional Review Committee's Draft Report**

### Summary

1. This commentary is based upon the draft Constitutional Review Committee ('the Committee') report dated 23 May and described by the Presidency of the Committee (Sheikh Hummam Hammoudi - UIA, Dr. Iyad Sammarrai - Tawafuq, and Dr. Fuoad Massoum – Kurdistan Alliance) in an address to the Council of Representatives (CoR) on this date. It is understood from the address of the Presidency, that the Committee has settled the majority of the contentious issues and only plans to make minor changes to the drafting language of the report prior in its formal submission. It is also understood that the one-month extension to the Committee's mandate will allow it to address the outstanding issues upon which it was not possible to reach consensus, including Article 140 (disputed territories) and Article 73 (powers of the Presidency).<sup>1</sup>
2. The draft Committee report recommends amendments that include adding 15 new articles, reformulating 30 articles, improving the textual formulation of 20 articles, and adding new sections on the Upper House of Parliament or Federation Council (17 Articles), Independent Institutions (12 Articles), and the Judiciary (19 Articles). Most importantly, the report contains a number of proposed amendments, which if ultimately adopted, could represent a major breakthrough from a standpoint of a functional Iraqi state.
3. These include addressing the power of taxation, providing the federal government with the ability to pass laws regulating national institutions, establishing a principle of the national collection and distribution of oil and gas revenues, providing guarantees for the regions and governorates on the distribution of revenues, and providing federal law with priority over regional law with respect to the shared powers of water, customs, ports, and oil and revenue sharing.

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<sup>1</sup> Since the draft report was delivered to the CoR, however, there have been indications of Kurdish reservations over some aspects of the report, specifically with regard to the treatment of natural resources and the division of powers between the federal and regional governments. We believe it is important to stress the trade offs and long term benefits of balanced amendments in the draft report. These benefits, however, can only be realized if all groups adopt and support them.

4. The proposed amendments to the oil and gas related provisions are particularly significant. By establishing a constitutional principle for the federal government to collect and fairly and automatically distribute oil and gas revenues<sup>2</sup> the Committee has gone some way to providing a financial foundation for the Iraqi state. Combined with the Committee's recommendation to provide for the paramountcy of federal legislation on hydrocarbons and revenue sharing, the Committee has eliminated a constitutional loophole that could permit oil producing regions to opt out of participating in national revenue sharing. This will help to ensure an equal standard of public service delivery for all Iraqis. The proposed change in paramountcy also removes a major source of political risk for potential investors in the sector.

5. The Committee's selective amendment of the paramountcy provisions of Article 115 on water, customs, ports, and oil and revenue sharing does not provide for the comprehensive rethink of the complex way in which powers shared in modern federal systems that UNAMI OCS recommended, but are nonetheless significant. Providing the federal government with a power to legislate on national institutions established by the Constitution could help to avoid disputes of the type which held up the passage of the Independent High Electoral Commission Law earlier this year. Similarly, giving the federal government the power to legislate over areas of the Constitution where a national law is implied could potentially enable the federal government to play the type of coordinating role within Iraq's federal system that UNAMI OCS has advocated for.

6. These real and important advancements should however not obscure the areas that the Committee did not address, or only addressed incompletely. The Committee did not remove the reference to "governorates not incorporated into regions" contained in Article 115, leaving in place a major internal contradiction within the Constitution with respect to the status of governorates. The Committee also only incompletely addressed in Article 8 providing the federal government with a power to implement international treaty obligations signed by Iraq. The Committee did not take up the issue of providing mechanisms to govern the transformation from governorate to region, despite substantial commentary from UNAMI OCS on the need to do so in order to avoid a breakdown in government services during this transition.

7. Finally, the Committee only made limited changes to the Constitution's Human Rights Chapter, failing to amend the highly contentious issues around personal status (Article 41) and recognition of minorities (Article 125). This is despite the Committee receiving an extensive commentary on the Human Rights Chapter from UNAMI OCS as well as a combined human rights submission from UNIFEM, UNESCO and UNICEF. It should also be noted that while the Committee actively engaged with Iraq's political leadership during its deliberations, both its engagement with civil society and its public submissions process were relatively limited.

