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Iraq's Minority Crisis and U.S. National Security: Protecting Minority Rights in Iraq

Michael Youash

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IRAQ'S MINORITY CRISIS AND U.S. NATIONAL SECURITY: PROTECTING MINORITY RIGHTS IN IRAQ

MICHAEL YOUASH*

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* Michael Youash is Project Director of the Iraq Sustainable Democracy Project (ISDP). ISDP is a special project of the Assyrian Academic Society and focuses on the situation of Iraq's defenseless ethnic and religious minorities.

INTRODUCTION

Iraq's indigenous Assyrians¹ are facing cleansing from Iraq if the U.S. Government continues to ignore the crisis and does not take action immediately. The Assyrians celebrated their 6,758th New Year in April of this year and directly connect their land to its Mesopotamian roots with their continued physical presence. They remain the last composite group of people who speak Aramaic, the language of Christ, as their primary language. The great majority of them still reside in close proximity to the ancient capital city of Nineveh—located in northern Iraq. As Christians, Assyrians belong to various denominations, most notably Chaldean, Syrian Orthodox and Church of the East. However, they also belong to various Protestant churches and denominations.

The current crisis facing Iraq's Christian Assyrians is downplayed at best and dismissed at worst by the U.S. Government, blinding it to the pragmatic, feasible policy solutions that it can implement with immediate positive impact. The United States must understand that Assyrian Christians are disproportionately represented in Iraq's professional and educated elite. They are a significant component of the American administrative structure in Iraq. This depletion of Iraq's human capital will have devastating effects throughout the country, decreasing Iraq's capacity to stand up, which would allow the United States to stand down.

By the late 1980s, there were approximately 1.4 million Christians in Iraq, the vast majority of which would be Assyrians.² Leading up to Iraq's liberation from Saddam

1. They are also known as Chaldean or Syriac. *See generally* Peter BetBasoo, *Brief History of Assyrians*, <http://www.aina.org/aol/peter/brief.htm> (describing the history of the Assyrians and their development of the region that includes present day Iraq); *Religious and Ethnic Groups in Kirkuk*, USA TODAY, Aug. 14, 2008, at 2A (defining Assyrian Christians as "a small and distinct ethnic minority tracing its origins to the Assyrian empire" who consist of three percent of the national population and generally live in northern Iraq).

2. *See* BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T OF STATE, IRAQ: COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES – 2004 sec. 2.c (2005), <http://www.state.gov/g/drl/rls/hrrpt/2004/41722.htm> (describing the forced relocation of non-Arabs during the 1980s and 1990s). The Christian population in Iraq included roughly 30,000 Armenian Christians. *Id.*

Hussein, that figure declined to approximately 1 million.³ From liberation in 2003 to the present, over 350,000 Iraqi Christians have fled (at least one-third of the Iraqi Christian population). This rate of attrition will soon empty the country of its indigenous Assyrian Christian population.⁴

An even greater percentage of Iraqi Christians have become internally displaced persons (IDPs) dislocated within the country. Many of these people are returning to their lands in the Nineveh Plain and to other areas of northern Iraq.⁵ Their numbers are poorly documented. In September 2006, Assyrian NGOs lost track of the number of IDPs in the Nineveh Plain when the amount exceeded 10,000 families—a massive absorption rate for the area.⁶

3. BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T OF STATE, IRAQ: INTERNATIONAL RELIGIOUS FREEDOM REPORT 2005 sec. 1 (2005), <http://www.state.gov/g/drl/rls/irf/2005/51600.htm> [hereinafter IRAQ RELIGIOUS FREEDOM REPORT].

4. The UNHCR refugee and IDP situation report for July 2007 indicates that Christians constitute fifteen percent and twenty percent of refugees in Jordan and Syria respectively. See UNITED NATIONS HIGH COMM'R FOR REFUGEES, STATISTICS OF DISPLACED IRAQIS AROUND THE WORLD 1 (2007), available at <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=SUBSITES&id=470387fc2>. Based on refugee numbers and conservative U.S. Department of State data that Christians constituted roughly 1 million of Iraq's population, a conservative estimate would be that there are upwards of 300,000 ChaldoAssyrian Christian refugees. See IRAQ RELIGIOUS FREEDOM REPORT, *supra* note 3, sec. 1. This confirms the data of various NGOs working closely on the refugee issue that the refugee crisis within Iraq and in the surrounding neighbors is reaching dire levels; see, e.g., AMNESTY INTERNATIONAL, IRAQ – RHETORIC AND REALITY: THE IRAQI REFUGEE CRISIS 2-3 (2008), available at <http://www.amnesty.org/en/library/asset/MDE14/011/2008/en/43d61ea9-3637-11dd-9db5-cb00b5aed8dc/mdel40112008eng.pdf> (documenting the number of displaced Iraqis since 2003 and concluding that the numbers are at their highest levels ever).

5. INTERNAL DISPLACEMENT MONITORING CENTRE, IRAQ: A DISPLACEMENT CRISIS: A PROFILE OF THE INTERNAL DISPLACEMENT SITUATION 53 (2007), available at [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/129E903BAA2C8245C12572AE002EE88A/\\$file/Iraq+-March+2007.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/129E903BAA2C8245C12572AE002EE88A/$file/Iraq+-March+2007.pdf) (describing the desire of many Christians to flee to northern areas of Iraq after suffering acts of violence, including the burning of Christian churches).

6. See IRAQ SUSTAINABLE DEMOCRACY PROJECT, ISDP BRIEFING ON NINEVEH PLAIN IDP NEEDS: THE CURRENT CRISIS AND POLICY SOLUTIONS 1 (2008) (forthcoming report on file with author) [hereinafter ISDP BRIEFING ON NINEVEH PLAIN]. The Nineveh Plains-based Nineveh Center for Research and Development, along with the Assyrian Aid Society, conducted a survey in late

Preventing the successful ethno-religious cleansing of Iraq's indigenous Assyrians is a self-evident humanitarian priority. However, it also serves the long-term goal of giving Iraq a better chance at establishing a sustainable democracy. The Mandaean-Sabaeen community is largely cleansed, with only 750 families remaining from a population of roughly 60,000 in 2003. Assyrians, and the other vulnerable minorities who will follow in their footsteps (Shabaks, Yezidis, and Turkmen, among others), are necessary to keeping Iraq ethnically and religiously heterogeneous, an essential ingredient for democratization.

The cleansing of the Mandaean-Sabaeen people, a people of antiquity, reflects the very real threat of annihilation facing all the defenseless minorities.

I. THE ASSYRIAN CRISIS IN IRAQ AND U.S. NATIONAL SECURITY INTEREST

Some months ago, Secretary of State Condoleezza Rice reiterated that past U.S. policy in the Middle East meant, "we [the United States] supported authoritarian regimes, and they supported our shared interest in regional stability."⁷ She acknowledges the error made in pursuing the type of "stability" created by supporting authoritarian governments, stating that "[f]or 60 years . . . the United States, pursued stability at the expense of democracy in this region here in the Middle East—and we achieved neither."⁸

The deliberate targeting of minorities by Islamist extremists, including the government-affiliated Sadr Militia and Badr Brigade, and by prejudicial policies from the Kurdistan Regional Government (KRG), is emptying Iraq of its indigenous Assyrians. This situation, the U.S. Government's approach to this crisis, and the Bush

2006 and early 2007 which enumerated 9,987 IDP families in the Nineveh Plain. Seventy percent were Assyrian Christians. *Id.* This figure, however, is only a rough estimate, as many IDP families refuse to register for fear of being tracked by insurgents and extremists. NGOs and research bodies on the ground estimate the number to be more than three times greater.

7. Condoleezza Rice, *Rethinking the National Interest: American Realism for a New World*, FOREIGN AFF., July-Aug. 2008, at 2, 13 [hereinafter Rice, *Rethinking the National Interest*].

8. Condoleezza Rice, Sec'y of State, Remarks at the American University in Cairo (June 20, 2005), <http://www.state.gov/secretary/rm/2005/48328.htm>.

Administration's policies on this ethno-religious cleansing indicates very little progress with respect to Secretary Rice's assertion that a new policy course in the Middle East is being forged.

A fuller examination of the Assyrian situation in Iraq (including a specific examination of the KRG⁹) is necessary to put into perspective that little seems to have changed in the U.S. Government's approaches to "stability" and "national security." The purpose, however, is to highlight what needs to be done and outline the policies that can allow the U.S. Government to say it has changed its course and is genuinely charting a new direction in the Middle East pursuant to its national interests as outlined by the Secretary of State and the Joint Chiefs of Staff. The intentions, thoughts, and arguments put forth in this Article are intended to support the U.S. Government in securing its national interest and to tangibly demonstrate its steadfastness to the "new realism" articulated by Secretary Rice. This will not only help fulfill U.S. goals, but will also serve the interests of protecting Iraq's defenseless minorities, particularly the Assyrian Christians, against the existential threat they face today.

