

From Babylon to Baghdad: Cultural Heritage and Constitutional Law in the Republic of Iraq

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Abstract: The Constitution of the Republic of Iraq entered force in 2005, placing such “national treasures” as “antiquities, archeological sites, cultural buildings, manuscripts, and coins” under federal jurisdiction to be “managed in cooperation with the regions and governorates.” This provision may not immediately appear significant or controversial, but it is both. Federalism remains a heated and even deadly issue in Iraq, which is still balancing authority between its capital and other parts of the country. The Constitution’s handling of heritage—like its comparable treatment of oil and gas—therefore raises many questions. The answers to these have massive implications, as they not only determine who governs culture in Iraq but also could void much existing domestic law and unravel the country’s entire heritage management system. This study thus aims to clarify the Constitution’s treatment of antiquities and archaeology, resolving who controls one of Iraq’s most important historic, cultural, and economic resources.

INTRODUCTION

Few places are more linked to the law than Babylon, the stronghold of King Hammurabi, whose eponymous code is one of the oldest, and arguably most famous, known to history. Dating back to the 18th century BCE, the Code of Hammurabi

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controlled all aspects of Babylonian life, from business and trade to the household to crime and punishment. Hammurabi promulgated his code throughout Mesopotamia, inscribing its provisions on public monuments, one of which—a stele larger than a grown man—can still be admired at the Louvre Museum today.¹

Now, several millennia after Hammurabi's Code, the laws governing ancient Mesopotamia no longer fit on a single slab. The Republic of Iraq—a distant successor to Hammurabi's kingdom—is struggling to preserve its past through a legal framework that includes international treaties, domestic legislation, and even constitutional provisions. Laws criminalize the looting of archaeological sites and trafficking of antiquities as well as regulate their study and management. Within the past decade, the country has overhauled many of these protections, even in times of invasion, occupation, and civil war.²

The history of these recent measures is intertwined with that of Iraq itself (as is true of the country's heritage law throughout the past century). On 18 November 2002, the same day United Nations weapons inspectors returned to Baghdad, Antiquities and Heritage Law Number 55 of 2002 took effect and modernized the country's preservation mandate.³ The next year, on 29 October 2003—not six months into the Iraq occupation by the Coalition Provisional Authority—the Ministry of Culture proposed that Babylon and the Marshlands of Mesopotamia be added to the Tentative List of the World Heritage Convention. These were the first of six postwar submissions, a “forecast” of sites to eventually be nominated for World Heritage Status.⁴ Finally on 15 October 2005, the new Constitution of the Republic of Iraq came into force, pledging state backing for “cultural activities and institutions.”⁵ More importantly, in Article 113 it also placed such “national treasures” as “antiquities, archeological sites, cultural buildings, manuscripts, and coins” under federal jurisdiction, but to be “managed in cooperation with the regions and governorates.”

Article 113 may not immediately appear significant, or contentious, but it is both. Federalism remains a heated and even deadly issue in Iraq, which in the wake of the 2005 Constitution, is fighting to balance authority between its capital and other parts of the country. On its face, the Constitution grants all powers to the regions and governorates, save for a short and select list that is exclusive to Baghdad. The latter does *not* include heritage or, more controversially, oil and gas. However, the Constitution appears to contradict itself elsewhere, by underscoring the national character of these very resources.⁶

The Constitution's handling of heritage—like its comparable treatment of oil and gas—therefore raises many questions. Who is ultimately responsible for Iraq's archaeological sites and antiquities—and thus able to legislate them—the federal authorities or the regions and governorates? How is their “cooperation” to work in practice? And what happens if there is conflict between them?

The answers to these questions have massive implications, as they not only determine who governs culture in Iraq but additionally could void much existing

domestic law and even interfere with Iraq's obligations under international law. Or they could, in short, unravel the country's entire heritage management system. Indeed, disputes between Baghdad and the local authorities at Babylon, as well as the regional authorities in Kurdistan, portended such a worst-case scenario early on.

The stakes have only risen with recent events. In June 2014, Iraq's long simmering insurgency exploded with a new offensive by the Islamic State of Iraq and Syria (ISIS), a Sunni jihadist group too extreme even for Al Qaeda.⁷ As ISIS stormed northern and western Iraq, fears grew that Baghdad itself would fall, prompting Kurdish calls for independence and threatening the entire federal system.⁸ But at the time of this writing, ISIS is losing ground to an Iraqi and Kurdish counter-offensive, supported by U.S. airstrikes. World leaders have also expressed optimism that the departure of former Prime Minister Nuri al-Maliki—a Shia accused of disenfranchising Iraq's Sunnis to the point of revolt—could lead to “a peaceful transition of power, based on democratic elections, ... a first in modern Iraq's troubled history of kings, coups and dictatorships.”⁹

It remains to be seen whether this optimism is warranted, but instead of derogating preservation to the background, the crisis has given it renewed urgency. As ISIS seeks to annihilate its enemies and all they hold sacred—including Sunnis who refuse to subscribe to its hardline ideology—mass executions and cultural destruction have gone hand in hand. The militants infamously made international headlines after razing the Judeo-Christian Tomb of Jonah (and with it the Sunni mosque of the Prophet Younis) along with countless other graves and shrines.¹⁰ They are also reportedly arming their cause with “millions” earned from antiquities looting and trafficking.¹¹ So with the threat of ISIS, heritage has become a matter of national security, making its protection more important than ever.

This article thus aims to clarify the 2005 Constitution's treatment of heritage and resolve who controls one of the Republic of Iraq's most important historic, cultural, and potentially economic resources. Because such an endeavor requires a basic knowledge of the document itself, as well as Iraqi legal principles, these are first introduced in theory and practice. The relevant constitutional law is then explored—in particular, the legislative history, text, placement, and implications of Article 113—within the wider domestic and international legal system. Finally, based on this analysis, the author holds that heritage should be treated as a federal power despite arguments to the contrary from the regions and governorates.

THE 2005 CONSTITUTION OF THE REPUBLIC OF IRAQ

The 2005 Constitution of the Republic of Iraq created the modern Iraqi state. This charter was a remarkable achievement, but it has yet to be fully implemented, resulting in one nation on paper and another in actuality.¹² Contradictions in the text have not been amended and gaps not filled. Key institutions are still unrealized. Given such instability, this article does not attempt to present a snapshot of Iraq at this moment, which may be outdated tomorrow. Instead, it outlines the

government as it is meant to be, while making every effort to indicate when reality diverges. Such a legal overview may seem far removed from cultural resources management, but it is crucial to understanding the Constitution's treatment of heritage and thus the practice of archaeology in Iraq.