8. At this point it is worth giving consideration to how the CoR will handle the Committee's report and how any amendments passed by the CoR would be presented to the Iraqi people in a referendum. When considering the procedural options, the aim

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<sup>2</sup> Crude oil export revenues account for 93% of forecast revenues in the 2007 Iraqi Budget.

should be to design a process which not only strives to create consensus within the CoR, but most importantly, also creates the conditions for a consensual endorsement of any resulting constitutional referendum.

9. For these reasons outlined above, UNAMI OCS believes that maintaining the Committee's recommendations as a single package of amendments offers the greatest opportunity to achieve this outcome. We therefore recommend that the CRC present its final report to the CoR as a single set of amendments; the CoR conduct a single yes or no vote on a package of amendments<sup>3</sup>; and that the Iraqi electorate be presented with a single, all embracing, and widely endorsed single proposal of amendments for acceptance or rejection.

10. The remainder of this commentary provides a detailed analysis of the Committee's draft formulations with respect to those areas which UNAMI OCS made submissions to the Committee. These include federalism, fiscal federalism and wealth sharing, the federation council, independent institutions, the judiciary, human rights, and Article 140.

### Federalism

11. The proposed amendments by the Committee to Articles 110 and 115 are welcome additions that have the potential to enable the federal government to play a coordinating role within Iraq's federal system. The necessity for the federal government to play a coordinating role if the whole system is to function is because of, not in spite of, the high degree regional autonomy contained in Iraq's federal system.

12. The changes proposed by the Committee include an expansion of the list of exclusive powers for the federal government to a range of new areas including: auditing federal government accounts, federal elections, federal educational institutions, the federal power system, federal railways, pension fund, state liabilities, quality control, regulating work and safety standards in the oil fields and mines, protection of environment, national surveys, national and international highways, nuclear power, and regulating civil and international aviation.

13. Many of these powers are typically exercised by central governments in federal systems worldwide and reflect areas where a single region cannot manage the power efficiently or effectively on its own or where the exercise of the power by one region could seriously disadvantage another region or governorate. A clear example in this respect is environmental policy, where the actions of one region could clearly affect neighbouring regions. However, while UNAMI OCS supports centralizing regulation over these areas, we recommended doing so by making these competencies shared powers under Article 114 with federal priority. By making them exclusive federal

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<sup>3</sup> This is not meant to exclude extensive debate, consideration and modification to the CRC's recommended package of amendments by the CoR, but rather to ensure that the final vote is done on a single package rather than amendment by amendment.

powers under Article 110 the CRC has precluded any regional regulation, which may be overly restrictive in some instances<sup>4</sup>.

14. The proposed changes to Article 110 also include providing the federal government with an ability to implement as well as formulate policy in certain areas, adds a power of taxation, and provides the federal government with the ability to enact legislation to regulate those national institutions established by the Constitution. The addition of a power to tax to Article 110 addresses an omission from the original Constitution, although UNAMI OCS would have preferred that the taxation powers referred to in Article 110 should be clearly limited to federal taxes and charges in order to avoid precluding regions, governorates, and local governments from initiating appropriate local taxes and charges. Providing the federal government with a power to legislate on national institutions established by the Constitution is logical, and along with the Committee's proposals on Independent Institutions, could help to avoid the type of disputes that arose around the Independent High Electoral Commission Law from arising with the establishment of each institutional called for by the Constitution.

15. Finally, under Article 115 the Committee has adopted a more nuanced approach to the handling of those powers shared between the federal government and the regions. Paramountcy for those shared powers contained in Article 114 remains with the regions with new exceptions of 114.1 (customs), 114.7 (water) and 114.8 (shared harbours). The Committee's proposal recognises that the sharing of powers between national governments and sub-national units within modern federal systems is an inherently complex issue which cannot be solved by any one simple rule. UNAMI OCS recommended an approach of adding a new list of shared powers or providing a role for the Federation Council in determining paramountcy for wider range of powers shared between the federal government and the regions. The Committee chose not to accept this formulation, which we believe would have helped to address regional anxieties over central government domination. Nonetheless, we believe the Committee's proposals on Article 115 are a positive step with respect to a functional Iraqi federal system and should be supported.

16. There are, however, remaining gaps within the Constitution's federal architecture which the Committee was unable to address. The Committee did not remove the reference to "governorates not incorporated into regions" contained in Article 115. This leaves in place the major internal contradiction within the Constitution's schema for the governorates not organised into regions. Article 122 treats the governorates primarily as administrative units of the federal government while Article 115 continues to treat governorates as co-equal to regions in terms of autonomy. This is a confusing contradiction that should be clarified.

