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### Recommended Citation

Fidler, David P.; Wilson, Kumanan; McDougall, Christopher W.; and Lazar, Harvey, "Establishing Public Health Security in a Postwar Iraq: Constitutional Obstacles and Lessons for Other Federalizing States" (2009). *Articles by Maurer Faculty*. Paper 1326.  
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# **Establishing Public Health Security in a Postwar Iraq: Constitutional Obstacles and Lessons for Other Federalizing States**

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**Abstract** The public health consequences of the conflict in Iraq will likely continue after the violence has subsided. Reestablishing public health security will require large investments in infrastructure and the creation of effective systems of governance. On the question of governance, the allocation of powers in the new constitution of Iraq is critical. Given the ease with which public health threats cross borders, the constitution needs to grant to the federal government the legal authority to manage such threats and simultaneously meet international requirements. Unfortunately, the draft constitution does not accomplish this objective. If politically possible, the constitution should be amended to provide the federal government with this authority. If not possible, the Iraqi federal government would have two options. It could attempt to use alternative constitutional powers, such as national security powers. This option would be contentious and the results uncertain. Alternatively, the federal government could attempt to establish collaborative relationships with regional governments. Residual sectarian tensions create potential problems for this option, however. Reflecting on the Iraqi situation, we conclude that other federalizing countries emerging from conflict should ensure that their constitutions provide the federal government with the necessary authority to manage threats to public health security effectively.

The human consequences of the Iraq war have been enormous (Burnham et al. 2006; Alkhuzai et al. 2008). Although the majority of injuries and

This manuscript is based on information emerging from a workshop examining implementation of the International Health Regulations in decentralized states ([www.ihrfederalism.com](http://www.ihrfederalism.com)). This workshop was supported by grants from the Canadian Institutes of Health Research, Public Health Agency of Canada, Canadian International Development Agency, and the International Development Research Centre.

deaths are related to intentional violence, Iraq's damaged infrastructure is setting the stage for a public health crisis. Investment in infrastructure will be required to prevent such a crisis from occurring. However, this infrastructure alone will not be sufficient. The investment needs to be accompanied by appropriate governance systems that will complement efforts to ensure public health security in Iraq. The vision of a federal Iraq contained in the draft constitution supported by a large majority in a 2005 referendum, while having many merits, may create obstacles for achieving such security.

Iraq and Sudan are the most recent states with a history of violent domestic conflict to consider adopting a federal system of government. Others, such as Bosnia and Herzegovina, Nigeria, Ethiopia, and Pakistan, have already implemented federal systems, and still others, notably Sri Lanka, are considering federal solutions to internal conflicts (Forum of Federations 2007). An important consideration in the transition to federalism in these countries is the constitutional allocation of public health powers between national and regional governments. As these countries emerge from conflict, coordinated responses between levels of government will be a critical component of managing the public health challenges they will encounter.

Public health security, therefore, must be a priority in the design of new federal constitutions. However, tensions exist in assigning authority for public health security. Determining the optimal balance between national and regional authorities will be essential as these countries formalize their capacities to protect the health of their citizens. Iraq's experience illustrates the challenges many federalizing countries face.

### **Constitutional Allocations of Powers Related to Public Health Security**

Protecting the public's security is a core function of the state and part of the "social contract" between the state and its citizens (Gostin 2001). Historically, the government's role in preserving security has been viewed as protecting individuals from violence, whether domestic or external in origin. However, in the current era, certain public health threats such as pandemic influenza are also increasingly viewed as having a security dimension. Although definitions of "health security" and "public health security" vary (Fidler 2007), experts increasingly identify as security concerns public health threats with the potential to disrupt significantly the normal functioning of societies. These threats tend to be communicable

disease threats (e.g., pandemics, bioterrorism) but can include noncommunicable disease dangers triggered by accidental or intentional release of nuclear, radiological, or chemical agents.