The United States began planning for a new Iraqi constitution well before the fall of Saddam Hussein.¹³ By October 2001, the U.S. State Department's Bureau of Near Eastern Affairs had established the Future of Iraq (FOI) Project, which gathered together select Iraqi exiles to prepare for expected regime change.¹⁴ They quickly prioritized the need for a new constitution in order to strengthen democracy and the rule of law.¹⁵ Many months and \$5 million dollars later, their recommendations on this and numerous other topics resulted in a detailed report, spanning 1,200 pages over 13 volumes.¹⁶

In retrospect, the FOI report accurately predicted many of the challenges facing postwar Iraq and provided a comprehensive strategy for addressing them.¹⁷ But due to personalities and politics within the U.S. government, it was largely ignored after the American invasion, which began on 19 March 2003 and toppled the regime of Saddam Hussein 21 days later.¹⁸ Instead of following the FOI roadmap, the United States and its allies laid a new groundwork. They first established a transitional government, the Coalition Provisional Authority (CPA), which in turn appointed the Iraqi Governing Council (IGC) from domestic leaders and former exiles.¹⁹ Working together, the CPA and IGC drafted the Law of Administration for the State of Iraq for the Transitional Period (also called the Transitional Administrative Law, or TAL), which was signed on 8 March 2004.²⁰ On 30 June 2004, when the CPA and IGC officially transferred power to the new Iraqi Interim Government, the TAL became the country's functioning constitution.²¹

Iraq was still in need of a permanent constitution—and government—and the creation of these was soon the focus of the Iraqi Interim Government. It formed the Constitutional Drafting Committee (CDC), which was initially composed of members of the Transitional National Assembly, and later expanded.²² But progress was slow, and work did not begin in earnest until June 2005.²³

Sections of the constitution were leaked in June and July, and by late August, a complete (but highly divisive) draft was presented.²⁴ Portions of the text were vigorously modified over the next weeks, revealing intense disagreements over key provisions, which continued right until the TAL's deadline.²⁵ The finished draft was then officially submitted for a referendum on 15 October 2005. Despite continuing violence, and amid heavy security, the Iraqi people went to the polls in huge numbers. After 10 million votes and 10 days of counting, the electoral commission announced the results. The new constitution had been approved by 79% of the voters.²⁶

The 2005 Constitution of the Republic of Iraq, characteristic of such charters, includes a preamble, fundamental principles, a bill of rights and liberties, the structure for a federal government, enumerated federal and regional powers, an amendment procedure, and transitional provisions.

It totals 144 articles. The very first establishes Iraq as a “single federal, independent and fully sovereign state in which the system of government is republican, representative, parliamentary, and democratic.” Within this framework, “The people are the source of authority and legitimacy,” which they exercise through the federal powers of the judiciary, executive, and legislature. These branches of government “exercise their competencies and tasks on the basis of the principle of separation of powers.”²⁷

The Constitution also provides for a broader federal system, including the capital, regions, and governorates, in addition to local administrations. Baghdad is the capital, and as of now, Kurdistan the only region.²⁸ The most numerous divisions are thus governorates not incorporated into a region.²⁹ These are themselves further carved into districts, subdistricts, and villages.³⁰

Iraq is still determining the balance of power between all these entities. The Constitution does enumerate competencies that are exclusive to the federal government and also those that it shares with the regional and governorate authorities. It reserves all others to the regions and governorates.

The Constitution concludes with transitional provisions, meant to smooth the creation of the new government, and provides for an amendment process.³¹ According to Article 144, the very last, “This Constitution shall come into force after the approval of the people thereon in a general referendum, its publication in the Official Gazette, and the seating of the government that is formed pursuant to this Constitution.” As noted earlier, the Constitution was approved in a 15 October 2005 referendum, and then published in the Official Gazette on 28 December 2005. These steps paved the way for the new government, and more relevant to this study, its legal system.

THE LEGAL SYSTEM UNDER THE CONSTITUTION

The Republic of Iraq’s new legal system, along with the rest of the country’s government, remains in a state of flux. The first administration following the Constitution could not instantly enact a whole new regime, so many earlier institutions and laws have remained in force, and they will continue until they are replaced by new ones or otherwise repealed. As a result, identifying governing legislation and how it should be applied is frequently difficult, and sometimes impossible. Nonetheless, there are a number of key legal principles that hold true, on whose basis the rest of the justice framework is being developed.

Perhaps most important of these is the complete sovereignty of the law. Of all law, the Constitution is the “preeminent and supreme” source and “shall be binding in all parts of Iraq without exception.” Additionally, “No law that contradicts [it] shall be enacted,” and “Any text in any regional constitutions or any other legal text that contradicts [it] shall be considered void.”³²

Not all other laws are created equal. In Iraq, as in most countries, the Constitution provides guidelines for a legal hierarchy. If laws conflict, these choice-of-law rules decide which should apply.

As noted earlier, in case of conflict between the Constitution and any other law, the Constitution will prevail. A more complicated question is what happens when two federal laws, or two regional/governorate laws, or a federal and regional/governorate law conflict. Regarding the latter, and in a sharp contrast from other federal systems, the regions and governorates apparently prevail in case of any dispute. The only exception concerns matters that are listed as exclusive to the federal government.³³ In many cases the interpretation of this principle is straightforward, but as will be discussed later, it has caused much debate regarding oil, gas, and heritage.

Another issue is what happens when a domestic law conflicts with an international law.³⁴ The Constitution is firm that Iraq shall “respect its international obligations,” which presumably includes treaties and other agreements that the country has entered, as well as *jus cogens* norms.³⁵ This is not empty language. According to U.S. observers of Iraq’s constitutional process, the document’s drafters “understood and embraced the legal and symbolic implications of including basic provisions in the text that reinforced [Iraq’s] commitment to international obligations.”³⁶

The Constitution also includes several provisions detailing how Iraq will enter such obligations. First, it gives the federal government exclusive authority in the realm of international affairs and law. This power includes “negotiating, signing, and ratifying international treaties and agreements.”³⁷

It fails to provide other guidance for how international law will fit into the Iraqi legal system. Iraq has traditionally followed the “dualist” theory of international law. According to this viewpoint—which is shared by the United Kingdom and the United States—international law must first be incorporated into Iraqi law before it can be enforced domestically.³⁸ Until this happens, it cannot be applied in the country’s courts or invoked by its citizens. Once an international law has been thus implemented, however, it would likely have precedence over other domestic law in case of dispute.