9. There are debates about the culpability of the central government in Baghdad regarding the targeting and persecution of ethno-religious minorities. The basis of this debate is the inability of the central government to develop and implement policy, and therefore minority persecution is not government-driven. This is debatable in terms of assessing central government apathy or the political affiliations of the major militias. However, the KRG is highly effective at developing and implementing policy and therefore carries a significant degree of responsibility for its persecution of minorities. *See also Bush Renews Support for Iraqi Government*, NAT'L PUB. RADIO, Aug. 22, 2007, <http://www.npr.org/templates/story/story.php?storyId=13861513> (contrasting the White House's support of Iraqi President Nouri al-Maliki with the growing U.S. criticism of the Iraqi government and providing an overview of the debate). *Compare* Daniel Smith, *Repairing a Broken Iraq*, FOREIGN POLICY IN FOCUS, July 3, 2006, <http://www.fpiif.org/fpiftxt/3339> (criticizing the Iraqi government for its failure to take responsibility for many of the internal problems faced after the invasion and for policies, such as offering amnesty to participants in the rebellion, that undermined U.S. efforts), *with* Qassim Abdul-Zahra, *Jordan's King Visits Iraq, Urges Arabs to Support*, HUFFINGTON POST, Aug. 11, 2008, http://www.huffingtonpost.com/2008/08/11/jordans-king-visits-iraq_n_118284.html (describing Jordan's King Abdullah II's praise of the Iraqi government and his work to build Middle-Eastern support for the Iraqi government).

II. THE SITUATION/CRISIS

The U.N. High Commissioner for Refugees has documented that Christian Assyrians are often the victims of targeted violent acts, and many are being forced to flee Iraq.¹⁰ Despite being a small minority in the general Iraqi population, Christians make up roughly twenty percent of all Iraqi refugees.¹¹

The Iraq Sustainable Democracy Project (ISDP) conducted a field mission to the region in March and April 2007 and asked the Christian refugees what drove them out of Iraq.¹² The responses from refugees were alarmingly consistent when expressing their greatest fears and rehashing their experiences. Refugees overwhelmingly asserted that persecution by extremists arose because they are perceived as co-religionists and collaborators with the Americans. Many of those interviewed underlined the reality of Arab, Kurdish and Islamist militias who are fully aware that Assyrian Christians have no means of retaliation in the face of attacks—lacking any deterrent capacity or source of protection. They often mentioned their lack of any meaningful control of political institutions, insisting that the motives for attacks cannot be from control of any ‘political turf’; meaning attacks are happening purely out of malice. Refugees repeatedly mentioned daily reminders of their religious

10. UNITED NATIONS HIGH COMM’R FOR REFUGEES, BACKGROUND INFORMATION ON THE SITUATION OF NON-MUSLIM RELIGIOUS MINORITIES IN IRAQ 4 (2005), available at <http://www.unhcr.org/cgi-bin/txis/vtx/refworld/rwmain?docid=4371cf5b4> [hereinafter UNHCR BACKGROUND ON RELIGIOUS MINORITIES] (noting that, for example, in one refugee camp in Syria, thirty-six percent of refugees were Christians).

11. See *id.* (noting thirty-six percent of Iraqi refugees in a Syrian refugee camp are Christian), Frances Harrison, *Christians Besieged in Iraq*, BBC NEWS, Mar. 13, 2008, http://news.bbc.co.uk/2/hi/middle_east/7295145.stm (reporting that Christians are “massively over-represented” in the Iraqi refugee population); see also Nonna Gorilovskaya, *Christians Leaving Iraq*, MOTHER JONES, Aug. 3, 2004, http://www.motherjones.com/news/dailymojo/2004/08/08_503.html (contrasting the massive amount of Christian refugees with the proportion of Christians in the general population and noting that Christians only comprise about three percent of the Iraqi population).

12. See IRAQ SUSTAINABLE DEVELOPMENT PROJECT, VOTING WITH THEIR FEET: UNDERSTANDING THE ASSYRIAN/CHALDEAN/SYRIAC EXODUS FROM IRAQ 2 (May 2007), available at <http://www.iraqdemocracyproject.org/pdf/IDP-policy%20brief.pdf> [hereinafter ISDP, VOTING WITH THEIR FEET].

persecution, speaking of reminders brought to their doors—even delivered with bullets and blood—stating that Iraq is not for Christians any longer. Most of the refugees tried to go north, to the Nineveh Plain or the Kurdistan region in Iraq. Refugees were unable to secure jobs unless willing to join the Kurdistan Democratic Party. For many who first became internally-displaced by fleeing to the north, land return was a major denial of their basic rights. Many ultimately became refugees because Kurds had seized their lands and the Kurdistan Regional Government would not implement any decisions requiring the return of land to original Assyrian inhabitants.¹³

A. THE SITUATION IN IRAQ

“Death to U.S. Agents” is the standard Al-Qaeda message that particularly targets Christian Assyrians. They are seen as co-religionists and collaborators with the United States. Their past and continued support for the liberation of Iraq is undeniable. They could not have foreseen complete abandonment by the U.S. Government given the extent of the existential threat they are facing.¹⁴ The disillusionment expressed by Assyrian refugees interviewed in March and April 2007 centered on their perception of complete U.S. Government disregard for their security.

In mid 2006, Al-Qaeda and others began a focused program of cleansing Assyrian Christians from Dora (a district with over 20,000 Assyrian homes in 2003).¹⁵ The Christians were given the following options: convert to Islam, and to demonstrate commitment, assist in targeting other Christians; not only pay the

13. *See id.* These comments represent a synthesis of the types of comments made by Assyrian refugee families interviewed by IDSP over two weeks across Amman, Damascus, and Beirut.

14. *See id.*

15. *See* IRAQ SUSTAINABLE DEMOCRACY PROJECT, CREATING A NINEVEH PLAIN LOCAL POLICE FORCE: OVERCOMING ETHNO-RELIGIOUS MINORITY INSECURITY 4 (Sept. 2007), available at <http://www.iraqdemocracyproject.org/pdf/Minority%20Policing%20-%20policy%20brief.pdf> [hereinafter ISDP, NINEVEH LOCAL POLICE]; Keith Roderick, *Iraq's Christian Exodus*, NAT'L REV. ONLINE, July 30, 2007, <http://article.nationalreview.com/?q=NjFIZTIyYjZjYjk1NmZhZTc2MmUxNzJjZmI4ZTI0MWI=>.

jizya (non-Muslim tax), but pay tens and hundreds of thousands extra, on demand, to fund the insurgency; send a daughter or sister to the local Mosque to be married to a Muslim; leave; or die.¹⁶

The Dora neighborhood now has less than 1,000 homes left, but these are termed “partial/broken” homes.¹⁷ The men of fighting strength who can somewhat defend themselves have sent away the children, women, and elderly. Al-Qaeda has moved in and effectively decimated the community. Every family has been threatened with kidnappings, murders, and torture through letters. Phone calls and visits to places of work (especially shops) are favored means of intimidation in person by Islamists and insurgents.¹⁸

Threats are for the lucky ones; most are kidnapped, or have members of their family kidnapped.¹⁹ Kidnappings often end in tragedy, as discovered in the interviews. These cold-blooded murders spur immediate flight, although many of those released after a ransom is paid also opt to run, fearing recapture. In numerous cases, botched kidnap attempts simply result in the shooting death of the intended victim. Kidnappers ratcheted up the pressure by torturing kidnapped children while negotiations with parents take place.

Targeting churches and religious figures is also so pervasive as to send a broad signal to all Iraqi Christians. The bombings and attacks on over forty churches, the regular kidnapping of priests, and gruesome murdering of priests, set in motion total panic and flight by this vulnerable minority.²⁰ Several types of attacks cause extraordinary fear and place immense pressure on

16. ISDP, NINEVEH LOCAL POLICE, *supra* note 15, at 4; *see also* Roderick, *supra* note 15; Doug Bandow, *Thrown to the Lions*, THE AMERICAN SPECTATOR, July 2, 2007, <http://spectator.org/archives/2007/07/02/thrown-to-the-lions/print>.

17. *See* ISDP, NINEVEH LOCAL POLICE, *supra* note 15, at 4.

18. *See id.* at 5 (describing the numerous types of threats posed to Christians by Iraqi insurgents).

19. *See* Bandow, *supra* note 16.

20. *See id.* *See generally* PETER BETBASOO, ASSYRIAN INT'L NEWS AGENCY, INCIPIENT GENOCIDE: THE ETHNIC CLEANSING OF THE ASSYRIANS OF IRAQ (2007), available at <http://www.aina.org/reports/ig.pdf> (providing a detailed explanation of the persecution of Christian Assyrians in Iraq).

the community. One particularly gruesome example occurred when a priest was beheaded and dismembered and returned to his parish with a note directing the parishioners to post notices apologizing for His Holiness, Pope Benedict XVI's remarks offending Islam on the church.²¹

Flight from Basra, Baghdad, Mosul, and Kirkuk is an act of total desperation, the main goal being to stay alive. The travel involves the arrangement of a taxi, carrying only what fits into pockets, bags, and items placed on laps. It is the total abandonment of all else they have built up.²² This immediate, desperate situation produces large numbers of IDPs, and ones that are entirely impoverished and vulnerable from the onset.