As the World Health Organization (WHO) has asserted, providing for public health security requires providing for and maintaining measures to protect and preserve population health from such threats (WHO 2007). These measures include developing both the surveillance capacity that can identify threats at an early stage and the capacity to respond to these threats. Effective surveillance and response activities require the presence of robust human and public health resources and coordination of activities at all levels of governance.

The ability to provide for public health security is often a casualty of violent conflict. Countries that experience complex emergencies, including civil strife, are susceptible to health crises emerging during and after the emergency (Spiegel et al. 2007). Damage to infrastructure, loss of housing, poor sanitation, and other factors increase the risk of the emergence of new public health threats such as contaminated water and food systems and infectious disease outbreaks (Waldman and Martone 1999). In addition to direct health consequences, inadequate response to these threats by a newly formed government could undermine the population's likely already fragile confidence in the government's credibility, which could contribute to political instability.

Deciding on how to divide constitutional powers for achieving public health security is therefore a serious consideration for states considering federal systems of government. Unfortunately, in the past the constitutions of federal countries have often been silent or vague on public health matters. This omission is understandable when one recognizes that some of these constitutions were created prior to a modern understanding of the science concerning the spread and control of public health threats. Nevertheless, the failure to allocate these powers has proven problematic in a modern era of public health science and governance (Wilson, McDougall, and Upshur 2006). Indeed, pressures created by globalization and other developments are forcing many countries with federal governments to engage in *de facto* "federalization" of public health governance (Fidler 2004a).

The new International Health Regulations 2005 (IHR2005, or regulations), which entered into force in 2007, increase the need for newly federalizing countries to carefully consider the allocation of public health powers (WHO 2005a). The IHR 2005 draws a clear link between public health and global security (Fidler 2005). All WHO member states transi-

tioning to federal systems of government will have to comply with the IHR 2005, the provisions of which will require some centralization of public health governance functions. The regulations require countries to be able to detect, notify the WHO about, and respond to potential public health emergencies of international concern. In addition, countries must develop specified core surveillance and response capacities to prepare for potential public health emergencies of international concern (Fidler 2004b; Gostin 2004). Although the regulations do not contain penalties for noncompliance, failure by a country to notify the WHO about disease events that may constitute public health emergencies of international concern could result in the WHO issuing warnings about travel to the region which could have an adverse economic effect on the country in question (Fidler 2004b).

These demanding substantive provisions mean that the regulations will prove challenging for established federal countries to implement (Wilson, McDougall, and Upshur 2006). Implementation in newly federal countries emerging from conflict could be even more difficult, a problem that will only be made more challenging if the federal constitution is not created with recognition of these international legal obligations concerning public health security.

### **Potential Problem Areas Concerning Public Health Security and Federalism**

Despite the importance of jurisdictional clarity concerning powers related to public health security, the assignment and exercise of these powers can be contentious or, alternatively, overlooked. Failing to address the division of powers related to public health will be damaging when it comes to responding to public health emergencies and conducting local surveillance for emerging public health threats. These two critical areas require as much jurisdictional clarity as possible and, if feasible, the creation of strong federal authority for assuring public health security.

#### **Emergency Powers**

One of the most contentious areas for a country emerging from civil conflict is determining how the federal government could declare a state of emergency and what powers it has when it does so. In addressing public health emergencies, a coordinated approach between federal and regional governments and local authorities is the best approach (Wilson 2006). However, for countries that are emerging from internal conflicts, the nec-

essary levels of cooperation might be hard to produce and sustain. Even in developed countries, coordination of responsibilities in emergencies has been challenging, exacerbated by unclear constitutional authority among the various levels of government (Bureau of International Organization Affairs 2005).

For example, the constitutions of Canada, the United States, and Australia do not provide clear authority to the federal government to manage emergencies (The State of National Governance Relative to the New International Health Regulations 2006). This problem occurred in Canada during the 2003 Severe Acute Respiratory Syndrome (SARS) outbreak, where communication and coordination between the levels of government was suboptimal (Campbell 2004). In the United States, the lack of clear federal authority to intervene was identified by some officials as a problem in the response to Hurricane Katrina (Stout 2005). In Australia, the commonwealth's lack of emergency health powers had been noted as a potential limitation in its ability to combat a pandemic or manage a bio-terrorism threat (Howse 2004).