THE CONSTITUTION’S TREATMENT OF HERITAGE

Legislative History

More could be written about the Republic of Iraq’s legal system, but the preceding summary is sufficient to understand the 2005 Constitution’s treatment of archaeology and antiquities. As introduced above, this charter not only establishes the Iraqi government, but it also forms the foundation of the country’s heritage policy. Again, it does this by pledging state support for cultural activities and institutions and classifying select categories of objects and sites as “national treasures” under federal control, to be managed in cooperation with the regions and governorates.

Such provisions were not on the American radar during its prewar discussions, even though as early as late 2001, the United States had already started planning for a new Iraqi constitution and legal system. The FOI Project never convened a proposed working group on “Preserving Iraq’s Cultural Heritage,” and because

“the project’s existence remained essentially unknown to anyone from the cultural heritage community,” it received little if any input on cultural heritage matters.³⁹ By fall 2002, archaeological organizations did launch an active campaign urging the United States to safeguard Iraq’s ancient sites and objects during the coming war, both from bombing and the looting sure to follow any conflict.⁴⁰ In early 2003, Pentagon officials also met with art collectors and curators from the American Council for Cultural Policy (ACCP), who echoed these same concerns.⁴¹

However, archaeologists feared that the ACCP’s true goal was to instead relax antiquity export laws in postwar Iraq, which the organization’s treasurer seemingly confirmed in the press (although he later claimed that his remarks had been misinterpreted).⁴² Either way, while the ACCP and archaeologists succeeded in alerting the United States to the dangers of bombing Iraq’s ancient sites, their influence apparently stopped there. After Saddam’s fall, the plunder of Iraq’s past was immediate and catastrophic, as looters ravaged countless archaeological sites and even the Baghdad Museum itself. And the laws, during the transitional government at least, remained unchanged.

Indeed, provisions on heritage were completely absent from the preliminary versions of the Constitution that emerged from the drafting commission in mid-2005, an omission that concerned both Iraqi leaders and international advisors.⁴³ Later that year, a 22 August 2005 draft did grant the federal government the authority “to regulate, preserve and maintain antiquities and the archeological, cultural and educational sites and the historical buildings and other cultural assets,” but only concurrently with the regional governments.⁴⁴ While this language was better than nothing, according to one U.S. observer (who has not been publicly identified), it “would have jeopardized the federal government’s role in regulating this area by allowing regional governmental control of antiquities. Such a result could have made impossible the federal government’s effort to comply with international agreements on antiquity protection, as it would have lacked sufficient means to fulfill its obligations.”

This August draft and later versions still failed to guarantee government support for Iraqi culture. During the last deliberations on 12 October 2005, such a clause was successfully championed by Nuri al-Maliki, a leading member of the Da’wa Party.⁴⁵ It became Article 35, which reads, “The state shall promote cultural activities and institutions in a manner that befits the civilizational and cultural history of Iraq.”

At these same negotiations, the drafters also revised the existing reference to the federal administration of heritage, which had first appeared in the August draft. The amended version became Article 113 of the Constitution. The final text states in full:

Article 113: Antiquities, archeological sites, cultural buildings, manuscripts, and coins shall be considered national treasures under the jurisdiction of the federal authorities, and shall be managed in cooperation with the regions and governorates, and this shall be regulated by law.

That was not, however, the debate’s end.

Analysis of Article 113

Article 113 prompts many questions. Under its terms, who in Iraq is ultimately responsible for heritage: the federal authorities or the regions and governorates? In an attempt to resolve this uncertainty, one must further examine the implications, context, placement, and text of Article 113.

The text of Article 113 is unclear if not outright contradictory. Again, it first designates cultural objects and sites as “national treasures under the jurisdiction of federal authorities,” and yet then it prescribes they “be managed in cooperation with the regions and governorates.” The legal meaning of “cooperation”—the Arabic can also be translated as “collaboration”—is ambiguous. Does it require, as the basic definition suggests, that the federal authorities act jointly with the regions and governorates (as did the August draft of the Constitution, which made heritage a “concurrent” authority)? Or does it just oblige the federal authorities to consult, but act independently from, the regions and governorates? Or something else?⁴⁶

Article 113’s placement within the broader Constitution provides few answers. The provision is located in Section 4—“Powers of the Federal Government”—which initially suggests that heritage should be a national authority. However, the purpose of this part was largely to *limit* the influence of Baghdad, as the legislative history and even text itself make clear.⁴⁷

Section 4 begins with Article 109, which makes the federal authorities broadly responsible for preserving “the unity, integrity, independence and sovereignty of Iraq.” Article 110 then enumerates those powers exclusive to Baghdad, *inter alia*, foreign affairs, national security, fiscal policy, citizenship, and water. Article 114 eventually follows with those competencies shared between the federal and regional authorities, such as customs, energy, environmental, health, and education policies.⁴⁸

Neither Article 110 nor 114 includes oil, gas, or heritage. These resources are addressed separately, in similar though not identical language, by Articles 111, 112, and 113.⁴⁹ Their position before the provisions on shared competencies, and after those on exclusive powers, has legal implications given Article 115 (the last in Section 4):

All powers not stipulated in the exclusive powers of the federal government belong to the authorities of the regions and governorates that are not organized in a region. With regard to other powers shared between the federal government and the regional government, priority shall be given to the law of the regions and governorates not organized in a region in case of dispute.⁵⁰

Section 5—“Powers of the Regions”—provides more clarification in Article 121(2):

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

In light of Articles 115 and 121(2), Article 113 could be interpreted as granting the regions and governorates power over heritage (as well as oil and gas). This is because antiquities, archaeological sites, and so forth, are not in Article 110's list of exclusive federal powers. Additionally, as plainly stated in Article 113, they are to be administered "in cooperation" with the regions and governorates. Since they are "not stipulated in the exclusive powers of the federal government," Articles 115 and 121(2) dictate they belong to the regions and governorates. Therefore, according to this viewpoint, regional and governorate law would trump national in case of conflict.