17. The addition to Article 8 to the effect that Iraq shall "respect the signed international agreements and protocols if they are not contradicting with this constitution" is a

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<sup>4</sup> In its recommended changes to Article 110, the Committee appropriately recognises that these powers should be exercised in agreement with related governorates (and regions) although it is not clear what this would mean in practice.

welcome addition but would not appear to be sufficient to permit federal government implementation of international treaty obligations. This could have future implications should Iraq wish to join international organisations such as the World Trade Organisation. It would be prudent to add to Article 110 the power of the federal government the power to implement international treaty obligations.

18. Finally, the Committee's proposal does not address the transformation from governorate to region<sup>5</sup>. This is despite substantial commentary from UNAMI OCS on the need to establish mechanisms in order to avoid a breakdown in government services during this transition. The Iraqi Kurdistan Region developed the capacity to effectively manage its own autonomy over a 15-year period. The Constitution, as well as the Law on the Executive Procedures to Form Regions, envisages the process of new region formation occurring overnight. UNAMI OCS continues to recommend that the Constitution should require minimum standards (a ratified constitution, functional legislature, and transparent budgeting) for regions to assume autonomy in order to ensure that newly formed regions are able to deliver critical services to their citizens. The Iraqi Kurdistan Region already meets these criteria.

#### Fiscal Federalism and Wealth Sharing

19. Arrangements to manage the oil and gas sector are the centrepiece of how fiscal federalism, and by extension federalism more broadly, will function in Iraq. In order to generate economic growth and job creation in Iraq, the constitutional arrangements governing oil production and wealth sharing should be clear and comprehensive. The draft recommendations made by the Committee in its report provide an important advancement towards achieving this objective and are a significant accomplishment.

20. The proposed amendments to Article 111 provides for the national collection and fair distribution of oil revenues through the budget law in a transparent and fair way in accordance with the population distribution contained in the governorates. It also provides for budget transfers to be distributed to regions and governorates "automatically through an effective and transparent mechanism". These are perhaps the two single most important amendments proposed by the Committee.

21. If implemented, the Committee's proposed changes could help to ensure that the federal government and oil-poor regions and governorates have the financial resources to deliver an equal standard of services to their populations. While the proposed amendments to Article 111 represent a step forward to this goals, UNAMI OCS continues to recommend that the Constitution should also establish a principle that all levels of government, federal, regional and governorate, be provided with the guarantee of

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<sup>5</sup> The major exception to this is the Committee's Judiciary proposals which set up mechanisms for (i) the continuation of federal courts until the establishment of regional ones and (ii) the delegation of judicial powers between the federal and regional judicial institutions. UNAMI OCS would recommend that similar arrangements be contemplated in other areas of governance including staff, facilities and line ministry responsibilities in the areas of health, education, public services, police, etc.

financing necessary to fulfill the responsibilities assigned to them by Articles 110, 114 and 115 of the Constitution.

22. The proposed transparent revenue distribution mechanism contained in Article 111 addresses the legitimate concerns of the regions about receiving their share of revenues in a timely and automatic fashion. The Committee may wish to strengthen the language contained in the proposed language on the revenue distribution mechanism in line with the recommendations made by UNAMI OCS. Namely, this clause could prohibit the delay of budgeted revenue transfers unless agreed to by the affected party.

23. The new Article 112 provides for joint federal and regional management of oil and gas operations and the joint formulation of the strategic policies necessary to govern the sector. This formulation reflects an intent to recognise both levels of government's legitimate interests and role in the development of the sector.

24. This new formulation of Article 112 also drops the current Constitution's distinction between present and future fields. In its place the CRC could consider a more explicit statement of the right of regions to develop and manage oil resources within their territory. In doing so the Committee would separate development of the oil sector (strong regional role) from what happens to oil revenues (collected and distributed nationally). Regional development responsibility would likely be with respect to undeveloped oil assets and be subject to national coordination in appropriate areas such as the development of oil fields which span regional boundaries, the sharing of national production quotas, access to pipelines and export infrastructure, and the setting minimum contracting standards in order to prevent a "race to the bottom" among regions seeking to attract investment.