The national governments of these countries subsequently took measures to address these gaps by utilizing different mechanisms within their constitutional structures to increase federal authority and enhance cooperation during emergencies. In the aftermath of SARS, Canada created a new public health agency and sought to establish more effective collaboration between orders of government rather than pursue aggressive federal legislation (Wilson and Lazar 2005). The U.S. federal government has relied upon its funding power to place conditions on federal assistance to states for emergency preparedness (Pandemic and All-Hazards Preparedness Act, Pub. L. No. 109–417 [2006]). Australia enacted new legislation based on federal security powers to enhance the commonwealth's authority to manage public health threats (Parliament of the Commonwealth of Australia 2007).

From the perspective of citizens in established federal states, constitutional restrictions on a central government's authority to intervene during a public health emergency may seem unreasonable. Furthermore, such restrictions can lead to a highly paradoxical situation in which the WHO can declare a public health event to be a public health emergency of international concern under the IHR 2005, even when the event does not match the legal criteria to be considered a national public health emergency and thus does not fall under federal jurisdiction (WHO 2005b). To illustrate, during the SARS outbreak in Canada, the federal government could not declare a public welfare emergency without the permission of the province

of Ontario. However, if the IHR 2005 had been in force at the time of this event, the international outbreak would have likely been considered a public health emergency of international concern.

From the perspective of political groupings and interests in newly federalized or federalizing states, the limitations on federal authority are somewhat more understandable. In particular, allocation of powers to regions can work to protect the rights and interests of populations in those regions from political domination or discrimination by the central government. Even in established federal states, the need to protect minority populations through federalism has at times remained a concern. For example, in Canada the federal use of the War Measures Act to curtail civil liberties in the province of Quebec during the 1970 October Crisis was criticized by some as unnecessary and out of proportion to the threat. In newly federalizing states, the utilization of federal emergency powers could be perceived as a pretext for federal government intervention in regional government affairs, thus functionally recreating a unitary state without the protections federalism may provide for minority populations (Wilson 1995).

### Surveillance

Public health surveillance involves a complex series of linked activities related to the collection, analysis, and dissemination of data linked to specific outcomes, and for this reason, it is unlikely to be mentioned in the constitution of a federal state. Therefore, jurisdictional authority over health surveillance will have to be inferred from other powers that have been constitutionally allocated. Surveillance, however, is an essential component of public health and is critical to every country's ability to identify threats at an early stage and take measures to control their spread. Surveillance is particularly important for countries emerging from conflict. Effective measures to control the spread of disease are not possible without early detection of potential outbreaks (Valenciano et al. 1999). However, surveillance in conflict regions is difficult, as has been noted in Iraq (Valenciano et al. 2003). Useful surveillance depends on timely local collection of data, and it requires evaluation and verification at the regional level. In the event of a serious or spreading emergency, it needs action at the federal levels and possibly at the international level, as is contemplated by the IHR 2005 (Baker and Fidler 2006).

Moreover, for surveillance to be most effective, countries need to standardize how it is done. Apart from the infrastructure and logistical challenges, postconflict countries may also encounter federal challenges to

effective surveillance. Regional governments may be hesitant about allowing the level of monitoring by a central government required to ensure harmonized surveillance practices. Perhaps regional governments may fear that such oversight could erode their autonomy and encroach upon individual rights. Regional governments may have apprehensions that data they transfer to the central government will be used by the central government in a manner that infringes upon other areas of regional jurisdiction or may be released to the public or other authorities in ways that could be damaging to the affected region. Such problems and conflicts over the sharing of information between regional and central governments were identified by WHO officials as a critical problem in the management of the SARS outbreak (Wilson, McCrea-Logie, and Lazar 2004; Alphonso and York 2003).

