The Kurdish Issue in Iraq: A View from Baghdad at the Close of the Maliki Premiership

REIDAR VISSER

Prior to 2003, discussions about Iraq's territorial stability tended to focus on "the Kurdish issue" and more specifically on the relationship between a projected autonomous Kurdish area and the rest of Iraq as a unitary state. However, in the years after 2003, this tendency temporarily shifted toward a greater focus on visions of tripartite fragmentation—Sunni, Shiite, and Kurd—or at least radical decentralization along these lines. This new tendency reached its apex in the period between 2005 and 2007, with Iraq's new constitution of October 2005 representing perhaps the most remarkable manifestation of a new, experimental trend toward federalism for all of Iraq.

Since 2007, and more markedly since 2008, this new trend has been reversed. Increasingly, the question of decentralization in Iraq is reverting to its original trajectory: the search for a special status for Kurdistan, with the rest of the country expressing satisfaction with a centralized state structure with Baghdad as its capital. This trend, in turn, means that the array of viable solutions to national reconciliation issues in Iraq has changed too. This article argues that the greatest potential for solving today's constitutional conflict in Iraq involves reversion to historical Kurdish aims as expressed in the pre-2003 period. Many of the maximalist demands that

Reidar Visser *is a research fellow at the Norwegian Institute of International Affairs and the editor of the Iraq website www.historiae.org. He received his doctorate from the University of Oxford in 2003 for a dissertation on Iraqi history.*

surfaced in the chaotic period between 2004 and 2007 possess only limited resonance in both Kurdish and non-Kurdish constituencies and can, in many cases, safely be ignored in the national reconciliation process.

THE PRE-2003 SITUATION

The grotesque nature of the atrocities against the Kurdish population of Iraq during the Iran–Iraq War has to a large extent overshadowed some more benign historical legacies relating to the Kurdish question in Iraq. For example, while recent Kurdish writers have sought to create the impression of an endless story of confrontation between the Kurds and other Iraqis, there is not much material to support this interpretation as far as the late Ottoman (1831–1914) and the monarchy (1921–1958) periods are concerned. Similarly, despite his subsequent confrontation with Kurdish militias, Iraq's first republican leader, Abd al-Karim Qasim (ruled 1958–1963), is still held in high regard by many Kurds today, not least for his explicit recognition of the Kurds as an element of the Iraqi nation. More generally, Iraq was the first state with a significant Kurdish population to address the Kurdish issue in a comparatively non-paranoid fashion. In terms of basic acts like recognizing Kurdish ethnicity and language, for example, Iraq was decades ahead of its neighbors, with concrete autonomy proposals in this direction dating back to the 1960s.

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This relatively permissive environment, in turn, gave birth to a Kurdish autonomy movement which would often adopt tough bargaining positions, but which nevertheless tended to ultimately stay loyal to the framework of a unified Iraqi state. Negotiations in the 1970s broke down not over the idea of Kurdish autonomy as such, but rather as the result of the oil-rich city of Kirkuk having been added to the Kurdish list of desiderata in a rather abrupt manner during the course of the negotiations. Today, Western analysts have become so thoroughly lulled into the clichés of Kirkuk as some kind of "Kurdish Jerusalem" that many appear to have problems realizing how novel and downright shocking this idea seemed when it appeared on the agenda of Mustafa Barzani in the

1960). Similarly, the cruel violence of the 1980s and in 1991 did not deter the Kurds from holding on to the vision of a unified Iraq, although this became increasingly framed as a demand for federalism in Iraq, especially from the 1990s onward. At the time, "federalism" was seen as involving greater cession of power by Baghdad than mere "autonomy" would allow for. For that reason was met with skepticism from the rest of the opposition (primarily Shiite Islamists, as well as an increasing number of defectors from the Baghdad regime). Nonetheless, it cannot be emphasized enough that Kurdish demands at this point did not envisage the obliteration of Baghdad as a center of government.