On the other hand, a strong textual argument can be made to the contrary, which is also supported by the legislative history. If the writers of the Constitution wanted heritage to be treated as a standard object of concurrent authority, for which regional and governorate law would prevail, presumably they would have listed it in Article 114. In fact, as noted above, an August version of the Constitution did just that. But the drafters removed this wording, according to the previously quoted unidentified U.S. observer, for the very reason that it would have resulted in "regional governmental control of antiquities."⁵¹ They instead created Article 113—and placed it between Article 110 on exclusive federal authorities and Article 114 on shared powers—suggesting that, like oil and gas, heritage is an area that warrants individual treatment.

Article 113, as it stands alone, supports this explanation. It identifies cultural pieces and places as "national treasures," the Arabic for which can also be translated as "national assets," "national resources," or "national wealth."⁵² All of these renderings affirm national ownership (which, as will be discussed below, has important legal implications.) Such a reading is strengthened by the subsequent declaration that heritage shall be "under the jurisdiction of the federal authorities." True, the Constitution also requires that it "be managed in cooperation with the regions and governorates," but this stipulation alone does not lessen the federal or national quality of heritage. It may simply indicate that the federal government should welcome their input.

Implications

As the anonymous U.S. observer also noted, this interpretation of Article 113 may be the only one that fulfills Iraq's international commitments under the various treaties to which it is a party, including the 1954 Hague Convention, the 1970 UNESCO Convention, and the 1972 World Heritage Convention. These agreements require a cohesive state policy and action, which would be difficult to achieve if regional/ or governorate law trumped national law. Since Article 8 of the Constitution requires Iraq to meet its obligations under international law, assigning the administration of heritage to the regions and governorates would not just be problematic, it could be unconstitutional.⁵³

Any other reading of Article 113 would also void much existing domestic legislation, potentially unraveling Iraq's entire heritage management system. Other than

Articles 35 and 113, which just outline general principles relating to cultural resources, the Constitution leaves archaeology to be “regulated by law.” In practice, this “law” is Antiquities and Heritage Law No. 55 of 2002, which remains in force even though it predates the Constitution by three years.⁵⁴

Law No. 55 is Iraq’s most thorough legal effort to protect archaeological sites, antiquities, historic architecture, and the like. In language that mirrors the Constitution—or, rather, language mirrored by the Constitution—the law establishes state ownership of heritage by recognizing select objects and sites as “national treasures.”⁵⁵ This provision complements similar ones in Law No. 55’s predecessors, Antiquity Law No. 59 of 1936, as amended by Law No. 120 of 1974 and Law No. 164 of 1975.⁵⁶

As previously mentioned, the history of Iraqi heritage law is intertwined with that of the country itself, and it warrants further study in its own right (however, since this legal history has little impact on the current governing law, this article addresses it only briefly). From classical and Biblical sources, the West had long known of Mesopotamia’s great past, but it was not until the 1800s that Europeans really began to explore, map, and excavate the region’s ancient sites. By the mid-19th century, the British and French were in a race to uncover buried treasures in what is now Iraq, creating a demand for antiquities that prompted locals to begin looting as well. As a result, thousands of objects were removed and traded overseas. The Ottoman Empire attempted to crack down on this plunder and trafficking with a series of decrees in the late 1800s and early 1900s. These governed until after World War I, when the League of Nations created the British Mandate of Mesopotamia, under British authority. English archaeologist, explorer, and official Gertrude Bell—who was appointed director of the new Department of Antiquities—then wrote and successfully lobbied for a new antiquities law that was adopted in 1924. Following Iraqi independence in 1932, this was replaced with Iraqi Antiquities Law No. 59 in 1936.⁵⁷

Iraq had thus recognized—and thrice reaffirmed—the state’s primacy over cultural resources for the seven decades leading up to its new Constitution. It is not alone in this approach. Gerstenblith notes that many “nations have enacted national ownership laws since the nineteenth century for the dual purposes of preventing unfettered export of antiquities and of protecting archaeological sites in which antiquities are buried.”⁵⁸ Source countries like Iraq have another incentive today: to repatriate objects that were looted and illegally removed from their borders. In both the United Kingdom and the United States—primary destinations for illicit art from Iraq and elsewhere—courts have ruled that such laws, also called patrimony or vesting laws, “create ownership rights that are recognized even when such antiquities are removed from their country of discovery and are traded in foreign nations.”⁵⁹ Under this interpretation, “one who removes the antiquity without permission is a thief and the antiquities are stolen property,” which the source country can then recover through the justice system.⁶⁰ Absent such an ownership law, however, Iraq would have few legal options for reclaiming its plundered art from the United Kingdom or the United States.⁶¹

If the Constitution's drafters had intended to reverse such an established Iraqi legal tradition at such great consequence—by surrendering a national authority to the regions and governorates—they could have done so unequivocally. Moreover, the Council of Representatives (which functions as Iraq's main parliament) has not amended or repealed these provisions of Law No. 55, despite ample opportunity. Iraq's leading archaeologist and cultural official, Dr. Donny George, had likewise declared heritage a federal power under the 2005 Constitution before his death in 2011.⁶² A December 2005 cable from the American Embassy in Baghdad notes that he “expressed satisfaction” to U.S. officials that Article 113 had brought “antiquities under central government control since, in his view, the provinces are not ready to manage their cultural sites on their own.”⁶³

Given these arguments, it is all but impossible to believe that the Constitution desires “national treasures” under federal jurisdiction to be controlled by the regions and governorates or their law. Admittedly, Articles 115 and 121(2) do suggest such a conclusion, but it is outweighed by the language, placement, and legislative history of Article 113. All of these factors strongly indicate that the federal authorities are ultimately responsible for heritage and therefore national law governs.⁶⁴

CONCLUSION

Any study of Iraqi heritage law must begin with the Constitution of the Republic of Iraq. This 2005 charter forms the backbone of the country's policy. Article 35 pledges support for cultural activities and institutions, and more significantly, Article 113 designates select objects and sites as “national treasures” under federal jurisdiction to be managed with the regions and governorates.

As explained above, this language may be clear on paper, but is the opposite in practice. This is because the Constitution identifies federal powers, regional/governorate powers, and shared powers. Unfortunately, oil, gas, and heritage are not clearly placed in either category, leaving their status open to interpretation. Nonetheless, Article 113's plain text, placement, and legislative history strongly indicate that heritage should be controlled by the federal government and its law. This is the only reading of Article 113 that will not void Iraq's domestic legislation and will fulfill its international obligations, which is required by the 2005 Constitution.