### **Public Health Challenges Facing a New Iraqi Federation**

Beyond the ongoing violence, the population of Iraq faces numerous threats to its health. Recent estimates from the United Nations Office for the Coordination of Humanitarian Affairs indicate that large segments of the Iraqi population do not have access to clean water and appropriate hygiene and sanitary conditions. A 2007 UNICEF estimate found that only one in three children under five have access to safe drinking water (United Nations Security Council 2007). Rates for standard pediatric immunizations have also been found to be in decline (WHO 2006; Ni'ma et al. 2003). Evidence of the toll of poor water safety and sanitation can be found in the 2007 cholera outbreak in Iraq, which resulted in approximately 4,500 laboratory-confirmed cases and twenty-two deaths (WHO Representative's Office in Iraq 2007). The WHO issued statements concerning the nature and extent of this outbreak and advised neighboring states "to reinforce their active surveillance and preparedness systems" (WHO 2007).

When hostilities cease, reestablishing the conditions necessary for public health security must be a priority of the new government. Emerging from the first Gulf War and the ensuing economic sanctions, Iraq experienced large cholera outbreaks and marked increases in infant mortality (Ascherio et al. 1992). A coordinated response to prevent serious public health events from damaging fragile political, economic, and social conditions will require federal leadership both in terms of investment in the local public health infrastructure and in terms of communicating emerg-



ing health risks to regions. It will also require considerable effort at the local public health level. This task applies not only to Iraq but also to the international community because of the possible spread to other countries of threats emerging in Iraq.

### Federalism and Iraq

A federal solution is one mechanism by which the rights of geographically situated ethnic and religious groups in Iraq can gain some measure of autonomy and protection, while the integrity of Iraq as a whole and the advantages of shared governance can be preserved (Brancati 2004). A federal solution, however, has many obstacles to overcome, and each predominant sectarian group has a considerable stake in the design of a federation.

The sectarian divisions within Iraq are both ethnic, between the Arab majority and the Kurdish minority, and religious, between the Shia Arab majority and the Sunni Arab minority. The Kurdish region has the greatest interest in a highly decentralized federation (Brancati 2004). The Shia majority, in contrast, would prefer a more cohesive, centralized federation. The decentralized nature of the draft constitution has led to accusations from the Shia majority that the constitution implements a form of soft partition (Bruno 2007). While having a desire to have its autonomy protected through a federal solution, the Sunni minority could lose access to oil revenue in a decentralized state because Iraq's oil is found predominantly in the Kurdish north and Shia south (Anderson 2005). Regional powers also have much at stake in the design of the Iraqi federation. Turkey, in particular, would view suspiciously a federal solution that provides a strong, autonomous Kurdish region, although it would view this more favorably to the alternative of an autonomous Kurdish state.

Despite the approval by an overwhelming majority in a 2005 referendum, debate continues in Iraq on the draft constitution. Recognizing the long process of establishing an effective federal state, a clause in the constitution outlines a mechanism for modifications (Article 137). Based on this clause, a panel has been created to oversee changes to the constitution with a focus on federal matters (Abdul-Zahra 2006).

### The Iraqi Constitution and Public Health Security

Whatever the outcome of Iraqi revision of the constitution, cooperation on public health security among Iraq's regions and political factions will be essential. Given the mutual vulnerability all groups in Iraq face from the

transmission of disease, public health security may be an area on which Shia, Sunni, and Kurds could agree in terms of the nature of the Iraqi federation. Even regions with established public health infrastructure remain vulnerable if adjacent regions fail to adequately manage the emergence of public health threats, which can rapidly cross political boundaries and borders. Nevertheless, such agreement is not guaranteed, and sectarian tensions may prevent the requisite collaborative relationships from forming. The constitutional allocation of responsibility for public health security will, therefore, be a critical component in determining the effectiveness of the new Iraq government's ability to protect the health security of its population. The federal government will need to have some authority over matters related to public health security.