As noted above in the insights of Christian refugees, the Assyrians have no ability to deter attacks because they are not able to become an effective part of the policing services in Iraq. They are not even able to establish formal, legitimate, representative policing forces in areas where they predominate, such as the Nineveh Plain. In late 2005 and mid 2006, local representatives made two efforts at securing a representative police force for the Nineveh Plain.²³ The first effort consisted of 1,000 members, and the Kurdistan Democratic Party's Deputy Governor in Mosul undermined it politically by refusing to accept the formation of such a force and deriding the idea as the formation of a Christian militia. The second effort involved 700 Christian Assyrians who were ultimately sent for training, but quickly abandoned the endeavor when they were threatened to be deployed to a Sunni insurgent stronghold in Mosul, and not the intended area of the Nineveh Plain. With respect to Baghdad-controlled Iraq, U.S. soldiers report incidents where Catholic officers training cadets are stoned to death when Muslim cadets learn of their religion.²⁴

21. See Nina Shea, *Death Comes for the Archbishop*, NAT'L REV. ONLINE, Mar. 14, 2008, <http://article.nationalreview.com/?q=ZDZhN2FmODg5NjczM2I1MWJIMjk2M2E4ZGQwZmZIMTY=> (reporting the beheading of Catholic Archbishop Paulos Faraj Rahho in Mosul).

22. See ISDP, VOTING WITH THEIR FEET, *supra* note 12.

23. See ISDP, NINEVEH LOCAL POLICE, *supra* note 15, at 7-8.

24. George F. Will, *An Iraq Caucus of One*, WASH. POST, June 17, 2007, at B07 ("[Senator] Gordon Smith, the Oregon Republican, had lunch with three

B. NEW DEVELOPMENTS – CURRENT ATTACKS

In August 2008, the KDP-dominated Ninawa Provincial Council tried removing the still-developing legitimate, formal police force in the Nineveh Plain, securing an order from the Ministry of the Interior to do so.²⁵ The following month of September saw the minorities' quota legislation for securing thirteen reserved seats across several governorate councils stripped from the electoral law on governorates. In October 2008, a brutal campaign of targeted, highly visible murders of Assyrian Christians over a period of three weeks commenced in Mosul. Vehicles regularly drove through Assyrian neighborhoods threatening all Christians with death for remaining in the city. Mosul is the last remaining urban area of population concentration for the Assyrians since the largely successful cleansing campaigns in Basra and Baghdad. These past three months reflect a systematic process of neutralizing a modest security force, removal of rights to political representation, followed by direct physical attacks spurning the flight of over 3,000 families into the Nineveh Plain.

Christmas in 2007 was relatively peaceful, allowing many to hope that a corner had been turned in the targeting of Assyrian Christians.²⁶ Regrettably, most observers overlooked the fact that Christmas overlapped with a major Muslim religious celebration.²⁷ Once the Mujahideen and insurgents concluded their holiday, they unleashed a wave of high-level attacks. In January 2008, six churches, two nunneries and an orphanage managed by nuns were bombed or attacked.²⁸

soldiers from his state, one of whom had been working with an Iraqi officer training police cadets. That soldier told Smith that when the cadets learned that the Iraqi officer was Catholic, they stoned him. To death.”).

25. See IRAQ SUSTAINABLE DEMOCRACY PROJECT, IRAQ'S NINAWA PROVINCIAL GOVERNMENT IS REMOVING NINEVEH PLAIN LOCAL POLICE FORCE (2008) (forthcoming report on file with author).

26. E.g., Kimi Yoshino & Usama Redha, *Few Left to Mark Iraqi Christmas*, L.A. TIMES, Dec. 23, 2007, at A-11 (describing the tepid optimism for Iraqi Christians on the eve of Christmas 2007).

27. See generally *At Least Seven Churches Were Bombed in Iraq*, ASSYRIAN INT'L NEWS AGENCY, <http://www.aina.org/news/20080106153742.htm> (last visited Nov. 21, 2008).

28. See generally *Church Bombings in Iraq Since 2004*, ASSYRIAN INT'L NEWS AGENCY, <http://www.aina.org/news/20080107163014.htm> (last visited Nov. 12,

In February, the Archbishop of Mosul was kidnapped, and in March his body was recovered.²⁹ In April, another priest in Baghdad was killed in a highly public manner.³⁰ All this is in addition to the daily, constant targeting of the general Assyrian population. This is meant to send a message. It indicates to Assyrian Christians that while Iraq overall may stabilize, their lives will not get better. If the U.S. and Iraqi Governments continue to downplay or deny the reality, the insurgents may prove to be right.

C. THE SITUATION IN NORTHERN IRAQ AND KRG-CONTROLLED AREAS

The situation in northern Iraq and KRG-controlled areas (where the government has formal jurisdiction and where it is seeking to dominate) can be likened to a return of Saddam-era authoritarianism. The community has long felt the pressure and intimidation of the Peshmerga, particularly from the Kurdistan Democratic Party (KDP). Peshmerga, however, are an extension of their political leaders in the KDP, and the problem is political.³¹

The formative experience in post-liberation Iraq for Christian Assyrians was the deliberate disenfranchisement of their people, particularly in the Nineveh Plain that occurred in the January and December 2005 elections (more effectively in January), and during the October referendum. It was a simple yet powerful message: you have no right to decide your future—the KDP will

2008) (reporting nine attacks in early January, 2008).

29. See BETBASSO, *supra* note 20; Shea, *supra* note 21.

30. See Ernesto Londoño, *Assyrian Orthodox Priest Fatally Shot in Baghdad, Alarming Christians*, WASH. POST, Apr. 6, 2008, at A20.

31. See *Fact File: Kurdish Fighters*, BBC NEWS, Apr. 11, 2003, http://news.bbc.co.uk/2/hi/middle_east/2940053.stm (defining Peshmerga as Kurdish fighters in Northern Iraq who are loyal to either the Kurdistan Democratic Party or the Patriotic Union of Kurdistan); *Country Briefings: Iraq – Political Forces*, ECONOMIST, Sept. 7, 2007, <https://www.economist.com/countries/Iraq/profile.cfm?folder=Profile-Political%20Forces> (reporting that the Kurds, through the KDP and other political parties, control 25,000 Peshmerga guerrilla fighters).

decide.³² The Department of State's 2005 Human Rights Country Report for Iraq bluntly indicates:

In the January elections, many of the mostly non-Muslim residents on the Nineveh Plain were unable to vote. Some polling places did not open, ballot boxes were not delivered, and incidents of voter fraud and intimidation occurred. These problems resulted from administrative breakdowns on voting day and the refusal of Kurdish security forces to allow ballot boxes to pass to predominantly Christian villages.³³

Unable to realize their electoral potential, Assyrians have seen the suffocation and atrophy of their legitimate, local political groups—some of whom were declared allies by the President of the United States. For example, the Assyrian Democratic Movement is recognized as an ally and included in the Iraq Liberation Act.³⁴

Concurrently, the civil society networks and relief organizations that are independent of the KDP have also witnessed the same rapid deterioration as the KDP prevents any resources from reaching them so they may help the needy. Instead, the modest amount of aid that does reach Christian Assyrians comes with extraordinary political conditionalities.

32. See Gareth Porter, *Voting Shenanigans Cloud Key Province*, INTER PRESS SERVICE NEWS AGENCY, Sept. 28, 2005, <http://www.ipsnews.net/news.asp?idnews=30451> (describing the intense standoff that occurred when U.S. troops, charged with delivering ballots to polling places in the Nineveh Plain, encountered Kurdish resistance); Gareth Porter, *Vote Figures for Crucial Province Don't Add Up*, INTER PRESS SERVICE NEWS AGENCY, Oct. 19, 2005, <http://www.ipsnews.net/news.asp?idnews=30692> (raising questions regarding the validity of the Nineveh vote).

33. BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T OF STATE, IRAQ: COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES – 2005 § 3 (2006), <http://www.state.gov/g/drl/rls/hrrpt/2005/61689.htm> (describing voting “irregularities” and problems that occurred during the 2005 elections, including incidents of Kurdish forces’ preventing ballot boxes to pass to Christian communities).

34. Presidential Determination No. 2003-05, 67 Fed. Reg. 78, 121 (Dec. 23, 2002) (declaring the Assyrian Democratic Movement a “democratic opposition organization” eligible to receive assistance under Section 4 of the Iraq Liberation Act of 1998).

Membership and demonstrable support for the KDP is the primary requirement. Rejection of any independent positions outside of the KDP is demanded.³⁵

The situation in northern Iraq is tangibly that of a new apartheid-like development track for Christian Assyrians as they widely choose not to succumb to KDP authoritarianism. However, it appears that U.S. Government neglect of this community in terms of equitable reconstruction and development is aiding their starvation into the Kurdistan Region of Iraq. By all accounts, the U.S. Government's disregard for the development needs of Christian Assyrians in light of the scale of their dislocation causes them to fall prey to the predatory behavior of the KDP.³⁶

Disenfranchisement and apartheid-like development as policies implemented by the KDP are matched by summary arrests, detentions, physical abuse, killings with impunity, and most importantly, illegal land/property seizures. As reported by so many refugees, most would like to return to the lands and villages from which they were Arabized by the Ba'ath in northern Iraq, primarily in the Nineveh Plain, throughout Dohuk and Irbil governorates.³⁷ Kurds, either directly connected to the KDP (sometimes at senior-most levels) or simply backed by the KDP, have illegally seized or stolen substantial amounts of village and farming lands belonging to Assyrians.³⁸

35. See Anthony Shadid & Steve Fairnau, *Militias on Rise Across Iraq: Shiite and Kurdish Groups Seizing Control, Instilling Fear in North and South*, WASH. POST, Aug. 21, 2005, at A1 (emphasizing the willingness of the KRG Peshmerga to use force against Assyrian-Iraqi officials that take political positions independent of the KRG).

