

## **Leaders Sign Up to New Constitution**

First signs of doubt already apparent as leading Shia cleric criticises the document as an “obstacle”.

The temporary disarray in Iraq's government ended on Monday when members of the Governing Council ratified the country's interim constitution. But the swift criticism of the document by the country's leading cleric suggests that implementing it will be a troubled process.

The 25 members of the Iraqi Governing Council, GC, or in some cases their deputies, filed onto the stage of the Baghdad International Conference Centre to put their names to the document.

Council members smiled and congratulated one another on finally having reached agreement over the constitution, even trading quips as they lined up to sign the historic document.

Hardly was the ink dry, though, when Grand Ayatollah Sayyid Ali al-Husseini al-Sistani said he still has reservations about the charter.

"Any law prepared for the transitional period will not gain legitimacy until it is endorsed by an elected national assembly," Sistani said in a fatwa, or religious ruling, released on his website.

"Additionally, this law places obstacles in the path of reaching a permanent constitution for a country that maintains its unity [and] the rights of its sons of all sects and ethnic backgrounds," he said.

Sistani was referring to a clause in the document that effectively gives Kurds and Sunni Arabs – who together make up 30 to 40 per cent of the population – a veto over a permanent constitution when it comes to a referendum late next year. The Shia are believed to account for 60 per cent of Iraq's 25 million people.

At the very least, Sistani's remarks are likely to keep debate over the document on the boil.

Called the Law of Administration for the State of Iraq for the Transitional Period, the document determines how Iraq is to be governed until a permanent constitution can be ratified, in theory no later than October 2005.

The signing should have taken place last week, but on March 5, five Shia members of the GC refused to sign despite earlier agreeing to do so. The five said they were acting at Sistani's behest.

Their primary concern, they said, was a clause in the constitution that would allow any three of Iraq's 18 governorates to veto the adoption of a permanent constitution. "Some of these provinces have only 400,000 or 500,000 people. We cannot have that number of people rejecting a constitution for 25 million people," said Hamed al-Bayati of the Shia-dominated Supreme Council for Islamic Revolution in Iraq, SCIRI.

For the Kurds and Sunni Arabs, however, the clause is considered a key guarantee to ensure that the Shia cannot use their power as the country's political majority to back a constitution that would reflect their interpretation of Islam or otherwise fail to observe the rights of other groups.

Although the five Shia members have now fallen into line, the disputed text remains unchanged.

Asked why the Shia had accepted the document as it stands, Hajim al-Hassani, deputy to Mohsen Abd al-Hamid, a Sunni of the Iraqi Islamic Party, told the French news agency AFP, "They realised there was no other choice but to go this way."

But Muwaffiq al-Rubaie, an independent member of the GC, was quoted by the New York Times as saying that Sistani "does not want to provoke a crisis".

One of the five dissenting council members said that Sistani's concern was not so much that the Kurds would wield a veto, but that Shia radicals could try to mobilise support in three governorates to push for the adoption of Iranian-style clerical rule.

Despite the apparent unanimity that accompanied the signing of the constitution, an element of disagreement remained just under the surface even before Sistani came out with his criticism.

GC member Ibrahim al-Jaafari read out a statement by 12 of the 13 Shia council members declaring they had signed the document without demanding changes in order to safeguard national unity. And in a further indication of Shia reservations about the new law, key Shia member Abd al-Aziz al-Hakim of SCIRI did not attend the ceremony, sending a deputy in his place.

Shia member Bahr al-Uloom was more conciliatory, saying the document reflected the principle of consensus between all the components of Iraqi society.

Kurdish leader Massoud Barzani, relieved at the end of the impasse, said, "This is the first time that we Kurds feel that we are citizens of Iraq."

On the streets, many Iraqis expressed approval at the signing of the constitution, although some had reservations about federalism and the role of religion.

"Today is the real birthday of the Iraqi people, because it is the first time that we have our rights," said Mohammed Ishkara, 55, a consulting engineer. "For more than 30 years, the only article of the constitution we heard about was... the article that gives the president absolute power."

"God bless their deeds," said policeman Amar Abd al-Hussein, 27. "They made me proud of them, surprising us with a decision which serves the interests of the Iraqi people and of the overwhelming Shia majority."

"Today we celebrate because we have achieved a constitution to make the law supreme," said day labourer Fadil Samir, 27, pleased despite his concerns that the document's wording counts Islam only as one source of legislation. "I would prefer it to be the main source of legislation," he said.

For some, the five Shia delegates who delayed ratification are heroes who took a stand for the Shia majority's political rights. "For the first time, I felt that the Shia members of the Governing Council were working for the Shias' benefit," said Kadhem Tahir, 35, a lawyer in Baghdad's al-Bayaa district.

Tahir said that the constitution needed to ensure that the prime minister be a Shia, and that if the president was Sunni then at least one vice-president should be Shia.

Others, however, worried about Sistani's power, and his ability to disrupt an agreement that had already been reached.

Sheikh Mudhafar Hadi al-Qaisy, 42, imam of the Sunni Khadija al-Kubra mosque in Baghdad, believes that the Shia influence "will cause many errors to be inserted into the constitution".

"You can't let one marja [Shia source of religious guidance] or one religious community manipulate it. We must consult widely, or fall into new mistakes," he said.

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