In a constitutional proposal first developed in the 1990s (but still considered relevant in early 2003 on the eve of the Iraq War), the leading Kurdish parties proposed a federal formula in which Baghdad would remain in exclusive control of key sectors of government like the oil industry and the security forces. Crucially, what the Kurds proposed at this point was a bi-national arrangement: a Kurdish–Arab partnership would form the basis of "the new Iraq." In addition to the establishment of two basic federal entities (Kurdistan and the rest, the latter being referred to as "the Arab Region"), the Kurdish leaders sought to entrench their positions everywhere in the Iraqi state system through quota arrangements.[1] The quotas, along with the symmetrical nature of the proposed arrangements (i.e., the designation of the areas south of Kurdistan as a decentralized entity of its own) were considered radical innovations at the time. Nonetheless, these arrangements remained focused on coexistence within a unitary whole. There were also signs that others in the opposition (specifically the Iraqi National Congress, INC, and the Supreme Council of the Islamic Revolution in Iraq, SCIRI, as well as the latter's Iranian patron) were increasingly becoming interested in quotas as an organizing principle for a new state structure in Iraq, after some of them had fiercely resisted such ideas in the early 1990s and had derailed cooperation within the opposition as a consequence. Exploiting the opportunity offered by an American need to parade some kind of unified Iraqi opposition at the December

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2002 London conference before the war, SCIRI quite willingly drank from what it had previously considered the poisoned chalice of ethno-sectarian quotas, and with remarkable ease transformed itself into a master of this kind of politics. However, at this point, the idea of Shiite federalism was still taboo and even SCIRI leaders continued to portray federalism primarily as a device aimed at tackling "the Kurdish issue." Outside Kurdish circles, interest in symmetrical federalism at this point remained limited.[2]

One interesting feature of Kurdish demands in this period was the focus on international guarantees for the shape of the new federation. This aspect—which is unusual for federations that have come into existence through evolution, but is not unheard of with respect to those born in crises, like Bosnia—was expressed repeatedly in position papers on federalism in Iraq by the Kurds. No doubt a reflection of fears of Baghdad that resulted from the savage Ba'athist policies of the 1980s and 1990s, Kurdish demands for international guarantees included calls for the internal boundaries, as well as the powers of the federal sub-entities in the new federation, to be recognized by the United Nations.[3]

ALIENATION UNDER L. PAUL BREMER: 2003–2004

The remarkable thing about America's first engagement with the idea of Iraqi federalism during the Coalition Provisional Authority (CPA) period from 2003 to 2004 was that it managed to alienate almost every pre-existing idea about federalism among Iraqis. In one iteration, Americans talked about federalism as something that would address perceived political cleavages between "Shiites, Sunnis, and Kurds," as demonstrated by President George W. Bush's March 2003 speech.[4] This, of course, held no appeal even to pro-Kurdish Shiite leaders, who were barely beginning to come to terms with the idea of a special status for Kurdistan and still scorned the idea of explicitly defining federal entities elsewhere in the country in ethno-sectarian terms. But even more bitterness was caused by the second American-sponsored proposal on federalism in Iraq, which crystallized toward the end of 2003: the idea of "administrative federalism" imposed from the outside using the existing 18 governorates as the point of departure (possibly with a certain degree of inspiration from post-1945 Germany where many historical entities were systematically broken down by the allies). As far as the Arab-majority areas of Iraq were concerned, the idea of non-sectarian federalism was seen as acceptable (and indeed commendable if some kind of universal federalism was inevitable). But the idea of breaking up, Horowitz-style,[5] the nascent Kurdish state structures that had emerged

as a *de facto* state since the 1990s (and which for all their faults signified something hopeful for many Iraqis and also provided physical shelter for many in the opposition) was provocative in the extreme to the Kurds. Apparently, the obvious alternative of working on the basis of what had been the preferred Kurdish vision throughout the 1990s, i.e., a bi-national arrangement with or without symmetry in the relationship between the two constituent entities, was not even considered by Washington.

This was the context that formed the backdrop for the radicalization of the Kurdish position from 2004 onwards, to the point where it soon turned into an onslaught on the very idea of centralized governance in Iraq. By alienating the only segment of the Iraqi population which had seen the development of genuine pro-federal sentiment, Paul Bremer set off a process of radicalization among the Kurds, who for the first time seemed so determined to effectively destroy Baghdad as a capital that the territorial fragmentation of Iraq would become inevitable. During the course of 2004, the Kurds demanded the right to keep their militias separate from the Iraqi government forces as well as special entitlement to oil fields in Kurdistan, thereby effectively designing a confederal vision in which Baghdad would be virtually powerless. Ultimately, the Kurds were unsuccessful in promoting some of their more radical demands when the Transitional Administrative Law (TAL) was adopted in March 2004 under heavy American influence, but the radicalization of their agenda during the course of 2004 would set the stage for the heated negotiations over the new Iraqi constitution in 2005. Also, some of their demands did make it into the TAL. In particular, the idea that the oil-rich city of Kirkuk should be seen as "disputed territory," whose future status would be decided by a referendum, was a win for the Kurds that immediately opened the possibility of full Kurdish independence and that also introduced an element of instability into the existing administrative map of Iraq by allowing other areas across the country to be similarly classified as "disputed" zones. More generally, the idea of creating federal regions elsewhere in Iraq was also