36. See Kenneth Timmerman, *Christians Face Extinction in Northern Iraq*, NEWSMAX.COM, April 24, 2008, http://www.newsmax.com/timmerman/christians_mosul_iraq/2008/04/24/90555.html (describing how the relative deprivation of the Nineveh Plain and despair is being alleviated by aid from the KRG, but that such aid comes with political conditionalities, including the goal of annexing the region to the KRG).

37. INTERNAL DISPLACEMENT MONITORING CENTRE, *supra* note 5, at 21, 78-79 (describing the Arabization campaign of the 1970s in which the Ba'ath party evicted Kurdish farmers in the north and replaced them with poor Arab tribal members from the south and tracing the campaign's work and impact from the 1970s, through the 1990s, and into the wake of the U.S. invasion).

38. *Id.* at 78-79.

Whereas the KRG has sought to aggressively reverse Arabization policies that impacted Kurdish villages, they have stonewalled the resolution of Assyrian land return and been complicit or actively involved in Kurdish illegal expropriation of Assyrian Christian lands. The KDP publicizes that tens of thousands of Assyrian Christian families are coming to the safety of the north, but hundreds of thousands are leaving the country entirely.³⁹ This reality is directly connected to the problems of illegal land seizures. In effect, they are locking the Ba'athist Arabization program into place, but against non-Kurdish minorities. This has two primary effects: first, it prevents thousands of Assyrian families from returning to their lands; and second, it compels a great number of them to live in urban centers if they choose not to leave the region. For the Assyrian minority, this generates natural pressure for assimilation akin to that created by Saddam Hussein. Kurdification appears to be the desired outcome, or at least the thinning-out of the indigenous Assyrian Christians.

1. A Personal Story of Tragedy

ISDP learned of Sargon Hanna's case through a field mission conducted in March 2007.⁴⁰ His family and relatives, all refugees, were present for the interview. Sargon is missing a leg resulting from a bomb attack on a church in Baghdad during services on September 24, 2006.⁴¹ He was guarding the church when the bomb detonated. When Sargon's son Ashur asked of him to leave their homeland, now having buried one leg in it, Sargon responded that "terrorists could take his other leg and he still would not leave."⁴² Rather than taking his other leg, however, terrorists kidnapped the very same son.

39. *Compare Christians in Mosul, Either to Migrate or Pay Attribute*, PEYAMNER NEWS AGENCY, Mar. 18, 2008, <http://www.peyamner.com/default.aspx?I=4&id=48805> (describing, in a Kurdish news publication, the "wave of Christians" migrating to Kurdistan as a result of the violence in major Iraqi cities), with UNHCR BACKGROUND ON RELIGIOUS MINORITIES, *supra* note 10, at 2-4 (documenting the Christian exodus from Iraq).

40. Names have been changed to protect individuals.

41. See Roderick, *supra* note 15.

42. See ISDP, VOTING WITH THEIR FEET, *supra* note 12.

Sargon was given the following options by his son's kidnapers: become a suicide bomber; become a devout Muslim; or pay \$200,000 USD. Terrorists told Sargon to "ask George Bush to send you the money."⁴³ Sargon's son, who also worked to provide security for a British company, endured systematic torture in captivity (which included electrocution and the pouring of boiling water on his skin, among other horrors). Seeing their demands rejected, the terrorists tried executing Ashur by firing a bullet through his spine. He was then thrown out onto the streets. Miraculously, he survived and was taken to a hospital in Baghdad, paralyzed. It was a brazen attempt by someone in police uniform to execute Ashur in the hospital that forced the family to flee Baghdad for Dohuk, in northern Iraq.

Currently, his relatives are being denied the right to reclaim the lands they were driven off of by Saddam Hussein.⁴⁴ Their lands are today seized by Kurds. Sargon's cousin Naramsin describes:

[Kurds] took our land, in our village. They said 'over their blood' they won't give back the land. We appealed to the Governor; he would do nothing about it. What rights do we have? . . . So much of our lands are being taken by Kurds; the government does nothing. Many of our people in Baghdad cannot return to their lands in northern Iraq because Kurds are sitting on their lands.⁴⁵

The economic impact of land theft in the KRG on ethno-religious minorities such as Assyrians is severe, contributing to Sargon's decision to abandon hope and become a refugee in Syria with his entire family. His son, Ashur, now lies paralyzed in a bed, where he is somewhat better cared for, but still unable to return to his homeland. Sargon informed ISDP that greater freedom and assurances of human rights and equality are also essential for the Assyrians, especially IDPs, in northern Iraq. Sargon's refugee neighbor Ishaya stated bluntly, "We are not Kurdish, so if we are not with the [Kurdistan Democratic Party], we will not reach anything;

43. *See id.*

44. *See id.*

45. Interview with Naramsin in Damascus, Syria (Mar. 19, 2007).

we are second class. If I am not with the party, how can I get real work? I cannot fight and argue; I am not Kurdish.”⁴⁶

D. SARGON'S STORY IN PERSPECTIVE

The U.N. High Commissioner for Refugees (UNHCR) best described, albeit implicitly, the territorial issues between indigenous Assyrians and Kurds in its recent Dohuk Governorate IDP Needs Assessment.⁴⁷ Assyrian Christians make up eighty-five percent of IDPs (10,969 IDP families of the total 12,905).⁴⁸ UNHCR explains this dramatically high number: “Dahuk is historically home to more Christian villages than the two other Governorates and also experienced a displacement of Christians during the Ba'ath regime. Consequently, Christians in Dahuk are predominately a returning Diaspora staying with relatives and friends.”⁴⁹ The tens of thousands of Christians fleeing to the north must be seen in light of the hundreds of thousands fleeing the country. It is this fact that compels a determined policy to secure this population in Iraq.

1. Historical Perspective on Displacement – Simele to the Present

In 1933, the Government of Iraq massacred over 3,000 Assyrians in the Simele district.⁵⁰ This massacre is indeed “Iraq's First

46. Interview with Ishaya in Damascus, Syria (Mar. 19, 2007).

47. See UNITED NATIONS HIGH COMM'R FOR REFUGEES, RAPID NEEDS ASSESSMENT OF RECENTLY DISPLACED PERSONS IN THE KURDISTAN REGION 3-4 (2007), available at <http://www.unhcr.org/cgi-bin/texis/vtx/home/openssl.pdf?tbl=SUBSITES&id=45db09052> [hereinafter UNHCR, RAPID NEEDS ASSESSMENT] (noting that many of the displaced Christians in the north also experienced displacement during the Ba'ath regime and that the ruling Kurdistan parties are not providing assistance to the Christian IDPs).

48. *Id.* at 3.

49. *Id.* (noting further that of the remaining IDPs, ten percent are Kurds, and five percent “are Arabs, the majority of whom have fled sectarian violence in Baghdad”).

50. INT'L FED'N FOR HUMAN RIGHTS & ALLIANCE INTERNATIONALE POUR LA JUSTICE, IRAQ: CONTINUOUS AND SILENT ETHNIC CLEANSING—DISPLACED PERSONS IN IRAQI KURDISTAN AND IRAQI REFUGEES IN IRAN 17 (2003), available at <http://www.fidh.org/IMG/pdf/iq350a.pdf> (characterizing the massacre as “punishment” for Assyrians’ asserting their rights and demanding equal treatment).

Halabja.”⁵¹ It is also why the atrocities perpetrated by later regimes were seen as nothing new, but indeed a tool used since the creation of Iraq to persecute and control minority populations. This slaughter was motivated by a belief that the Assyrian Christians were an irredentist, armed threat to Iraq's national security.⁵²

The reverberations of the 1933 Simele massacre are still felt today because of the decimation of the population physically and the mass flight it generated. Those lands are now largely void of the original inhabitants because of that genocidal attack and the ethnic cleansing that followed. Then the wiping out of villages through the 1960s to the 1980s in Arabization programs compounded the mass dislocation of the Assyrian Christians from their lands.⁵³ This should make clear why UNHCR is identifying those IDPs returning to areas such as Dohuk as a “returning Diaspora;” they are either those originally driven out or the descendants of those cleansed from ancestral lands.⁵⁴ Confirmation of this reality arose through studies by the Nineveh Center for Research and Development (NCRD). As part of NCRD's survey work, IDPs indicated whether they had family in the Nineveh Plain—over eighty percent of respondents said yes.⁵⁵

Today's level of refugee flight—about one in three Christians are now out of Iraq and even more are internally displaced—is part of a

51. On March 16, 1988, Saddam Hussein used chemical weapons on the Kurdish town of Halabja in Northern Iraq, ultimately killing over 5,000 civilians. See U.S. Department of State, *Saddam's Chemical Weapons Campaign: Halabja, March 16, 1988*, Mar. 14, 2003, <http://www.state.gov/r/pa/ei/rls/18714.htm>; Elaine Sciolino, *Kurdish Chief Gains Support in U.S. Visit*, N.Y. TIMES, June 22, 1988, available at <http://query.nytimes.com/gst/fullpage.html?res=940DE1DF1E3FF931A15755C0A96E948260> (reporting the U.S. visit of Kurdish leader Jalal Talabani and his accounts of the atrocities at Halabja).