This constitutional analysis is not just an academic exercise, as the debate over federalism continues with real-world consequences for Iraq and its heritage. Since 2008, when Iraq regained control of its cultural resources, Baghdad's relationship with the regions and governorates has progressively disintegrated.⁶⁵ Rising tensions at the ancient Mesopotamian capital of Babylon have even played out in the *New York Times*. In 2009, the *Times* reported that local authorities had “seized control” of the site, openly challenging the State Board of Antiquities and Heritage (SBAH). The SBAH branded this takeover “unlawful,” but seemed unable to

prevent it. While maintaining its “legal authority over Babylon,” the SBAH’s acting director was forced to admit that in practice, “The federal government is weak.”⁶⁶ In 2011, continuing disputes again made headlines, as federal and provincial officials clashed over whether to reopen Babylon to tourism and who should collect its admission fees.⁶⁷

Excavation permits are another flashpoint, pitting Baghdad against the region of Kurdistan. Law No. 55 grants the SBAH—and it alone—the authority to issue such licenses.⁶⁸ However, Kurdistan has been liberally granting permits itself, as work had been long stalled in the rest of the country. The “first archaeological excavation in Iraq outside of Kurdistan by any foreign team in a decade” only started in late 2011.⁶⁹ Then just recently in 2013, the Iraq government made news by granting six additional permits to foreign teams from the Czech Republic, Italy, and the United Kingdom.⁷⁰ But with lingering uncertainty over the permit process, it is no wonder that looters are beating archaeologists in the race to excavate ancient Iraq.

As referenced in the introduction, such looting has now become a matter of national security, as credible reports emerge that ISIS is funding itself from Iraq’s plundered treasures. The archaeological importance of Iraq’s sites and antiquities thus cannot be overemphasized. National and international legislation could be a staunch guardian, protecting them from theft, development, and even war. However, Iraq’s heritage will only benefit from these many legal undertakings once such laws are properly understood, a process that begins with the Constitution. Only then can the country turn to the difficult task of enforcement. In the meantime, while the federal authorities are fighting with the regions and governorates, we must ask who is actually fighting to protect Iraq’s archaeology.

ENDNOTES

1. The Louvre praises this basalt stele as “a work of art, history, and literature,” adding almost as an afterthought, “and the most complete legal compendium of Antiquity.” While not the ancient Near East’s earliest known code—others from the Mesopotamian city-states of Ur (c. 2100 BCE) and Isin (c. 1930 BCE) preceded it—the Louvre recognizes it as “the most important.” King Hammurabi probably erected it at Sippar, city of Shamash, who fittingly was the god of justice. Scholars believe it stayed there until the 12th century BCE, when the Elamite King Shutruk-Nahhunte brought it to Susa, where it was prominently displayed on the acropolis. Archaeologist Jacques de Morgan uncovered it there in excavations from 1901–1902 (www.louvre.fr/en/oeuvre-notices/law-code-hammurabi-king-babylon).

2. Most of the laws discussed in this article were originally drafted in Arabic. Official translations of Iraqi legislation are uncommon, and while unofficial translations are more frequent, they vary widely in quality. The author has identified translations when used and presented alternatives for keywords and phrases when necessary. Nonetheless, the reader should keep in mind that exact renderings are seldom possible, and that the original Arabic text is controlling.

3. Antiquities and Heritage Law, No. 55 (2002), available at www.iraqld.com (Arabic). For Law No. 55, the author relied upon the translation by UNESCO.

4. According to the UNESCO World Heritage Center (<http://whc.unesco.org/en/tentativelists>), a tentative list is “an inventory of those properties which each State Party intends to consider for nomination” for World Heritage Status. There are currently 1592 sites on the Tentative List from

171 states; 11 of these were submitted by Iraq (<http://whc.unesco.org/en/tentativelists/state=iq>). Nimrud, the Ancient City of Nineveh, the Fortress of Al-Ukhaidar, Ur, and Wasit were all added in 2000. Babylon (<http://whc.unesco.org/en/tentativelists/1837>) and the Marshlands of Mesopotamia (<http://whc.unesco.org/en/tentativelists/1838>) then followed in 2003. Iraq has since placed the following on the Tentative List: Erbil Citadel (8 January 2010), the Site of Thilkifi (21 January 2010), Wadi Al-Salam Cemetery in Najaf (24 January 2011), and Amedy city (2 February 2011).

5. The full text of Article 35 reads: “The state shall promote cultural activities and institutions in a manner that befits the civilizational and cultural history of Iraq.” Const. art. 35 (2005) is available at www.iraqlaw.com (Arabic). For the Iraqi Constitution, the author relied on the widely accepted UN and U.S. translation, which was published on 26 January 2006. Earlier versions were released by the UN Office for Constitutional Support as well as the Associated Press, but they are now outdated due to later edits and additions to the Constitution. See Mallat, *Iraq: Guide to Law and Policy*, 35.

6. Hiltermann et al. (“Iraq’s Federalism Quandary”) refer to federalism as the “one constant” behind the “unsettled struggle over power, territory and resources” that makes up Iraq’s “most ominous” challenge today.

7. ISIS has also been known as the Islamic State of Iraq and the Levant (ISIL), and after declaring itself a caliphate on 29 June 2014, is now simply referring to itself as the “Islamic State” (Adam Withnall, “Iraq Crisis: Isis Declares Its Territories a New Islamic State with ‘Restoration of Caliphate’ in Middle East,” *The Independent*, 24 October 2014, www.independent.co.uk/news/world/middle-east/isis-declares-new-islamic-state-in-middle-east-with-abu-bakr-albaghdadi-as-emir-removing-iraq-and-syria-from-its-name-9571374.html).

8. As a result of the ISIS threat, in July 2014, Kurdistan’s President Massud Barzani declared that an independence referendum would be held “within months” (Agence France Presse, “Kurdish Leader: We Will Vote for Independence Soon,” *Business Insider*, 1 July, 2014, www.businessinsider.com/kurdish-leader-vote-for-independence-soon-2014-7).

9. According to the *New York Times*, Maliki’s decision to relinquish power “came after days of negotiations with his former Shiite allies, who urged him to give up in the face of growing international opposition to his rule and the sense among most Iraqi leaders that his removal was necessary to bring the country together as it fights against a growing insurgency led by ISIS” (Tim Arango, “Maliki Agrees to Relinquish Power in Iraq,” *The New York Times*, 14 August 2014, www.nytimes.com/2014/08/15/world/middleeast/iraq-prime-minister-.html).