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introduced; this, too, was seen as a strengthening of the Kurdish agenda that was carried forward by their newfound friends in SCIRI.[6]

It is impossible to overestimate the role of another American, Peter W. Galbraith (a former staff member of the Foreign Relations Committee in the U.S. Senate and U.S. ambassador to Croatia in the 1990s), in radicalizing Kurdish opinion and in pushing it in an ever more irreconcilable direction in this period. In his own book from 2006 (when he apparently thought Iraq was destined for break-up), Galbraith describes in considerable detail how the so-called "Kurdish negotiating position" for the TAL of February 2004 was almost entirety his own work. In particular, Galbraith appears to have played a transformative role in terms of stimulating Kurdish interest in developing their own oil sector, maintaining a separate army, and demanding that local laws override federal laws in the case of a contradiction or dispute. Later in the year, he also advised the Kurds on how to hold an informal referendum in support of full independence.[7] Much later, in October 2009, it was revealed that in the middle of this, in June 2004, Galbraith had acquired a business interest in a small Norwegian oil company, DNO, which got involved in a production-sharing agreement for several oil fields in the Kurdistan region during this critical transitional period.[8]

The Kurdish call for international recognition of their autonomous position (as it was now reflected in the TAL) also resurfaced in 2004. But their failed attempt in June to have a reference to the federal arrangements of the TAL included in Security Council Resolution 1546 pertaining to Iraq, could have served as a potential warning to them about trouble brewing. That the Bush administration was unwilling to accommodate them was one important aspect. Secondly, the leading Shiite cleric, Grand Ayatollah Ali al-Sistani, explicitly warned against any reference to the TAL in the UN resolution. Moreover, whereas some of Sistani's opposition simply reflected the fact that the TAL had been written by an unelected assembly, he was also a vocal critic of some of the specific institutional arrangements that the Kurds favored (such as a tripartite presidency based on ethno-sectarian quota representation), signaling once more that despite increasing Kurdish cooperation with SCIRI, the idea of symmetrical federalism still had opponents among other influential Shiite figures.[9]

THE KURDS, SCIRI, AND THE CONSTITUTION: 2005–2006

More important to Iraq and Kurdistan than Peter Galbraith's "business arrangements" with DNO is, of course, the Galbraith legacy in terms of its impact on the Iraqi constitution of 2005, which was drafted during

a few hectic summer months. In his book, Galbraith makes it clear that he personally had access to negotiations at the highest levels right up until the constitution was finished, and he also describes how his proposals regarding the oil sector and the role of local security forces largely survived in the form he had proposed in 2004.[10] With these additions to the traditional Kurdish autonomy demands, there was actually precious little left for the central government in the final document, where Iraq looked a lot more like a confederation than a federation. Highlighting his own personal role in preventing a taxation role for the central government, Galbraith triumphantly sums up his description of Baghdad's limited remaining prerogatives by pointing to its right to ensure that "a meter in Arbil is the same as a meter in Basra."[11] Amid a final last-minute round of additions and a massive security shutdown of Iraq, the proposed text was then put to a referendum on October 15. The Iraqi masses were asked to vote on a document whose detailed content they could not possibly know (due to the security precautions, few Iraqi newspapers ever printed the final version of the draft text). Thus, even though the constitution was overwhelmingly approved by roughly 80 percent of the voters, increasing numbers of Iraqis have subsequently been asking critical questions about the chaotic process and the lack of general public awareness about the contents of the constitution.