52. See IRAQ SUSTAINABLE DEMOCRACY PROJECT, CULTURAL RIGHTS AND DEMOCRACY: IRAQI ASSYRIANS A CASE STUDY FOR GOVERNMENT INTERVENTION 3 (2006), <http://www.iraqdemocracyproject.org/pdf/CulturalGenocideofAssyriansinIraq.pdf> [hereinafter ISDP, CULTURAL RIGHTS AND DEMOCRACY] (describing the Iraqi outlook on the Simele Massacre as “an exercise of sovereignty and nation-building”); INT'L FED'N FOR HUMAN RIGHTS, *supra* note 49 (describing the impetus of the Simele Massacre to be retribution for their assertion of a national identity).

53. The Assyrian Academic Society has identified at least 183 ChaldoAssyrian Villages that were destroyed by the Ba'athists, who also deported the residents. See ISDP, CULTURAL RIGHTS AND DEMOCRACY, *supra* note 52, at app. A.

54. See UNHCR, RAPID NEEDS ASSESSMENT, *supra* note 47, at 2.

55. See ISDP BRIEFING ON NINEVEH PLAIN, *supra* note 6.

population shift spurred by persecution and deliberate targeting and continues today.⁵⁶ The return to the north, and particularly the Nineveh Plain, is a vital opportunity as part of a sad but necessary return of a Diaspora, which offers the primary chance of an enduring solution. These people are voting with their feet in returning to these lands, if they do not opt to leave Iraq entirely.⁵⁷

IV. U.S. POLICY AND U.S. NATIONAL INTERESTS REVISITED

It is in this context that Secretary of State Condoleezza Rice's words must be understood and assessed. When she indicates that the past errors of approaches to the Middle East are at an end, that American policy has a new *modus operandi*, and that the priority is no longer stability at the expense of human rights, basic freedoms, and democracy, it requires a test. The situation facing Iraq's Assyrians provides such a test, and the U.S. Government is failing.

The Bush administration's approach to [the Middle East] has been its most vivid departure from prior policy. But our approach is, in reality, an extension of traditional tenets—incorporating human rights and promotion of democratic development into a policy meant to further our national interest. What is exceptional is that the Middle East was treated as an exception for so many decades. U.S. policy there focused almost exclusively on stability. There was little dialogue, certainly not publicly, about the need for democratic change.⁵⁸

This strategy should also be understood in the context of America's strategy for the War on Terror. The National Military Strategic Plan for the War on Terrorism is the primary document articulating America's national security interest and the prosecution of the war effort.⁵⁹ That document indicates that the primary threat to

56. See Roderick, *supra* note 15.

57. See ISDP, VOTING WITH THEIR FEET, *supra* note 12, at 5 (noting that “the vast majority of IDPs in the Nineveh Plain and surrounding areas are actually themselves returnees, their parents or grand-parents being victims of Arabization programs driving them out of the area”).

58. Rice, *Rethinking the National Interest*, *supra* note 7, at 12-13.

59. See Linda Robinson, *Plan of Attack: The Pentagon Has a Secret New*

America's national security is extremism. Extremists "(1) oppose—in principle and in practice—the right of people to choose how to live and how to organize their societies and (2) support the murder of ordinary people to advance extremist ideological purposes. 'Moderates' . . . refer to those individuals who do not support the extremists."⁶⁰

Assyrians and Iraq's other minorities, such as Shabaks, Yezidis, and Turkmen, are Iraq's best sources for directly leveraging forces of moderation in the face of extremism and the extremist threat. Indeed, the very deliberate targeting of these populations is because they are the moderates. This is borne out statistically in the refugee numbers. As stated above, despite being approximately five to seven percent of the population of Iraq, they represent upwards of twenty percent of the refugee population, as a result of their moderation.

Secretary Rice's assertion that human rights and democratic development are real goals for U.S. policies in the Middle East and Iraq, along with the identification of "extremism" as the primary threat to U.S. national security by the Joint Chiefs, provide a robust guide to approach the case of minorities generally, and the case of Assyrian Christians specifically. The major problem has been the absence of an approach and wavering on a willingness to fully acknowledge the problem. Therefore, in Iraq and particularly the Kurdistan region of Iraq, American policy has not changed but has remained markedly similar to previous decades. The emphasis on the measure of stability is preventing recognition of the minorities' crisis and reduces U.S. willingness to confront the KRG for its dictatorial, prejudicial policies towards minorities. This in turn is preventing U.S. Government officials who recognize the problem from actually dealing with it.

Strategy For Taking on Terrorists—and Taking Them Down, U.S. NEWS & WORLD REP., July 24, 2005, available at <http://www.usnews.com/usnews/news/articles/050801/1terror.htm> (reporting that despite the little fanfare that accompanied the release of the Joint Chiefs of Staff's plan, it is now the most comprehensive and significant articulation of U.S. military strategy for the War on Terror).

60. GENERAL PETER PACE, UNITED STATES MARINE CORPS, CHAIRMAN OF THE JOINT CHIEFS OF STAFF, NATIONAL MILITARY STRATEGIC PLAN FOR THE WAR ON TERRORISM 3 (2006), <http://handle.dtic.mil/100.2/ADA443609>.

A. EQUAL U.S. GOVERNMENT ATTENTION: A POLICY FOR
IGNORING UNEQUAL ASSYRIAN SUFFERING

Responding to Congressional concerns about defenseless minorities, the Department of State does not want to “exacerbate tensions between Iraq’s various communities.”⁶¹ It is impossible to see how much worse the situation of Assyrians could be exacerbated. The U.S. liberation of Iraq mobilized latent societal animosity of both Arab Muslims (Sunni and Shi’a) and Kurdish ethno-centric nationalism against the Assyrians. These two sources of pressure are driving Assyrians out of Iraq. Inaction at this point is now becoming complicity, as violence and vulnerability feed one another in a vicious spiral for Assyrians.

The U.S. Government consistently maintains that it does not target ethnic and religious minorities for policy attention—either in terms of reconstruction, development, or security.⁶² This is a wholly understandable *standard* policy. However, it defies understanding when a group is disproportionately, deliberately targeted and suffering with no change in course by the U.S. Government. It is impossible to conceive how successful ethno-religious cleansing must be for the U.S. Government to accept that a minorities’ crisis exists. The U.S. Government is effectively saying it cannot help these people to reduce their disproportionate level of suffering because policy does not allow it to acknowledge the existence of disproportionate Assyrian Christian suffering.

Acknowledging and confronting the ethno-religious cleansing of Iraq’s Christian Assyrians is not about giving preference to one group. It is about dealing with a real situation before it is too late.

61. U.S. Department of State, Report on United States Assistance to the Ninawa Plains in Iraq 1 (Nov. 13, 2007) (on file with author) [hereinafter Ninawa Plains Spending Report]. The House Committee on Appropriations required the State Department to report “on the ethnic and geographic distribution of U.S. assistance programs and specifically [to] report on all U.S. assistance reaching the Nineveh Plain region.” H.R. REP. NO. 110-60, at 200-01 (2007) (expressing concern that U.S. funding was “not reaching all segments of the Iraq population, particularly minority populations”).

62. *E.g.*, IRAQ RELIGIOUS FREEDOM REPORT, *supra* note 3, § IV (stating the U.S. policy in Iraq regarding assistance to minority groups is to “not specifically target any one ethnic or religious group for assistance”).

The State Department report affirms the dire crisis facing Christian Assyrians. On the overall situation, it states, “[t]heir security and economic status have suffered dramatically in recent years as their traditional relationship with the Muslim community has deteriorated; many have sought to escape from central Iraq out of genuine fear of attacks, kidnappings, and assassinations.”⁶³ Specifically, with regards to the governorate of Ninawa and the Nineveh Plain, “the Christian minority faces considerable hardship. Some factions are under-represented politically; some suffer from uneven resource transfers from the [KRG] and the Ministry of Finance; and some experience human rights abuses.”⁶⁴ The KRG controls the provincial council of Ninawa and is accountable for this situation outlined by the Department of State. However, in 2007 “[t]here were numerous reports of Kurdish authorities discriminating against minorities in the North [A]uthorities denied services to some villages, arrested minorities without due process and took them to undisclosed locations for detention, and pressured minority schools to teach in the Kurdish language.”⁶⁵ Expanding on KRG-led discrimination against minorities, “[m]embers of [religious minorities] living in areas north of Mosul, such as Yazidis and Christians, asserted that the KRG encroached on their property and illegally built Kurdish settlements on the confiscated land.”⁶⁶

Despite a generally secular central government that “respected the right of individuals to worship according to thought, conscience, and belief, private conservative and radical Islamic elements continued to exert tremendous pressure on other groups to conform to extremist interpretations of Islam’s precepts.”⁶⁷ Moreover, “[m]embers of the Christian community indicated that they were targeted throughout the year, particularly by Sunni-affiliated terrorists.”⁶⁸ Members of religious minorities fled from violence in other regions of Iraq to the Kurdish region “[d]espite credible reports of KRG discrimination

63. Ninawa Plains Spending Report, *supra* note 61, at 2.

64. *Id.*

65. BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP’T OF STATE, IRAQ: COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES – 2007 sec. 5 (2008), <http://www.state.gov/g/drl/rls/hrrpt/2007/100596.htm>.

66. *Id.* sec. 2.c.

67. *Id.*

68. *Id.*

against religious minorities.”⁶⁹ This finding confirms the desire of those displaced from their lands to return home in the face of KRG authoritarianism and prejudicial treatment.