10. The Tomb of Jonah’s destruction prompted the *Washington Post* to ask, “If [ISIS is] willing to destroy anything other religions—even other Muslims—hold sacred, what’s next?” (Justin Moyer, “After Leveling Iraq’s Tomb of Jonah, the Islamic State Could Destroy ‘Anything in the Bible,’” *The Washington Post*, 25 July 2014, www.washingtonpost.com/news/morning-mix/wp/2014/07/25/after-leveling-iraqs-tomb-of-jonah-the-islamic-state-could-destroy-anything-in-the-bible/).

11. ISIS “reaped windfalls from smuggling all manner of raw materials pillaged from the crumbling state, as well as priceless antiquities from archaeological digs,” making a shocking \$36 million from just one region in Syria alone (Martin Chulov, “How an Arrest in Iraq Revealed ISIS’s \$2bn Jihadist Network,” *The Guardian*, 15 June 2014, www.theguardian.com/world/2014/jun/15/iraq-isis-arrest-jihadists-wealth-power).

12. Mallat (*Iraq: Guide to Law and Policy*, p. 32) reminds us that when

considering the success or failure of the [Constitution] it is imperative to keep in mind the security context in which [it] was drafted. The Iraqi Constitution was written during a time when sectarian violence resulted in 62 deaths a day on average in Iraq. The insurgency had openly declared its opposition to the drafting of a constitution. Any and all members of the Transitional National Assembly (TNA), and particularly the Constitutional Drafting Committee (CDC), were under constant threat of assassination. On July 19, 2005, Mijbil ‘Isa, a Sunni member of the CDC, was killed. The tense atmosphere created conditions inimical to negotiation, dialogue and consensus among the competing sectarian groups represented in the CDC.

13. As Fallows notes in his award-winning *Atlantic* report, “Blind into Baghdad,” on the U.S. occupation of Iraq, “Concern about Saddam Hussein predated the 9/11 attacks and even the inauguration of George W. Bush.... But the intellectual case for regime change, argued during the Clinton years by some Democrats and notably by Paul Wolfowitz ... shifted clearly toward operational planning after the destruction of the World Trade Center.”

14. According to Fallows (“Blind into Baghdad”), in “late October of 2001, while the U.S. military was conducting its rout of the Taliban from Afghanistan, the State Department had quietly begun its planning for the aftermath of a ‘transition’ in Iraq. At about the time of the ‘axis of evil’ speech, working groups within the department were putting together a list of postwar jobs and topics to be considered, and possible groups of experts to work on them. Thus was born the Future of Iraq project.” It was later moved to the Middle East Institute (www.mei.edu), which describes itself as “one of the preeminent centers for Middle East research in Washington, DC.”

15. From its very first session, the FOI Project’s Transitional Justice Working Group emphasized problems with the current Iraqi Constitution and the need for a new one in a post-Saddam Iraq (Transitional Justice Working Group, “Future of Iraq Project”).

16. Thousands of pages of original documents from the FOI Project, as well as its final report, are available online at George Washington University (<http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB198>). Fallows (“Blind into Baghdad”) noted the \$5 million budget for the work was authorized by Congress in May 2002.

17. In the words of Fallows (“Blind into Baghdad”), “The [Bush] Administration will be admired in retrospect for how much knowledge it created about the challenge it was taking on. U.S. government predictions about postwar Iraq’s problems have proved as accurate as the assessments of pre-war Iraq’s strategic threat have proved flawed.”

18. Those interested in learning more about the U.S. government’s reasons for disregarding the FOI Project are encouraged to read Fallow’s 2004 article “Blind into Baghdad” or his 2006 book of the same name.

19. These institutions were preceded by the Office of Reconstruction and Humanitarian Assistance, which the United States established on 20 January 2003 and replaced with the CPA on 6 May 2003. Mallat, *Iraq: Guide to Law and Policy*, 28.

20. The text of the Law of Administration for the State of Iraq for the Transitional Period (2004) is available at www.iraql.com.

21. CPA and IGC officials drafted the TAL between January and March 2004. Even then, federalism was one of the most divisive issues on the table. See Mallat, *Iraq: Guide to Law and Policy*, 29. The issue pitted the Shia representatives (who favored a strong national government) against the Kurdish (who favored a strong regional government). Hiltermann et al. (“Iraq’s Federalism Quandary”) lament that while “this strife has gone through many phases,” it nonetheless continues to this day, in one incarnation or another.

22. For the most part, the Sunni community did not participate in the Transitional National Assembly elections, which took place on 30 January 2005. Mallat (*Iraq: Guide to Law and Policy*, 29–30) attributes this both to intimidation and a voluntary Sunni boycott. Consequently, the Shia United Iraqi Alliance and Kurdish Alliance together won 215 of 275 seats and the Sunnis only 17. As a result, only 3 of the original 55 members on the CDC were Sunnis, which all but completely excluded them from the constitutional drafting process. Due to much international pressure, on 16 June the CDC agreed to add another 15 Sunni members and 10 Sunni advisors. They were not able to take their seats until 5 July, however, which greatly delayed work on the Constitution.

23. Instead of the six-month drafting period provided for in the TAL, the CDC actually had closer to six weeks to draft Iraq’s Constitution, if it was to meet the TAL’s deadline of 1 August 2005. Even if not for the delay caused by the original lack of Sunni participation, “for several weeks after inception [the CDC] had neither premises, appropriate security, equipment, or staff. As a result of UN assistance, including assisting in negotiations for accommodation with the authorities, it was only in July that the CDC could be said to be in functional existence” (Mallat, *Iraq: Guide to Law and Policy*, 30–31).

24. The “divisive referendum raised the prospect that the constitutional drafting process was not uniting the country but helping drive it further apart” (Dexter Filkins, Robert F. Worth,

Anne E. Kornblut, Abdul Razzaq al-Saeidy, and Khalid al-Ansary, "The Reach of War: Politics; Leaders in Iraq Sending Charter to Referendum," *The New York Times*, 29 August 2005, <http://query.nytimes.com/gst/fullpage.html?res=9C05E0D9113CF93AA1575BC0A9639C8B63&pagewanted=all>).

25. Deeks and Burton ("Iraq's Constitution: A Drafting History," 3), the legal adviser and deputy legal adviser, respectively, at the U.S. Embassy in Baghdad when the Constitution was being drafted, note in their legislative history of the document that a "fair number" of its articles "changed little, if at all" between the first and final drafts. In their firsthand account of the process, they identify seven areas that were indeed altered "repeatedly and significantly," including those on "the allocation of power between federal and non-federal authorities" and "the powers of the regions."