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Nonetheless, the dominant groups behind the 2005 constitution—SCIRI and the Kurds—further consolidated their gains during 2006. As a temporary arrangement for the period 2005–2010, the power of the Iraqi president had already been awarded to a three-man presidency council with substantial veto powers and which was to be elected with a two-thirds majority on a single list, thereby effectively guaranteeing a check on legislative power defined in ethno-sectarian terms. In 2006, the forces that had supported the constitution succeeded in electing a presidency consisting of a Kurd (Jalal Talabani, of Patriotic Union of Kurdistan, PUK), a Shiite (Adil Abd al-Mahdi of SCIRI) and a Sunni (Tareq al-Hashemi). This arrangement was complemented through bylaws adopted on June 15, 2006 that largely served to close the Iraqi parliamentary process on two ends, especially through the establishment of the principle of consensus as the basis

for the three-person parliamentary speakership prescribed in the constitution (despite the fact that this consensus requirement had no strict constitutional basis).[12] These posts, in turn, were filled with a Kurd, a Shiite, and a Sunni much on the pattern of the presidency council, thus once again highlighting the idea of an Iraq partitioned along ethno-sectarian lines—and on many occasions preventing the Iraqi parliament from even discussing or voting on important issues.

Another victory for the SCIRI-Kurdish bloc came in October 2006 with the adoption of the law for the formation of federal regions. The 2005 constitution had merely outlined the provisions for the establishment of additional federal regions beyond Kurdistan; now the detailed procedures were to be hammered out. The move met with considerable opposition in parliament and passed with the smallest possible margins (some even claim a quorum was never reached), but it did open the door for the creation of mirror images of Kurdistan across Iraq, at least in a theoretical way. In an attempt to mollify the opposition to the federalism law, the ruling parties finally agreed to the long-overdue appointment of a committee charged with revising the constitution (a last-minute addition to the constitution that, in turn, had been intended to sway skeptics back in October 2005). However, these appointments followed an ethno-sectarian quota formula to the smallest detail and once more ensured complete SCIRI-Kurdish hegemony over the process.

Finally, the Kurdish attempt to redefine Iraq as a tripartite federation was increasingly winning friends in the international community in this period. No doubt a reflection of disillusionment over Iraqi politics because of the ongoing sectarian conflict and the high level of violence, the so-called "soft partition" scheme for Iraq gained an increasing number of adherents in this period, in particular in the United States where it appealed to several Democrats, including influential figures like then Senator Joe Biden. In international media and think tanks, the largely unwarranted view that "the Shiites of Iraq demand federalism" became widespread (SCIRI was, after all, only one among several Shiite parties), and soon, calls for Sunnis to "think in terms of federalism" became commonplace.[13]

THE DECLINE OF KURDISH LEVERAGE IN 2007

At the outset of 2007, the Kurdish position in Iraq seemed strong. South of Kurdistan, civil war–like conditions raged as a consequence of the February 2006 Samarra bombings, and the Americans tended to consider the Kurds as a force capable of rising above the sectarian hatred. Most of

the Kurdish aims had by now been written into the Iraqi constitution, albeit not always unambiguously, and a referendum on Kirkuk was foreshadowed before the end of the year.

Nonetheless, in this heated political atmosphere (which ostensibly would benefit those parties that were focused on sub-identities rather than on Iraqi nationalism), friction developed in the relationship between Shiite Islamists and the Kurds. The salient issues in this regard were the oil law and the constitutional revision. It is not entirely clear if the core alliance between SCIRI and Kurdish parties itself came under pressure, but during the course of the year the Kurds certainly got the opportunity to meet a number of non-SCIRI Shiite leaders whose instincts were a lot more centrist than SCIRI. One such person was Husayn al-Shahristani, the independent oil minister, who early on butted heads with the Kurds on the subject of the regional rights to sign contracts with foreign energy companies. Ironically, in the conflict with Shahristani, the Kurds found themselves as the leading advocates of reclassifying a number of southern oilfields (e.g., in faraway places like Basra) as "future" ones and therefore exempt from central government control. This was a clear indication of how far the fear of a strong Baghdad had carried them, but also an obvious symptom of Kurdish overreach since the Shiite-majority population in these areas appeared far less enthusiastic about circumscribing Baghdad's role in administering the oil sector.[14]

Shahristani's centralist ideas were also picked up by some of the Shiite members on the constitutional revision committee, who proposed a moderate strengthening of the powers of the central government, including in the oil sector. On the Kirkuk issue, Abbas al-Bayati, himself a Turkmen close to Prime Minister Nuri al-Maliki, created complications for the Kurds by demanding the establishment of a standalone federal entity in which Arabs, Turkmen, and Kurds would jointly control the multi-ethnic governorate. Eventually, even some SCIRI leaders, such as Hadi al-Amiri, became publicly critical of the Kurdish position on Kirkuk.[15]