B. INEXPLICABLE POLICY RECOMMENDATIONS

Despite the obvious existence of a crisis, the main finding and recommendation of the State Department's spending report concludes that the Christian minority “compares favorably not only to other minorities (the Yezidis and Shabak) but also to the Arab majority. Thus, on the basis of relative need, it would be inappropriate to single out this group for special attention.”⁷⁰ This finding simply does not reconcile with anything indicated by the State Department. Assyrians are voting with their feet and fleeing their home of close to seven millenia before the world's eyes, in a crisis that 60 Minutes and an array of other major media sources are documenting.⁷¹ U.S. officials, however, refuse to acknowledge the results of that vote. The policy recommendation is mutually exclusive of the background information provided by the State Department on the hardships and targeting of Assyrians. So what does the State Department response truly mean for Washington's decision-makers? If the policy is to do nothing, it would mean that U.S. policy has not changed. The policy is consistent with past approaches to Middle East diplomacy, where the perceived stability of the governments in Baghdad and in the Kurdistan region is allowed to trump progress in democratic development and violations of human, social, and cultural rights of minorities; in this case, stability resulting from authoritarianism and the persecution of minorities overrides the Assyrians' fundamental right to exist in their homeland.

69. *Id.*

70. Ninawa Plains Spending Report, *supra* note 61, at 2-3.

71. *See 60 Minutes: Vicar: Dire Times for Iraq's Christians* (CBS television broadcast Dec. 2, 2007), available at <http://www.cbsnews.com/stories/2007/11/29/60minutes/main3553612.shtml> (documenting the destruction of Christian churches in Iraq and the violence faced by Iraqi Christians); *see also* Andrew E. Kramer, *For Iraqi Christians, Money Bought Survival, but at What Cost?*, N.Y. TIMES, June 26, 2008, at A1 (describing the kidnapping and murder of Archbishop Paulos Faraj Rahho and the common practice of making Iraqi Christians pay protection money to insurgent forces).

Secretary Rice asserts, “[t]o state . . . that we must promote either our security interests or our democratic ideals is to present a false choice. . . . [I]n the long term, our security is best assured by the success of our ideals: freedom, human rights, open markets, democracy, and the rule of law.”⁷² The State Department’s inability to reconcile its policies with its own acknowledgment that the Assyrian Christian community is suffering particular forms of targeting exposes the need for a dramatic change in direction. The need for a determined policy to save Iraq’s most vulnerable minorities is a vital part of lending credence and legitimacy to U.S. ideals and, by extension, its policy in Iraq and the Middle East.

ISDP refers to this State Department trend to dismiss the need for action by ignoring or minimizing the disproportionate targeting of minorities as “The Myth of Equality in Victimization.”⁷³ It is a tragic reaction by officials who acknowledge the crisis but also indicate that until directed, there is no particular policy for saving Iraq’s minorities or even making this crisis a priority. The myth is reinforced with the additional assertion that, “[l]ike many in Iraq, Iraq’s Christian communities face severe hardships; however, on the basis of relative need, their circumstances would not justify a significant change in resource allocation.”⁷⁴ In fact, these responses ring the loudest alarm about the need to define a policy. When a State Department report on the situation says the U.S. Government should not change course while the Assyrians undergo total dislocation, it is clearly a reflection of the need for decision-makers to intervene urgently. The State Department should urgently be provided with the direction and prioritization they require to assist in developing a policy.⁷⁵

72. Rice, *Rethinking the National Interest*, *supra* note 7, at 14.

73. See IRAQ SUSTAINABLE DEMOCRACY PROJECT, THE “MYTH OF EQUALITY IN VICTIMIZATION”: THE ROOTS OF US GOVERNMENT INACTION AS ETHNO-RELIGIOUS CLEANSING CONTINUES (2008), <http://www.assyriacouncil.eu/resources/The+Myth+of+Equality+in+Victimization.pdf>.

74. Ninawa Plains Spending Report, *supra* note 61, at 4.

75. It must be stated that in ISDP’s assessment, the broad spectrum of State Department officials are well-meaning and pre-disposed to seek the well-being of all Iraqis, without distinction for ethnicity or religion. However, without a policy mandate to focus on a clear-cut crisis facing minorities, they are compelled to stand reason on its head and put forth policy recommendations that are clearly disconnected from reality.

The “Myth of Equality in Victimization” perpetuated by the State Department and clearly articulated in its response to Congress’s call for an accounting of the situation reflects a confluence of various realities in facing the Assyrian crisis in Iraq. First, it reflects the absence of a specific, focused policy to protect Iraq’s defenseless minorities and ensure they are not eradicated from Iraq. Second, it demonstrates that the State Department has little to no direction on this matter.

This “myth” is reinforced in the Department of State’s assertion that, “[t]he environment is fragile, and directing additional resources that are perceived to benefit a particular group could both heighten tensions and undermine the [U.S. Government] policy of fostering a tolerant, multi-ethnic, multi-religious, and non-sectarian society.”⁷⁶ Ambassador Crocker has added, “[t]he best way to provide physical and economic security for vulnerable Iraqis is to help build a democratic, stable, and prosperous Iraq with a security force that provides protection for all of Iraq’s citizens.”⁷⁷ By perpetuating this myth, it is then possible to say that nothing should be done, thereby completely disregarding the reality that Assyrians and other similar minorities cannot withstand the deliberate targeting of their people, and level of flight, until such time as widespread stability and peace is achieved in Iraq.

The core basis of a policy for Iraq’s real minorities must proceed on the understanding that they cannot survive until such time as the U.S. and Iraqi Governments bring stability and peace to all of Iraq. This is not a matter of singling them out, but a matter of unavoidable fact that the violence they are facing today is driving them out of the country.

The KRG’s effort to remove the Nineveh Plain formal local police force this August, followed by the effective stripping away of minority representation in governorate elections in September, and finally the ethno-religious cleansing of Assyrians from Mosul in October exposes the total fallacy in believing the relative success of President George W. Bush’s ‘Surge’ would also benefit minorities.

76. Ninawa Plains Spending Report, *supra* note 61, at 3.

77. Question for the Record Submitted to Ambassador Ryan Crocker by Senator Joseph Biden, Question 13 (Sept. 11, 2007) (on file with author) [hereinafter Crocker Questions and Answers].

At a time when Iraq is doing better than it has in years, minorities are seeing a renewed push to drive them out of their last area of concentration in Ninawa Governorate.

The United States must decide if having inherently moderate populations that make Iraq truly multi-ethnic and multi-sectarian is in its strategic interest in the long term.

C. THE INTERVENTION AND EXAMPLE OF U.S. LAWMAKERS

The House Appropriations Committee has developed two pieces of legislation as a result of concern for Iraq's most vulnerable minorities. The first required the Secretary of State to report on all spending for ethnic and religious minorities and U.S. Government spending in the Nineveh Plain specifically—referenced extensively above. The second piece of legislation broke through the administrative arm of the government's informal barrier to recognizing this crisis by requiring \$10 million for religious minority IDPs in the Nineveh Plain. Representative Mark Kirk (R-IL) made this proposal, and it passed unanimously in light of congressional concern.⁷⁸

The State Department reports and other responses by U.S. Government officials cited in this essay allow us to recognize that a "Myth of Equality in Victimization" exists. However, the \$10 million, while yet to be rolled out, is already being seen as a step towards greater opening-up of U.S. policy to the crisis due to the courage of a few lawmakers. In March 2008, the Appropriations Sub-Committee on State and Foreign Operations proposed an additional \$30 million to address the plight of minorities in the Nineveh Plain.

78. See Roderick, *supra* note 15 (crediting Representative Kirk for shepherding the amendment through the U.S. House Appropriations Subcommittee on State and Foreign Operations); see also Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, 121 Stat. 1844; H.R. REP. NO. 110-197, at 72 (2007), as reprinted in 2008 U.S.C.C.A.N. 661 (accompanying H.R. 2764 and summarizing the Committee's "concern[] about the plight of religious minorities in Iraq and inten[tion] that from within the unobligated amounts provided in previous years under the heading 'Economic Support Fund' for Iraq, not less than \$10,000,000 should be provided to assist religious minorities in the Nineveh Plain region of Iraq").

On May 22, 2007, Representative Diane Watson (D-CA) confronted the Special Inspector General for Iraq Reconstruction regarding minorities and the Nineveh Plain, stating:

It is my understanding that since late 2005, no notable reconstruction or redevelopment project has been undertaken in these plains, and it has been ignored probably developmentally in a manner that can only be compared to apartheid like de-development of an ethnic community. As a result, no aid reaching this area and relative to other areas, and these IDPs are choosing to flee the country entirely. So the Christians, they are de-Christianizing this area in Iraq.⁷⁹

Representatives Frank Wolf and Anna Eshoo jointly established the Religious Minorities in the Middle East Caucus earlier this year.⁸⁰ The Caucus brought together many other members of Congress alarmed by the plight of religious minorities in Iraq to focus on the situation facing Iraq's Christians.