According to the draft Iraqi constitution, the constitution is the supreme law of the country (Article 13, Final Draft Iraqi Constitution 2005). Health is clearly an important component of the draft Iraqi constitution (appendix A), which includes multiple references to health, including a reference to "health security" in Article 30. The draft constitution, in a section titled "Economic, social, and cultural liberties," indicates that health is a right of every Iraqi citizen, and further stipulates that the state is responsible for public health and for providing "the means of prevention and treatment by building different types of hospitals and medical institutions" (Article 31). In addition, the Iraqi state must "guarantee to the individual and the family—especially children and women—social and health security and the basic requirements for leading a free and dignified life" (Article 30). The use of "health security" in this provision does not, however, refer to the concept of "public health security" as employed in this article but instead connects to the health component of social security and welfare schemes. Thus, Article 30 does not provide a robust basis for arguing for strong federal authority to address public health security threats.

Health and environmental protection are considered shared jurisdictions in the draft Iraqi constitution (appendix B). Importantly, however, the constitution specifically states that powers not explicitly allocated to one or another order of government in the constitution fall under the jurisdiction of the regions (Article 111). Further, in areas that are not exclusively federal, regional legislation takes precedence (Article 117). Therefore, on the surface at least, the constitution does not appear to provide the federal government with sufficient authority to coordinate Iraq's response to a national public health emergency or its compliance with the IHR 2005. This could clearly prove to be problematic in the immediate postconflict period if existing public health problems worsen.

Modifying the Iraqi constitution to provide the federal government with the necessary authority over public health security should therefore be strongly considered. The federal government will require explicit authority over the following: access to surveillance data; the ability to coordinate the creation of surveillance infrastructure; the ability to oversee public health emergency response; and, perhaps, the ability to intervene in a public health emergency if concern exists about transmission of the emergency to other regions or internationally.

However, if express federal authority for public health security is not politically possible, the Iraqi federal government would have to consider other alternatives to address a public health security threat arising in one of the regions. The federal government may seek to obtain the necessary authority from areas of the constitution that are under exclusive federal jurisdiction. These areas include authority for signing international agreements (Article 107) and “forming and executing national security policy” (Article 107). However, whether internal health security falls within “national security policy” is unclear (Brown 2005).

The federal government could utilize the power to declare a state of emergency to intervene in public health emergencies, although the constitution refers to this power primarily in the context of war (Article 57). The Iraqi constitution also presumably provides the federal government with taxation power (authority over fiscal and customs policy) and, therefore, the capacity to use its spending power to direct policy (Article 107). The federal government could offer financial incentives, in the form of conditional grants, to provide rewards for regional cooperation with public health objectives. The Iraqi constitution also provides the federal government with the authority to regulate “commercial policy across regional and governorate boundaries in Iraq” (Article 107). The U.S. federal government, for example, has the power to regulate international and interstate commerce under the commerce clause, and the federal government has exercised its commerce clause authority to regulate matters of interstate commerce affecting public health.

The Iraqi constitution potentially provides mechanisms by which the federal government could exercise authority for public health surveillance. The draft constitution provides that “the Iraqi National Intelligence Service shall collect information, assess threats to national security, and advise the Iraqi government” (Article 9). A very liberal interpretation of this clause might allow for federal-level surveillance to preserve public health security, but supporting such an interpretation would be problem-

atic because public health surveillance is most effectively undertaken by public health authorities, not intelligence agencies.

Human rights provisions in the draft Iraqi constitution may also provide some basis on which the federal government could exercise its authority to conduct public health surveillance. Threats to public health security constitute threats to the life of citizens of Iraq, and the constitution obliges the Iraqi state to protect, among other rights, the right “to enjoy life, security and liberty” (Article 33). However, resorting to a human rights justification for federal authority and action on public health security may worry the regions because such a justification could have potentially very broad application across every area of policy, not just public health.