25. Finally, the proposed amendments to Article 115 provide federal law paramountcy with respect to the revenue sharing and oil laws. This is a significant change as it precludes the possibility of oil producing regions opting out of national revenue sharing and removes a potential source of political risk for those Iraqi and international investors considering investing capital in the oil sector. Such a change would thereby enhance the value and stability of any compromises attained in the Hydrocarbon Law and Revenue Sharing Law negotiations.

26. The focus on capturing the enormous potential of Iraq's oil sector should now shift to the implementing legislation required by these articles. In keeping with the principles established by these two articles, these laws should be developed and agreed to between the federal government and the regions. The hydrocarbon law should reflect the region's legitimate interest in developing oil assets within its territory while providing for national coordination in the appropriate areas identified above. Similarly, the revenue sharing law should ensure that all levels of government, federal, regional and governorate, are provided with the guarantee of financing necessary to fulfill the responsibilities assigned to them by Articles 110, 114 and 115 of the Constitution as well as establishing the transparent revenue distribution mechanism called for by the proposed amendments to Article 111.

## Federation Council

27. UNAMI OCS believes that the Federation Council, by serving as a body of the regions and governorates, could be one of the institutions that serves as the ‘glue’ that holds Iraq’s federal system together. The Committee’s proposal to enshrine this body within the Constitution is therefore an important decision. The design of the Federation Council, as proposed by the Committee, however diverges from the UNAMI OCS recommendations in some important respects. The proposal allocates four seats in the Federation Council to each governorate, irrespective of whether or not that governorate is organized into a region<sup>6</sup>. This formulation suggests a desire to give the governorates a political voice, despite the fact that the Constitution largely treats them as administrative units<sup>7</sup>. By the same token, the proposal appears to reflect the recognition that at least some governorates will retain their current status in the short and intermediate term. The equal weighting of seats across governorates goes against UNAMI OCS’ recommendation to assign greater weight to regions. The Committee’s proposal does not contain textual references to criteria that would protect diversity within the Council, as recommended by UNAMI OCS, however the allocation of four seats per governorate leaves some room for this to occur in practice.

28. Another central feature of the CRC’s proposal is that members of the Federation Council would be directly elected from the governorate population by secret ballot. UNAMI OCS had recommended an indirect method of selection, whereby the regional or governorate councils would choose members, on the basis that this would lead to a better representation of regional interests and thereby bring the regions and governorates into co-responsibility for management of the federal government. Direct elections, in contrast, risks the creation of a ‘mirror’ of the lower house where personal and political party interests subsume genuinely regional interests. The advantage of the CRC’s formulation, of course, would be its contribution to a stronger democratic element in the emerging Iraqi federalism. Lastly, the powers of the Federation Council are quite sweeping, in that the institution has the competency to propose and consider draft laws “related to” regions and governorates not organized into a region. While this provision undoubtedly gives the regions and governorates a meaningful voice, the vague threshold, without further calibration or definition, could give rise to political or legal disputes.

## Independent Institutions

29. The CRC’s establishment of a role for independent institutions within Iraqi federalism is in itself a significant achievement; however the text continues to raise some concerns with respect to the degree of their independence. Draft Article 1 names five commissions, the High Commission for Human Rights; the Central Bank of Iraq and the Board of Supreme Audit, as “financially and administratively independent.” However, this independence is qualified by the CRC’s proposal to subject all commissions to

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<sup>6</sup> Baghdad would be the exception and would receive eight seats. The draft report also guarantees minority representation by reserving a certain number of seats (to be determined by law) for minority communities.

<sup>7</sup> With the exception to the reference to governorates contained in Article 115 as described above.

“monitoring” by either the upper or lower house (Draft Article 5).<sup>8</sup> The phrase “subject to monitoring” entails a risk of undue influence, particularly when combined with the proposed termination clauses in draft Article 12, which permit the upper and lower house to dissolve commissions by a two-thirds majority. For this reason, UNAMI OCS had argued for the removal of the reference to parliamentary monitoring.