Congressional intervention and action in the area of security for minorities is also critical. During a congressional hearing on April 10, 2008, Congressman Kirk presented Ambassador Ryan Crocker a detailed policing plan for the minorities of the Nineveh Plain as per a Government of Iraq order which the KRG was blocking. Kirk stated, "I don't think we have detailed plans for any other set of villages in Iraq—but we certainly have it for these villages." Rep. Kirk added that he would like to have the police force created and funded quickly.⁸¹

During the high-profile September 11, 2007 hearings with General David Petraeus and Ambassador Ryan Crocker, Senator Joseph R. Biden Jr. (D-DE) asked Ambassador Crocker a critical question about the constitutional basis for establishing some type of federal

79. *Iraq: Is Reconstruction Failing? Hearing before the Committee on Foreign Affairs, House of Representatives*, 110th Cong. 26 (2007) (question from Rep. Diane Watson to SIGIR Head Stuart Bowen).

80. *See All Things Considered: Caucus Highlights Persecution of Christians in Iraq* (Nat'l Pub. Radio radio broadcast Apr. 19, 2008), available at <http://www.npr.org/templates/story/story.php?storyId=89787382>.

81. Waleeta Canon, *Ambassador Crocker Discusses Assyrian Police Force, Refugees on Capitol Hill*, ZINDA MAG., Apr. 14, 2008, http://www.zindamagazine.com/html/archives/2008/04.14.08/index_mon.php.

unit under Article 125 of the Iraqi Constitution. In response, Ambassador Crocker affirmed that “[s]ome Iraqi parliamentarians and local politicians in Ninawa have called for an autonomous region in Ninawa province, citing Article 125 of the Iraqi Constitution. Iraqi citizens can pursue the creation of a separate administrative region through processes consistent with this article.”⁸²

To summarize Congressional policy focus, in early 2007 Congress passed legislation calling for an accounting of the level of U.S. reconstruction activity in the Nineveh Plain.⁸³ They promptly passed precedent-setting legislation targeting \$10 million in humanitarian relief for religious minority IDPs in the Nineveh Plain where a majority of Assyrians, Shabaks, and Yezidis are found.⁸⁴ Congress is aggressively pursuing the issues of allowing minorities to assume a full role in security, particularly at the local level, in order to ensure ethno-religious pluralism in Iraq's security forces but also to guard against the intimidation and force used against Assyrians and other minorities by insurgents and the KRG's Peshmerga. Lastly, lines of inquiry, such as those between Senator Biden about robust federal models, and opportunities for minorities, such as the chance to create a unique federal unit in the Nineveh Plain, reflect the possibilities in engaging these issues constructively and without reprisal. It is critical to identify the precedents and policy dialogue established by the Congress and begin putting full U.S. Government support behind it. Courageous efforts by various members of each house to take concerted action must be seen in light of the Congress's political will and concern for Iraq's minorities.

V. SOLUTIONS

In many respects, Congress has shown the solution, first by acknowledging the minorities' crisis. In terms of the Assyrians, members of Congress are referring to this as the “de-Christianization” of Iraq.⁸⁵ Recognizing the crisis allows the U.S.

82. Crocker Questions and Answers, *supra* note 77, Question 13.

83. See Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, 121 Stat. 1844.

84. *Id.*

85. See, e.g., Ashtar Analeed Marcus, *U.S. House Approves \$10M for the Nineveh Plains in Iraq*, ZINDA MAG., June 26, 2007, <http://www.house.gov/>

Government to pursue a strategy to save Iraq's minorities and thereby also realize U.S. national security interests and move towards what Secretary Rice terms "American Realism for a New World."⁸⁶ The three prongs of such a strategy are: reconstruction/humanitarian assistance; security; and governance (particularly federalism, land rights, and elections).

A. DEFINING AN ENDURING SOLUTION

Recognition of a minorities' crisis is an essential step towards placing this issue firmly within the framework of America's national security and the fight against extremism. The minorities' crisis represents the loss of moderates in the face of targeting by extremists. On one of the critical fronts of the war on terror—Iraq—America is rapidly losing vital allies and sources for leveraging moderation and democratization by allowing Iraq's real minorities to be ethno-religiously cleansed at worst, or fully marginalized and politically silenced at best. At the highest levels of the U.S. Government, explicit recognition of this crisis must be forthcoming in order to ensure the required departmental and agency action to remedy the situation. Subsequently, the definition of a robust policy can be fully detailed. However, the three above-mentioned prongs of any such policy are generally addressed here.

Together, the three prongs of the policy constitute the basic framework for a 'Minorities Surge.' The serious setbacks to minorities just when the 'Surge' is producing positive results for Iraq as a whole necessitates an appropriately framed targeted policy to save Iraq's defenseless minorities.

1. Reconstruction and Humanitarian Assistance

At the present moment the area of the Nineveh Plain is suffering neglect in terms of humanitarian assistance and reconstruction efforts. There is work being done, but this work is nowhere near the level of assistance necessary for making a significant impact. The

list/hearing/il10_kirk/US_House_Approves_10M_for_Nineveh_Plains.html (quoting U.S. Representative Mark Kirk as saying that the Congressional funding is an attempt to prevent the de-Christianization of Iraq).

86. Rice, *Rethinking the National Interest*, *supra* note 7, at 2.

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area was underdeveloped through the neglect of previous regimes and at the fall of Saddam Hussein, required substantial assistance for its existing population. The massive influx of IDPs has placed the area under extraordinary strain (as State Department reporting acknowledges). ISDP's interviews with refugees in Jordan, Syria, and Lebanon indicate that a great majority of refugees were first IDPs mainly to the north and the Nineveh Plain in particular. The hopelessness and despair of the area compelled them to abandon Iraq, thus fueling a disproportionate increase in the number of Assyrians in the refugee population.

With over one in three Assyrian Christians already cleansed from Iraq, it is not enough to approach reconstruction and development as a means to prevent further minority flight. Instead, targeted assistance to areas such as the Nineveh Plain must be designed with the goal of drawing refugees back to their homeland. That is the only benchmark that can truly serve to prevent the loss of the indigenous Assyrian, Yezidis, and Shabak minorities and signal to the vulnerable Turkmen minority that it too has a future in Iraq.

Food item and non-food item humanitarian assistance will assist people to remain in areas such as the Nineveh Plain for the short and medium term. If basic needs can be met, it will allow a great many to try to cope with Islamist targeting and authoritarian pressures from the KRG and tolerate the conditions of relative, albeit decreased, deprivation.

Humanitarian assistance must be delivered in conjunction with identifiable, tangible reconstruction and development. The U.S. Government is indicating that it has spent enough money on Iraq's reconstruction and that the "bricks and mortar" stage of U.S. aid is at an end.⁸⁷ Given the neglect of the Nineveh Plain, the level of IDP absorption, and the overall political context of the Nineveh Plain for saving minorities, an exception to U.S. policy and a plan for comprehensive reconstruction in the Nineveh Plain are necessary.

87. See JAMES F. JEFFREY, SENIOR ADVISOR TO THE SEC'Y AND COORDINATOR FOR IRAQ, U.S. DEP'T OF STATE, ASSISTANCE TO IRAQ IN THE FY 2006 SUPPLEMENTAL BUDGET AND FY 2007 BUDGET REQUEST (2006), <http://www.state.gov/p/nea/rls/rm/2006/62263.htm> (discussing the shift away from mortar and steel and brick type reconstructions and towards capacity development).

In providing humanitarian assistance, the priority should be on housing, schools, health care facilities, potable water, electrification, and roads. Additionally, support for agricultural development will capitalize on the natural advantage the area has in agriculture. The Nineveh Plain was the breadbasket of the ancient Assyrian empire and remains to this day a fertile land capable of supporting an array of agricultural development endeavors. Lastly, the Nineveh Plain is in need of a higher education institution, a university. Minorities, particularly Assyrian Christians, place a significant premium on higher education. They represent a number of the educated and professional class in Iraq far exceeding their percentage of the population. Since at least 2005, Mosul University (the second largest in Iraq) has been inaccessible to thousands of students from minority peoples due to targeting by extremists.⁸⁸ Establishing a university in the Nineveh Plain will ensure that these thousands of students and their families are not compelled to flee Iraq. Concurrently, such a project will create jobs immediately while also establishing the basis for economic growth in areas of small- and medium-sized businesses servicing the university itself and its student population.

2. Security

Fully executing the Government of Iraq's order for the creation of a 711 member local police force in the Nineveh Plain must be the primary goal as a first step towards establishing a more viable security structure in the region. In so doing, it would affirm the jurisdiction of the central government versus the KRG, the latter of which is the political obstacle to this force, encroaching on matters of security outside of its jurisdiction. Additionally, it would provide real progress in realizing U.S. strategic interests in terms of standing up formal, local police forces as a means of allowing U.S. forces to stand down.

After succeeding in removing KRG/KDP obstacles to the formation of the full force of 711 (it is at present frozen at 269 officers), the next steps can be taken towards expanding the local police force to meet the optimal police to population ratios.

88. See Bandow, *supra* note 16 (reporting that "Christian students have been beaten, shot, and threatened with expulsion").

Meaningful levels of security will also require ensuring progress by the U.S. Government in training and standing up special forces or SWAT units in the Nineveh Plain, who are the only true assurance of engaging with insurgents and extremists.

It is worth noting that immediate progress is needed on this issue as it will also serve the goal of providing free and fair elections.⁸⁹ If Peshmerga are allowed to remain in the Nineveh Plain during the elections, a repeat of the widespread disenfranchisement and electoral fraud is certain, as will be discussed below.