26. Edward Wong, "Final Tally Shows Iraqi Voters Approved New Constitution," *The New York Times*, 25 October 2005, www.nytimes.com/2005/10/25/international/middleeast/25cnd-iraq.html?ex=1287892800&en=4e00737c0063f04c&ei=5088&partner=rssnyt&emc=rss.

27. Const. arts. 5, 47, and Const. art. 47, respectively.

28. The Constitution also provides for a broader federal system, including the capital, regions, and governorates, in addition to local administrations (Article 116). Baghdad is the capital (Article 124), and as of now, Kurdistan the only region (Article 117).

29. According to the U.S. Agency for International Development (USAID),

The word "governorate," rather than the word "province," is a more accurate translation of the Arabic original (muhaafatha). The word is a derivative of the word (muhaafath), which is the person of the governor, and is itself derived from the root (hafatha), which means to preserve.... Use of the word "province" with its associations as an administrative unit in the Roman Empire connotes far more autonomy from the center than does the word muhaafatha. Either word, "governorate" or "province," however, is preferable to the word "state," because that connotes a degree of sovereignty not enjoyed by the governorates in Iraq.

See USAID, *Law of Governorates Not Incorporated into a Region*, 2.

30. Const. 122(1).

31. See generally, Const. arts. 133–144.

32. Const. art. 5, Const. art. 13(1), and Const. art. 13(2), respectively.

33. Const. art. 115.

34. First, it may be necessary to explain what is meant by "international law" and what is not. *Black's Law Dictionary* (8th ed.) defines "international law" as "The legal system governing the relationship between nations; more modernly, the law of international relations, embracing not only nations but also such participants as international organizations and individuals (such as those who evoke their human rights or commit war crimes)." An "international agreement" specifically is "a binding agreement under international law voluntarily entered into by sovereign states." Other names for international agreements include treaties, conventions, or protocols. These different labels generally have no legal effect.

35. International law is premised on consent, so no country is bound by international law to which it has not consented, with the exception of "*jus cogens*." *Black's Law Dictionary* (8th ed.) defines this as "a mandatory or peremptory norm of general international law accepted and recognized by the international community as a norm from which no derogation is permitted." This category is very limited, and while there is no definitive list, it generally includes genocide, crimes against humanity, war crimes, maritime piracy, slavery, apartheid, and torture.

36. See Deeks and Burton, "Iraq's Constitution: A Drafting History," 39.

37. Const. art. 110(1).

38. In contrast, under the "monist" theory, international law is automatically implemented into national law upon ratification of a treaty or other agreement.

39. "Ominously," given the subsequent looting of the Baghdad Museum, as well as archaeological sites throughout the country, this was one of three FOI working groups that never met (Fallows, "Blind into Baghdad"). Rothfield (*The Rape of Mesopotamia*, 27–28) expands upon the many reasons for this oversight, including the lack of cultural heritage experts in the FOI Project itself, as well as the overall secrecy surrounding the project's operations, which prevented outside experts from contributing.

40. Rothfield, *The Rape of Mesopotamia*, 28.

41. The now defunct ACCP was founded in New York in 2002, but also had a strong presence in Washington, DC. Its members were influential and wealthy collectors, museum officials, and scholars. It described itself as a “public charity ... dedicated to enhancing knowledge and understanding of issues and policies affecting the collecting of works of art by museums and private individuals” (www.culturalpolicyCouncil.org). According to Atwood (*Stealing History*, p. 267), however, its main goal was “to stop the proliferation of legal obstacles to the flow of antiquities into the United States.”

42. The ACCP’s treasurer, “a lawyer and collector named William Pearlstein, was quoted in news reports as saying he believed Iraq’s ‘retentionist’ policies on antiquities should be relaxed under a new, post-Saddam government and exports of antiquities liberalized. Coming as it did after the Pentagon meeting, Pearlstein’s comment suggested an unholy alliance between the U.S. government and dealers to allow a free-for-all of Iraqi antiquities exports, and it sent plenty of archaeologists and commentators, particularly in the British press, into a netherworld of conspiracy theories” (Atwood, *Stealing History*, 268). In a letter to *The Nation* (3 June 2003, www.thenation.com/article/debating-looting#), Pearlstein countered that the ACCP had never “discussed the question of reforming Iraqi law” with U.S. officials, nor had it “otherwise taken a position on the laws of Iraq or any other nation.” To the contrary, he said the sole purpose of the ACCP’s meeting was to stress “the need to strengthen the administration of archaeological sites after any war to prevent the kind of looting that occurred after the first Gulf War.”

43. According to a purported cable from the U.S. Embassy in Baghdad, “Leading Iraqi cultural figures [had] criticized the constitution for lacking a clear reference to Iraq’s heritage and to the need for state support of cultural institutions” (*The Substance of the Constitution Compromise*).

44. Const. art. 112(sec. 8) (22 August 2005 draft), as reported by Deeks and Burton, “Iraq’s Constitution: A Drafting History,” 62.

45. These quotations are also taken from the alleged U.S. Embassy cable (*The Substance of the Constitution Compromise*).

46. Brown (*The Final Draft of the Iraqi Constitution*, 13) asked these same questions of the similarly worded provisions on oil and gas.

47. Section 4 “includes some of the most hotly contested issues” in the Constitution because it “reflects the broader struggle” between the Shia Alliance (which favored national control) and the Kurdish Alliance (which favored regional control). In the end, the Kurds “obtained significant concessions,” at Baghdad’s expense (Deeks and Burton, “Iraq’s Constitution: A Drafting History,” 53). Mallat (*Iraq: Guide to Law and Policy*, 32) says this resulted in an “unusual degree of autonomy” for the regions and governorates, while Deeks and Burton (p. 67) go farther by admitting that a “significant criticism of the Constitution is that it deals a serious blow to federal power in Iraq.”

48. According to Brown (*The Final Draft of the Iraqi Constitution*, 12–13), “by regional standards,” this list of exclusive federal powers is “remarkably short.” Additionally most of the competencies that are shared between the national government and the regions/governorates under the Iraqi Constitution are central powers in other Arab countries.