Nuri al-Maliki's own centralism had historical roots. He had been critical of full-blown federalism as far back as 2005, and in 2006 had obtained support for his premiership from the Sadrists (whose anti-Kurdish position on Kirkuk, in turn, dated back to early 2004). He survived the difficult summer of 2007 (when SCIRI and the Kurds might have had the chance to oust him), and in November that year he publicly stated that decentralization should not come at the expense of the governance capabilities of the capital.[16] Peter Galbraith highlighted al-Maliki in his 2006 book as a dangerous centrist that stood in the way of a scheme of general

territorial fragmentation in Iraq.[17] In this way, the Kurds felt that the easy bilateral relationship with SCIRI (renamed the Islamic Supreme Council of Iraq, or ISCI, in May 2007) conflicted with the broader complexities of the Iraqi Shiite community as a whole. In November 2007, Iran—still considered the ultimate arbiter in intra-Shiite tension in Iraq at the time—officially issued a recommendation that the settlement of the Kirkuk issue be postponed two years.

THE TURN TO IRAQI NATIONALISM IN 2008

These frictions inside the Kurdish–Shiite triumvirate of the Kurdistan Democratic Party (KDP), the PUK, and ISCI notwithstanding, it was not until 2008 that the Iraqi political atmosphere began to change more decisively. The key movers this time were not the Kurds and ISCI, who may have quarreled with each other but who ultimately saw the advantages of remaining unified in order to preserve their hard-won privileges. Instead, the initiative came from forces that were sincere about wanting to change the post-2003 model of government in Iraq—known as the July 22 group of parties—as well as an individual politician who was effective in moving in to control the political space created by them: Prime Minister Nuri al-Maliki. Together, these players embarked on a series of initiatives that would culminate in the January 2009 local elections.

The July 22 parties did not acquire their name until the summer of 2008, but they emerged from antecedents that dated back at least to the opposition to the law for the formation of federal regions in October 2006. The tentative rapprochement between Iraqi nationalist Sunnis and the Sadrists back then had suffered a blow as the Sadrists became involved in some of the worst anti-Sunni sectarian violence in Baghdad in 2006 and 2007. But following all the public revulsion and anti-federal propaganda among Iraqis over the "Biden plan for Iraq" in the autumn of 2007, these forces experienced something of a renaissance in early 2008. The first modest sign was a public pronouncement in January by around 140 members of parliament asking the Maliki government to take a tougher position with respect to the powers of the Kurdistan federal region—specifically on oil and Kirkuk. This often-overlooked demand framed in Iraqi nationalist terms may have had a mainly symbolic impact at the time; however, it did set the stage for further developments that were to prove far more consequential. Next, in February, many of the same parties—Sadrists, Fadila, Iraqiyya, and Tawafuq—pushed through the demand for an election timeline to be included in the provincial powers bill that was

being prepared in parliament at the time. The composition of the alliance was strikingly similar to October 2006, but this time the opposition won the vote.

The reactions of the dominant powers in the Maliki government to the February 2008 nationalist challenge are instructive. The Kurds and ISCI immediately went on the defensive: they promptly concocted a series of arguments related to decentralization in order to strike down the bill through a presidential veto and in the name of anti-centralism. With respect to ISCI, this was particularly insincere, since the party only days earlier had voted in favor of aspects of the law that they now opted to criticize. The two blocs did not change their mind until an unexpected visit by Vice-President Dick Cheney, which seemed to reflect the Bush administration's desire to keep the local elections on track. Maliki, on the other hand, decided to follow a course that was very different from that of ISCI and the Kurds. Just one month later, he launched what was to become known as the "charge of the knights" operation in Basra, a hastily contrived campaign to challenge the militias of the southern city (particularly those of his fellow Shiite Sadrists) by using government troops that were themselves Shiites. Whatever the exact genesis of the plan (and rumors about the rather impromptu character of the whole enterprise continue to abound), its reception among the Iraqi public, across both the country and sectarian divisions, was uniformly positive.[18]

In other words, Maliki was becoming more of a nationalist, even though he would for some time continue to soldier on in his dysfunctional marriage with the decentralists in ISCI and the two major Kurdish parties. This ambivalence could be seen clearly in July during the debate on the provincial elections law, when more or less the same nationalist alliance that had pressed for provincial elections came together again to impose special transitional arrangements for the local elections in Kirkuk in a bid to stem what was seen as Kurdish highhandedness in the disputed northern city. Moreover, the Tanzim al-Iraq branch of the Daawa (but not Maliki and his centralist friends among the United Iraqi Alliance, or UIA independents) opted to join the opposition. The nationalists won the vote again, and