Federal action in the realm of public health that is based on unclear constitutional authority and that regions may perceive as infringing on their constitutional competencies is a less-than-ideal way of addressing threats to public health security. It might not be supported by the courts, and it also might inflame political opinion. Another option would be for the federal government to pursue strong collaborative arrangements with regional governments (Wilson et al. 2008). These arrangements could include the use of memoranda of understanding or agreements outlining conditional funding strategies between the federal and regional governments. In terms of collaboration on funding, the federal government could invest in the surveillance capacity of local public health systems in exchange for guaranteed access to public health data of national or international concern. In fact, a clause in the constitution requires the federal government to provide sufficient funding so as to allow regional governments to carry out their functions (Article 117). However, regional governments may not view conditional funding as a benign exercise but rather an attempt to expand federal power through the authority to tax and spend (Telford 2003).

Whatever approach the federal government takes to centralize public health activities will have to be cognizant of the political risks associated with such efforts. The Kurdish region in particular may object to any increased centralization, no matter how rational and necessary such centralization seems from a neutral policy perspective. However, the risks presented to the Kurdish region by inadequate public health security in adjacent non-Kurdish regions and in neighboring countries provide a compelling argument for Kurdish leaders to concede that the federal government needs to be able to act effectively in the realm of public health. No level of Kurdish autonomy will protect the Kurdish population from transnational disease threats in the age of globalization.

## Conclusion

The draft Iraqi constitution will determine the mechanisms by which the Iraq federal government establishes public health security for its population. The Iraqi situation also illustrates some of the dilemmas inherent in constitutional allocations of powers concerning public health for newly federalizing states. In protecting the autonomy of regions, the Iraqi constitution has limited the federal government's ability to intervene to protect the larger population from public health threats. To manage emerging public health threats and to meet international requirements, the federal government may have to resort to powers likely not explicitly intended for public health. However, the consequences of such an approach are uncertain and, at worst, may be destabilizing.

In the immediate postconflict period, the Iraqi federal government may resort to declarations of emergency to address threats to public health security that appear to be beyond the capacity of regional governments to contain. While federal intervention to control a spreading public health threat would likely be viewed in a completely different light from federal military intervention to preserve domestic security, the use of broad emergency powers for public health purposes could, however, fuel regional government suspicions and be perceived as an abuse of federal authority and a threat to the autonomy of regions. A potentially less provocative option would be to utilize the use of spending/appropriation powers to enhance the federal role while acknowledging the important link between investment in local capacity and national public health effectiveness. Regional governments could still view this strategy with suspicion, seeing it as a way for the federal government to extend its jurisdiction and weaken regional autonomy. In any case, the federal government will need to have the necessary authority to conduct public health surveillance and ensure adequate responses to public health emergencies. With ongoing deliberations on the content of the draft constitution, an opportunity exists to reexamine the distribution of powers related to the objective of public health security.

Other countries considering federal constitutions will likely encounter similar challenges to those facing Iraq. Defining a clear federal role for preserving public health security in new constitutions should be considered. Ideally, a federal government should have (1) access to public health surveillance information, (2) the authority to oversee public health emergency responses, and (3) where public health events threaten to cross regional or national borders, the authority to intervene. The existence of

such federal powers would improve the chances for achieving domestic public health security and for facilitating compliance with international legal obligations under the IHR 2005. Furthermore, clear and specific allocation of public health powers will reduce the need to use broader emergency powers for the purpose of managing public health threats as well as other powers not specifically intended for public health purposes. Addressing the challenge of public health security forthrightly in the design of federal constitutions constitutes the best strategy for enabling governments to meet their fundamental responsibility of protecting and providing for the health of their citizens.

## **Appendix A: Health “Guarantees” in the Iraq Constitution<sup>1</sup>**

### Article 30

First: The state<sup>2</sup> guarantee to the individual and the family—especially children and women—social and health security and the basic requirements for leading a free and dignified life. The state also ensures the above a suitable income and appropriate housing.

Second: The State guarantees the social and health security to Iraqis in cases of old age, sickness, employment disability, homelessness, orphanage or unemployment, and shall work to protect them from ignorance, fear and poverty. The State shall provide them housing and special programs of care and rehabilitation. This will be organized by law.

### Article 31

First: Every citizen has the right to health care. The state takes care of public health and provide the means of prevention and treatment by building different types of hospitals and medical institutions.