3. Governance

The contentiousness surrounding issues of federalism and autonomy in Iraq certainly requires the United States to tread carefully in terms of policy development and pronouncements. The reaction in Iraq to the Biden-Gelb Plan,⁹⁰ which elicited sharp rebuke and protest and drove mistrust among Iraqis, cannot be ignored.⁹¹ However, federalism is the single most powerful constitutional tool available for all stakeholders (Iraqi and American) in ensuring a pluralistic, democratic Iraq. To that end, the constitution of Iraq provides for an exceptional federal arrangement for ethno-religious minorities. Iraq as a federation is comprised of regions, governorates, a decentralized capital, and local administrations, “[the] last of which is concerned not with local governments but protection for minorities.”⁹²

89. See Thomas L. Friedman, Op-Ed, *Worth a Thousand Words*, N.Y. TIMES, Dec. 23, 2004, at A25 (arguing that without increased peace and security, the chances of a free and fair election in Iraq are slim).

90. See Joseph R. Biden Jr. & Leslie H. Gelb, Op-Ed, *Unity Through Autonomy in Iraq*, N.Y. TIMES, May 1, 2006, at A2 (advocating an approach modeled after the reconstruction of Bosnia, that would divide Iraq into three autonomous regions and strengthen the rights of women and ethnic minorities). The discussion over Ethnosectarian division plans, such as the Biden-Gelb plan, has spurred much controversy as to how much federalism is appropriate in Iraq. See, e.g., Paul R. Williams & Matthew T. Simpson, *Rethinking the Political Future: An Alternative to the Ethno-Sectarian Division of Iraq*, 24 AM. U. INT'L L. REV. 191 (2008).

91. See Paul Reynolds, *Search for Least-Worst Option in Iraq*, BBC NEWS, Oct. 24, 2008, http://news.bbc.co.uk/2/hi/middle_east/6062688.stm (opposing any partitioning of Iraq by Sunni Iraqis and articulating the opinion of President Jalal Talabani that there is no possibility of accepting such a policy).

92. Yash Ghai & Jill Cottrell, *A Review of the Constitution of Iraq* 28 (Univ. of

Article 125 of the Iraqi Constitution guarantees “the administrative, political, cultural, and educational rights of the various nationalities, such as Turkomen, Chaldeans, Assyrians, and all other constituents, and this shall be regulated by law.”⁹³ As confirmed in the response by Ambassador Ryan Crocker to Senator Biden, this Article does provide the chance to create some type of unique federal unit, thereby providing some measure of autonomy within a strong federation.⁹⁴

Even though the Article 125 language existed in the Transitional Administrative Law⁹⁵ and was adopted in the Constitution before the scope of the minorities’ crisis became fully evident, it is today regarded as the primary policy for ensuring that Iraq’s Assyrian, Shabak, Yezidis and Turkmen populations are not wiped out. However, open discussions of autonomy in Iraq are seen as a process for partitioning the country. Full comprehension of its technical use as a governance concept is not recognized. To that end, a Nineveh Plain Administrative Unit (NPAU) should be created under the authority provided by Article 125. This policy should be understood for its potential to provide the necessary protection for minorities without emphasizing the “autonomy” language in which it fits.

If such a federal unit were established, it would ensure that at least one of Iraq’s federal units is thoroughly heterogeneous ethnically and religiously, with its main population made up of Assyrians, Shabaks, and Yezidis, where no group overwhelms the others. Pursuing the NPAU policy through the operationalization of the “Article 125 Solution” will begin a movement that takes Iraq away from the destructive and politically debilitating process of pitting three large stakeholders (Shi’a Arab south, Sunni Arab center, and Sunni Kurd

Wis. Law Sch. Global Legal Studies Ctr., Working Paper, 2005), *available at* <http://www.law.wisc.edu/gls/arotcoi.pdf>.

93. CONSTITUTION OF THE REPUBLIC OF IRAQ art. 125 (2006), *available at* http://www.uniraq.org/documents/iraqi_constitution.pdf.

94. *See* Crocker Questions and Answers, *supra* note 77, Question 13.

95. *E.g.*, Law of Administration for the State of Iraq for the Transitional Period, arts. 52-53 (2004), *available at* <http://www.au.af.mil/au/awc/awcgate/iraq/tal.htm> (describing the Iraq governmental structure as a federal system designed to encourage the exercise of local authority, preventing the concentration of power that allowed decades of tyranny under the previous regime and guaranteeing the “administrative, cultural, and political rights of the Turcomans, ChaldoAssyrians, and all other citizens”).

north) in a zero-sum calculation where potential secession provides an effective veto in political bargaining, to one where no one unit can dominate so absolutely. The creation of Local Administrations, starting with the NPAU (but certainly creating other such federal units where necessary), will signal the movement towards the actual intention and function of federal arrangements by negating zero-sum calculations centered on ethnic and sectarian differences. It will instead emphasize heterogeneity, pluralism, and mutually beneficial political compromises.

The upcoming provincial government elections will also be a critical test for how Assyrians and other defenseless ethno-religious minorities see their future in Iraq. In the January and December elections, the Nineveh Plain was widely disenfranchised and endured extensive electoral fraud perpetrated by the KRG.⁹⁶ A priority must be made to ensure free and fair elections in the Nineveh Plain. The primary step towards this goal is ensuring that security is in the hands of the locals by establishing formal local policing. At present, Peshmerga forces control the security in the Nineveh Plain, allowing the KDP/KRG to deny the minorities of the Nineveh Plain a chance to express their will electorally. Prioritizing the Nineveh Plain for international observers and spending a significant portion of funding for minorities in Ninawa and the Nineveh Plain on capacitating the minority parties and groups should compliment the basic security requirements for free and fair elections.

Finally land return is of great significance for political progress, as well as the immediate economic, social, and cultural rights benefits. While there are of course widespread, generalized problems with land return and establishing land rights, those which require immediate attention are those in which the KDP/KRG aided in the land theft. Cases such as Dere/Coumaneh/Maristek, Bebade, Kori Gavana, Chamal Rebethke, Chaqala Khtatha, and Sarsink are only a sample of such cases.⁹⁷ U.S. intervention in these cases will provide a robust sample and set the precedents needed in working with the

96. See Porter, *Voting Shenanigans*, *supra* note 32 (reporting the questionable actions and occurrences surrounding the 2005 elections).

97. See Michael Youash, Testimony before U.S. Commission on International Religious Freedom, Hearing: Threats to Iraq's Communities of Antiquity, July 25, 2007, http://www.uscirf.gov/index.php?option=com_content&task=view&id=1378&Itemid=1.

KRG to change its behavior on an issue integral to saving ethno-religious minorities.

CONCLUSION

While ethno-religious minorities such as Iraq's indigenous Assyrian Christians face an existential threat, the United States is making history in minority rights with the election of the first ever African-American president. Hundreds of years of struggle and work brought the United States to such a point in its history. The United States has much to offer in assisting Iraq not to make the same errors. Unfortunately, this is not happening. The policy recommendations of the Department of State indicate the United States' inability to fully admit the problem and its readiness to assert that nothing should be done. This must change. If the National Military Strategic Plan for the War on Terrorism is to be more than just words on paper, then the minorities' crisis is about supporting moderates in the face of extremists for the betterment of all, on the front line of that vital struggle. If the goal is a democratic Iraq, pluralism and a robust federal system where minorities can meaningfully participate are sure to enhance the chances of establishing a democracy that is sustainable.

If Americans and the international community are to believe Secretary Rice's assertion that America is moving towards a new approach in the Middle East that genuinely places a premium on democratic values and norms, and not simply on stability at the expense of human rights and liberties, then the test case is with the Assyrians, Shabaks, Yezidis, Turkmen and other defenseless minorities in Iraq today. The presence of over 140,000 troops and an entire U.S. military and civilian infrastructure to support their mission makes Iraq the single greatest measure of the veracity of the Secretary of State's promise. Nowhere else is the United States better situated to live up to the commitments made on national security *and* the struggle for freedom and dignity for all.

The legislative and political setbacks to minorities from August 2008 to the present, combined with the concerted effort to kill Christian Assyrians in Mosul, internally-displacing over 3,000 families in a matter of days, reflects the emptiness of the policy to improve minorities' suffering by making Iraq a safer place. It also

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exposes the fact that Assyrians are deliberately targeted all these years since the fall of Saddam Hussein. For this reason, the development of a policy framed as a 'Minorities Surge' is essential.

If this Article is critical, the hope is it at least be seen as constructive. Policy failures and shortcomings are easier to identify than to accept. Coping with them and rising to the challenges outlined in this piece will not be easy. Secretary Rice herself, writing on the "New Realism" that does not forgo human rights and democracy, states that "[o]ur current course is certainly difficult, but let us not romanticize the old bargains of the Middle East—for they yielded neither justice nor stability."⁹⁸ The Iraqi Government is apathetic at best but more likely complicit in the cleansing of Christians by extremists in major urban centers. The KRG in Irbil is persecuting and treating Assyrians prejudicially. It is certainly easier to acknowledge these governments for the stability they are offering. However, if this stability occurs with ethno-religiously cleansing Assyrians and then others thereafter, the United States will have failed these minority allies in Iraq, failed to secure a part of its national security interests, and will have ultimately failed itself.

98. Rice, *Rethinking the National Interest*, *supra* note 7, at 13.