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despite an initial veto by President Talabani, they managed to retain certain special arrangements for Kirkuk in the second iteration of the bill adopted on September 24. As for Maliki, right up until the January 2009 elections he remained quite separate from the July 22 forces (with whom he shared many ideological positions), and it is fair to say that the main difference between them was that Maliki did a much better job of taking public credit for the growing orientation towards Iraqi nationalism during the course of the year, culminating with a resounding win in the January 2009 local elections (with particularly impressive performances in the urban centers of Basra and Baghdad).

In terms of relations with the Kurds, Maliki introduced several interesting ideas in this period. Beyond holding on to his centralism at a time when ISCI still described "the days of a strong centralist government" in Iraq to be "gone" (a view expressed for example by ISCI leader Abd al-Aziz al-Hakim in a speech on January 3, 2008), one of the most important contributions had to do with constitutional revision. In a first for a member of the UIA, Maliki, in late 2008, said publicly that there were numerous problems both with the 2005 constitution and the way in which it had been adopted.[19] This was seen as a rebuke to the fruitless constitutional revision work that had been headed by ISCI and the Kurds in 2007. Another interesting Maliki idea related to consensus democracy, or *tawafuqiyya* as the Iraqis call it.[20] In some of his speeches and public remarks, Maliki portrayed the consensus requirement as something that had often created a dangerous form of paralysis in Iraqi politics, and he therefore expressed optimism for the next parliamentary cycle (2010–2014) when the presidency council, along with its veto powers, will be gone. However, Maliki's new line was also backed up by more robust action when it came to Kurdistan—most notably in August 2008, when military action and threat of such actions were employed in areas considered "disputed" by the Kurds but that were not recognized as part of Kurdistan in the TAL. Simultaneously, Iraqi print media supportive of Maliki rolled out a no-holds-barred anti-Kurdish campaign in newspapers such as *Al-Bayyina al-Jadida*, and somewhat later on the semi-official website affiliated with Maliki's State of Law coalition.[21]

Following Maliki's electoral victory in January 2009, his metamorphosis into an Iraqi nationalist reached its zenith in the post-election negotiations when he actively reached out to coalition partners among secularists and Sunnis in several governorates.[22] Significantly, he formed anti-Kurdish coalitions in a string of northern areas, perhaps most evidently in the case of Diyala (where Maliki and the nationalists joined together in opposi-

tion to Tawafuq, ISCI and the Kurds). At the level of national politics, the confrontation with the Kurds continued—above all in the oil sector, where Hussein Shahristani, the oil minister, steadfastly refused to consider as legitimate the deals entered into by the Kurds with foreign companies, pending submission of the relevant contracts to Baghdad for review and approval. In June 2009, it appeared that some movement on this issue was underway, as companies operating in Kurdistan were allowed to export oil. However, this optimism was soon reversed when it became clear that Baghdad had no intention of paying a single dinar to third parties for contracts it did not recognize. Months later, exports were discontinued and, with the successful second oil licensing round in December 2009, Baghdad secured so much foreign investment in its southern oil sector that Kurdish leverage in that regard appeared to have been reduced again.

CONCLUSION

Beyond the general trend toward centralism and nationalism in Iraqi politics (including inside the Shiite-dominated bloc with which the Kurds have allied themselves for much of the post-2003 period), certain features of the 2005 constitution will likely add to the decline of Kurdish power from 2010 onwards. In particular, the tripartite presidency has an often-overlooked expiry date attached to it: absent any last-minute constitutional changes, it comes to an end in February 2010 upon the expiry of the term of the first Iraqi parliament in the post-2003 period. This, in turn, means that the dynamics of government formation will change quite dramatically, since the next president will no longer need a two-thirds majority and two partners that can form a collective, tripartite presidency. Instead, it will be perfectly possible for a Shiite-dominated government to elect both a Shiite president and a Shiite premier or, for that matter, for a nationalist government to choose leaders of whatever ethno-sectarian backgrounds to lead Iraq over the coming years.