Second: Individuals and institutions may build hospitals or clinics or places for treatment with the supervision of the state and this shall be regulated by law.

### Article 32

The State cares for the handicapped and those with special needs and ensure their rehabilitation in order to reintegrate them into society. This shall be regulated by law.

### Article 33

First: Every individual has the right to live in a safe environment.

Second: The State undertakes the protection and preservation of the environment and biological diversity. Every individual has the right to enjoy life, security and liberty. Deprivation or restriction of these rights is pro-

1. This text is reproduced verbatim from the draft Iraqi constitution (Final Draft Iraqi Constitution 2005), found at the UNESCO Web site. Other translations of the constitution exist with a different total number of articles and differences in article numbering.

2. “State” refers to the government of Iraq.

hibited except in accordance with the law and based on a decision issued by a competent judicial authority.

## **Appendix B: Allocation of Powers over Health in the Iraqi Constitution<sup>3</sup>**

### Potential Sources of Federal Authority

#### Article 9

D. The Iraqi National Intelligence Service shall collect information, assess threats to national security, and advise the Iraqi government. This service shall be under civilian control and shall be subject to legislative oversight and shall operate in accordance with the law and pursuant to the recognized principles of human rights.

#### Article 57

Ninth: A. To consent to the declaration of war and the state of emergency by a two-thirds majority based on a joint request from the President of the Republic and the Prime Minister. B. The period of the state emergency shall be limited to 30 days, extendable after approval each time. C. The Prime Minister shall be authorized with the necessary powers that enable him to manage the affairs of the country within the period of the state of emergency and war. A law shall regulate these powers that do not contradict the constitution. D. The Prime Minister shall present to the Council of Representatives the measures taken and the results within the period of declaration of war and within 15 days of the end of the state of emergency.

#### Article 107

The federal government shall have exclusive authorities in the following matters:

First: Formulating foreign policy and diplomatic representation; negotiating, signing, and ratifying international treaties and agreements; negotiating, signing and ratifying debt policies and formulating foreign sovereign economic and trade policy;

3. This text is reproduced verbatim from the draft Iraqi constitution (Final Draft Iraqi Constitution 2005), found at the UNESCO Web site. Other translations of the constitution exist with a different total number of articles and differences in article numbering.



Second: Formulating and executing national security policy, including creating and managing armed forces to secure the protection, and to guarantee the security of Iraq's borders and to defend Iraq;

Third: Formulating fiscal and customs policy, issuing currency, regulating commercial policy across regional and governorate boundaries in Iraq; drawing up the national budget of the State<sup>4</sup>; formulating monetary policy, and establishing and administering a central bank. . .

### Potential Limitations to Federal Authority

#### Article 110

The following competencies shall be shared between the federal authorities and regional authorities:

Third: To formulate the environmental policy to ensure the protection of the environment from pollution and to preserve its cleanness in cooperation with the regions and governorates that are not organized in a region.

Fifth: To formulate the public health policy in cooperation with the regions and governorates that are not organized in a region.

#### Article 111

All powers not stipulated in the exclusive authorities of the federal government shall be the powers of the regions and governorates that are not organized in a region. The priority goes to the regional law in case of conflict between other powers shared between the federal government and regional governments.

#### Article 117

First: The regional authorities shall have the right to exercise executive, legislative, and judicial authority in accordance with this constitution, except for those powers stipulated in the exclusive powers of the federal government.

Second: In case of a contradiction between regional and national legislation in respect to a matter outside the exclusive powers of the federal government, the regional authority shall have the right to amend the application of the national legislation within that region.

4. "State" refers to the government of Iraq.

Third: Regions and governorates shall be allocated an equitable share of the national revenues sufficient to discharge its responsibilities and duties, but having regard to its resources, needs and the percentage of its population.

Fifth: The Regional Government shall be responsible for all the administrative requirements of the region, particularly the establishment and organization of the internal security forces for the region such as police, security forces and guards of the region.

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