30. Similarly, the CRC proposes, in draft Article 7, that “the federal government and regional governments *shall support* the independent commissions ... taking in[to] consideration [their] independency and neutrality.” It is not clear what the term “support” implies. If it implies any degree of policy direction, it would be inappropriate. On the other hand, if it suggests efforts to uphold or ensure the independence of these institutions this would be appropriate and the language should be clarified. Draft Article 6 requires that independent commissions submit regular budgets to the Council of Representatives and that they report on their activities to the Council of Representatives or Federation Council at least annually. In themselves, the draft Article 6 requirements would not necessarily jeopardize the independence of the respective institution. However, the aggregate effect of parliamentary “monitoring,” federal and regional “support,” as well as regular “reporting” may, in practice, impose undue constraints on the idea of independence.

31. Lastly, draft Article 8 grants independent institutions “the right to open branches in all regions and governorates not organized in a region to facilitate performing their tasks.” This provision would require further clarification of the jurisdiction of such institutions in the regions, the extent to which they are authorized to function autonomously from the ‘parent’ institution in Baghdad, both with respect to policy direction and staffing; and whether regions or governorates can open parallel offices or whether some variant of federal priority would apply. The Committee’s addition to the federal government’s list of exclusive powers of a power to legislate with respect to national institutions established by the Constitution implies that federal priority may indeed apply.

### Judiciary

32. The CRC has constructively elaborated on the constitutional provisions governing the judiciary. In particular, it has emphasised and strengthened the independence of the judiciary, by prohibiting the interference of any entity in the judicial work. Draft Article 2 specifies that the only authority to which an Iraqi judge is subject is that of the law. By the same token, UNAMI OCS would suggest that the proposed ban on the judiciary to participate on any political activity should be extended to public prosecutors, who are normally considered to be part of the judicial authority. Moreover, the proposed text appropriately limits the jurisdiction of military courts to crimes committed under

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<sup>8</sup> Commissions that are proposed to be monitored by the Federation Council include the High Commission for Human Rights; the Independent Electoral High Commission; the Commission on Public Integrity; and Independent Public Commissions to audit and appropriate federal revenues. All remaining commissions will be monitored by the Council of Representatives.



applicable military law and by members of the military or security forces (draft Article 16).

33. The proposal by the CRC gives the Higher Judicial Council (HJC) the status of a fully independent body, which includes the powers to prepare the HJC's budget and to supervise its implementation and administration (draft Article 4). The proposed text further specifies that there will be regional representation by the heads of Regional Judicial Councils on the HJC. This step is a welcome development that UNAMI OCS had recommended to the CRC. Regional representation on the HJC would give the regions the ability to be heard at the national level, and it would make it more likely that there would be regional representation in the federal judicial institutions.

34. The CRC has further proposed that the name of the Federal Supreme Court be changed to the "Federal Constitutional Court," driven by the idea that it would predominantly settle cases of a constitutional nature (draft Article 6). However, the draft remains unclear on how it would be determined which cases involve a constitutional challenge. For example, does a case that is predominated by non-constitutional issues go to the Federal Constitutional Court if there is a small constitutional question? And what happens if a constitutional question arises during a case? Is it then transferred to the Federal Constitutional Court? Without further clarification, this omission could lead to a conflict of jurisdictions between the Federal Constitutional Court and the Federal Court of Cassation, which has the mandate of hearing cases that are not based on a constitutional conflict (particularly under draft Article 10 Fourth). Presumably, the Federal Constitutional Court would develop, as part of its own code of procedure, a screening mechanism for hearing applications and would reject those cases which, in its interpretation, raise not constitutional question. At a minimum, however, it would be important to clarify jurisdictions between the two courts in the constitutional text.

35. The draft report adds a provision that makes all judicial decisions issued according to law executable in all regions and governorates. This is a welcome addition that will contribute to the harmonization of the judiciary throughout Iraq. It may be desirable, however, to outline minimum standards for a valid judgment or decision in order to limit the potential for one jurisdiction to argue that the decision rendered in another jurisdiction was not "according to law." This would be particularly significant with respect to an Islamic dimension of judicial rulings.

36. Lastly, the CRC's proposal also addresses the transitional period relating to the formation of regional judicial institutions, by permitting (i) the continuation of federal courts until the establishment of regional ones (draft Article 13.1); and (ii) the delegation of judicial powers between the federal and regional judicial institutions (draft Article 13.2), which would help to fill a potential legal vacuum in case of emergencies or disasters. UNAMI OCS strongly welcomes this proposal as a safeguard of continuing judicial and administrative capacity in those governorates who aspire to transition to regional status.