49. Mallat (*Iraq: Guide to Law and Policy*, 81) feels this was a mistake, as these resources are “no less important than water in Iraq,” which is a federal power. According to an early UN translation of the Constitution (*Final Draft Iraqi Constitution*, portal.unesco.org/ci/en/files/20704/11332732681iraqi_constitution_en.pdf/iraqi_constitution_en.pdf), these three provisions were all originally included in the same article.

50. Due to this provision, Mallat—quoting a December 2005 report by the UN Assistance Mission for Iraq—finds that “the exercise of [Iraq’s] shared competences is not really existent, as the regional overriding capacity provided for by the Constitution makes this concurrency unbalanced, at best” (*Iraq: Guide to Law and Policy*, 93).

51. See the purported U.S. Embassy cable (*The Substance of the Constitution Compromise*).

52. Article 1.1 states that Law No. 55’s purpose is “preserving the Antiquity and Heritage [of] the Republic of Iraq [as a] substantial aspect of the National Wealth,” according to the UNESCO translation.

53. The United States only has a “limited national ownership law” for antiquities (Gerstenblith, “Schultz and Barakat,” 24). However, the Supremacy Clause of the U.S. Constitution establishes that federal statutes and U.S. treaties are “the supreme law of the land,” and thus prevail in case of conflict with state law. Therefore, even absent a full national law granting the United States ownership of antiquities, federal heritage laws (and heritage treaties that have been implemented into federal law) are binding on the states. If the opposite were true, and state law reigned supreme, the United States could not enforce its national legislation or international obligations. Iraq would find itself in such an untenable position if its regional/governorate law indeed trumped national law on heritage.

54. Law No. 55 remains the country’s most thorough legal effort to protect archaeological sites, antiquities, and historic architecture. It contains 53 articles organized into six chapters, which address (1) the law’s objectives and means, (2) immovable antiquities, (3) moveable antiquities, (4) heritage buildings, (5) archaeological excavations, and (6) penalties for violation. As its full title suggests, Law No. 55’s primary objective is to preserve Iraq’s antiquities and other heritage as “national treasures.” To achieve these broad aims, Law No. 55 assigns various functions to the government authorities, foremost of which is the State Board of Antiquities and Heritage (SBAH). Antiquities and Heritage Law, No. 55 (2002), available at www.iraq-ild.org/LoadLawBook.aspx?SP=REF&SC=150220061057690&Year=2002 (Arabic).

55. While not an official U.S. position, training materials funded by the Department of Defense (Law No. 55 for the Antiquities and Heritage of Iraq, 2002, www.cemml.colostate.edu/cultural/09476/iraq07enl.html) do inform military personnel that Law No. 55 grants the Iraqi state ownership of the country’s archaeological sites and antiquities.

56. Gerstenblith (“Legal Damage Control”) also states that, “Iraq has had a national ownership [law] since 1936.” Antiquity Law, No. 59 (1936), as amended by Law No. 120 (1974) and Law No. 164 (1975), art. 3 is available at www.iraql.com (Arabic).

57. Vrdoljak, *International Law, Museums and the Return of Cultural Objects*, 86–87; Stone and Bajjal, *The Destruction of Cultural Heritage in Iraq*, 31–34; Langfield and Craith, *Cultural Diversity, Heritage, and Human Rights*, 65–72.

58. Gerstenblith, “Schultz and Barakat,” 21.

59. *Ibid.*

60. *Ibid.*

61. For a more detailed history of such ownership laws and their impact in UK and U.S. courts, see generally, Gerstenblith, “Schultz and Barakat.”

62. Before passing away in 2011, Dr. Donny George was the leading face of Iraqi archaeology, having earned international acclaim for his efforts to recover thousands of antiquities looted from the National Museum in Baghdad during the 2003 invasion. Afterwards, he became head of that institution, and then director of the SBAH. When security concerns forced him to leave the country in 2006, he joined Stony Brook University in the United States as a visiting professor, where he worked until his death (Douglas Martin, “Donny George, Protector of Iraq’s Ancient Riches, Dies at 60,” *The New York Times*, 14 March 2011, www.nytimes.com/2011/03/15/world/middleeast/15george.html).

63. Dr. George was director of the SBAH when he was reported to have made the statements in this cable (*Iraq’s State Board of Antiquities and Heritage*).

64. See Deeks and Burton (“Iraq’s Constitution: A Drafting History”) for parallel arguments, reaching the same conclusion, on the oil and gas provisions.

65. The “Agreement between the United States of America and the Republic of Iraq on the Withdrawal of United States Forces from Iraq and the Organization of Their Activities during Their Temporary Presence in Iraq” is available in full at http://graphics8.nytimes.com/packages/pdf/world/20081119_SOFA_FINAL_AGREED_TEXT.pdf?scp=2&sq=security%20agreement%20iraq&st=cse. Article 5.7 states that, “The United States Forces shall return to the Government of Iraq the agreed facilities and areas that have heritage, moral, and political significance and any non-relocatable structures and assemblies on them that it had built, installed, or established, according to mechanisms, priorities, and a time period as mutually agreed by the Joint Committee, free of any debts or financial burdens.”

66. Steven Lee Myers, "Babylon Ruins Reopen, to Controversy," *The New York Times*, 2 May 2009, www.nytimes.com/2009/05/03/world/middleeast/03babylon.html?pagewanted=1&r=1.

67. Steven Lee Myers, "A Triage to Save Babylon," *The New York Times*, 2 January 2011, www.nytimes.com/2011/01/03/arts/03babylon.html?_r=2&ref=arts.

68. According to Chapter 5, "Only the Antiquity Authority is authorized to undertake Excavation for Antiquity in Iraq, it is entitled, herewith, to grant permissions to the scientific committees, scientists and the Iraqi, Arabic and foreign institutions, after the indication, of their archaeological capacity, scientific and financial sufficiency." Article 4 defines "The Antiquity Authority" as "The State Board of Antiquities and Heritage."

69. This excavation was led by Stony Brook University Professors Elizabeth Stone and Paul Zimansky at the site of Tell Sakhariya in southern Iraq ("SBU Faculty Conduct Archaeological Excavations in Iraq," press release, 2012 March 12, http://commcgi.cc.stonybrook.edu/am2/publish/General_University_News_2/SBU_Faculty_Conduct_Archaeological_Excavations_in_Iraq.shtml#sthash.qWsnfjNa.dpuf).

70. All these permits were granted for excavations in southern Iraq ("Foreign Archaeologists Return to Iraq," *Archaeology*, 21 February 2013, www.archaeology.org/news/588-130220-iraq-foreign-archaeologists-return).

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