#### Human Rights

37. The human rights guarantees contained in the Iraqi constitution are already among the strongest in the Arab region, however a number of important rights and guarantees are either incompletely addressed or would benefit from technical improvements to bring them into line with international standards. Most notably, several rights remain limited by overly broad internal limitations: Article 38 (freedom of expression) may be limited by “public order and morality” and Article 17 (right to privacy) may be limited by “the rights of others and public morals”. Such qualifications should be removed and all limitations of rights should be evaluated through Article 46 (the general limitations clause).

38. The CRC’s draft report makes several important modifications to the human rights chapter. The reformulation of Article 21 (refugee rights) would broaden the grounds for the grant of political asylum in Iraq. Under the new formulation, only those convicted of “international or terrorist crimes” would be denied political asylum, permitting the grant of asylum to those accused but not yet convicted of such acts. No clarity has been offered on the definition of ‘international or terrorist crimes’; similarly the reformulation could consider incorporating the important international refugee law principle of non-refoulement into Iraqi law.<sup>9</sup>

39. Articles 25, 26 and 27 deal with the organization of the Iraqi economy, and the CRC has rightly proposed that they be moved to Section One of the Constitution. The proposed modification to Article 34 (education rights) would make both primary and intermediate education mandatory in Iraq, however the committee could also consider adding a guarantee of the right of education in one’s official language of choice. Such a clause would be a positive step forward from the perspective of minority rights.

40. Although it falls outside Section Two, the CRC’s proposed modification to Article 8 (international agreements) would have an important impact on human rights in Iraq. The proposed modification would bind Iraq to respect the international agreements it is party to inasmuch as they are not ‘contrary to the constitution’. This proposed modification would be a welcome development, as it would bring a number of international human rights agreements into force within Iraq.

41. There were also areas where the CRC was unable to reach consensus on any potential amendments. This includes Article 41 (personal status), one of the most contentious articles in the human rights chapter. A number of national and international groups made submissions on this Article, the content of which will not be repeated here. In engaging on this issue, the CRC should attempt to reach modified formulation of Article 41 that more fully protects right of individuals to choose the personal status regime under which they will be governed. Certain minority groups, most notably the Shebak and Yazidis, will also be disappointed that they have not been explicitly added to Article 125, which gives a degree of autonomy to all Iraqi minorities.

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<sup>9</sup> Non-refoulement is a term of art meaning that refugees will not be expelled back to the country they are fleeing.

42. Finally, the Iraqi constitution lacks a right of access to information, and the CRC has not proposed that one be included. Free access to information is essential for safeguarding rights, exposing government corruption and maintaining the health of a democracy. By including such a right in their final recommendations the CRC could still make a major improvement to the text.

#### Article 140

43. The CRC notes in the conclusion to its report that disputes remain around three to five articles, most critically including Article 140. UNAMI OCS believes that when considering potential amendments to the Constitution, any substantive change inserted into the Constitution is less important than achieving political agreement on the way forward. Without such agreement, the holding of any referendum is likely to be contested and, to the extent one group or community is a clear loser from its results, would be likely to heighten the violence and instability in Iraq. The constitutional review offers an opportunity to set up such a political process.

44. Centrally, the ideal outcome of a solution acceptable to all concerned communities would be an actual negotiated agreement on the disputed boundaries by political leaders which pays close regard to the wishes of all of the concerned communities. This process has not been attempted and with the aid of an effective mediator could produce the most harmonious and sustainable result.

45. In order to make a contribution to the peaceful settlement of disputed territories, the Committee may wish to consider inserting text into the Constitution which allows political engagement and discussion in parallel to the implementation of Article 140 that could substitute for, complement or amend the article. This new article could require the establishment of a forum or process for dialogue among Iraq's political leadership to find a solution agreed to by all concerned communities. Any such political agreement reached would have the support of the UN.

46. This new article could also request the relevant authorities to appoint a third party mediator charged with finding alternative modalities to or for implementing Article 140, set a time period for the mediator to deliver his report and require the mediator to achieve consensus among all affected communities on: a proposed resolution to the boundaries of disputed territories and the parameters of a referendum among those persons affected by the proposed boundary resolution. Finally, the mediator could also be charged overseeing or conducting the referendum.