Against the backdrop of these tendencies at the macro level, recent developments in the Iraqi parliament in October and November 2009 concerning the election law can perhaps be described as surprising. Much like they did in 2008 during the debate over the provincial election law, the nationalist parties sought to mobilize on the Kirkuk issue with a view to establishing special arrangements to mitigate perceived Kurdish manipulation of the voter registers. What happened, however, was a resurgence of alliance patterns seen back in 2005, with a mostly semantic compromise on Kirkuk (that in practical terms accepted the most recent roll of voters and

therefore largely satisfied Kurdish interests) being backed by Shiite Islamists as well some of the Sunnis in the Tawafuq bloc, in addition to the Kurds themselves. Not only that, when the Kurds used the threat of a veto by Tareq al-Hashemi, the Sunni vice-president, to insert a new seat-distribution formula that was more favorable to them, they similarly received initial support from the Shiite Islamists, and only saw this second move partially reversed in the final settlement of the bill on December 6. Lately, there have been reports of dialogue between Maliki and the Kurds, ostensibly aimed at finding solutions to outstanding issues even before the elections.

Does this mean that the clock in Iraqi politics can, in fact, easily be turned back to 2005? Could the Kurds once again emerge in a kingmaker role, and was all the talk about Iraqi nationalism in 2008 and 2009 just posturing? The parallels to 2005 are not altogether irrelevant, but they come with problems of their own. True, Maliki's greater propensity for building bridges with the Kurds reflects his failure in reaching out to Iraqi nationalists earlier in the year, when, instead of taking the logical step of moving closer to likeminded parties in the July 22 camp, he ended up attacking Ba'thists and neighboring Arab states in a manner that had traditionally been the preserve of ISCI. Having apparently not made up his mind about which way to go in terms of future alliances (i.e., whether to partner with the Shiite-led alliance headed by Ammar al-Hakim, Muqtada al-Sadr and Ibrahim al-Jaafari, or with the Kurds, or with both), he may well be trying to keep all options open.

The sustainability of this kind of arrangement over time is questionable, however. Firstly, given that centralist Shiites and Kurds were unable to agree on the oil law even in 2007, what is the likelihood of them achieving compromise in the less sectarian atmosphere of 2010? What about Kirkuk? Is Maliki really prepared to sacrifice Kirkuk for the sake of finding coalition partners? While Maliki's turn to the Kurds is understandable from an opportunistic point of view, it seems bound to cause considerable tension within his own base, where the anti-Kurdish discourse in recent years has been growing more intense, and where resistance to any implementation of Article 140 on Kirkuk is well known. Additionally, there is the question of how significant any promises Maliki might make to the Kurds as part of a pact to form a new government would really be; after all, final authority in many of the disputed matters (Kirkuk, foreign oil contracts, etc.) will ultimately rest with the next constitutional review committee and/or the federal supreme court, both of which will be beyond Maliki's influence. The staunchly secular Kurds, for their part, would be wise to think twice before embarking on a risky alliance with Shiite Islamists who are tightly

aligned with a neighboring Islamic regime whose past record in dealing with the Kurdish issue is not any more impressive than that of Iraq. To a great extent, the sudden resurgence of the Shiite–Kurdish axis inside the Iraqi parliament in November 2009 would seem to reflect the fact that its membership is itself an anachronism, elected in 2005 when the atmosphere in Iraqi politics was very different.

Additionally, it has to be remembered that the strengthening of the Kurdish hand during 2009 to a large extent was caused by a convergence of U.S. and Iranian policy which may have been involuntary or at least inadvertent as far as Washington was concerned. After the relatively non-sectarian character of the local elections in January 2009, a central Iranian goal in Iraq for much of the year was a restoration of the sectarian fronts that had been seen in the 2005 elections. To some extent this was achieved through bringing the de-Baathification issue back on the agenda. But Maliki's failure to grow into an Iraqi nationalist was also caused by messages from Washington warning him against being too critical toward the Kurds or too assertive in the Kirkuk question. Such ideas became prominent in U.S. think tanks during 2009 when the idea of an "Arab–Kurdish confrontation" as the main problem in Iraq grew in popularity; conversely the highly tentative nature of the transformation of Maliki into an Iraqi nationalist in the January 2009 local elections was never given the attention it required and instead prompted warnings about him becoming too strong and self-confident.

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Long-term arrangements for a politically stable future ought to look beyond the current demands by the Kurdish parties and the Iranian pressures to maintain a sectarian front between Sunnis and Shiites, and instead take into account the long history of the Kurdish issue in Iraq. By looking at the pre-2003 Kurdish position, one can find a vision of a unified Iraq that is far more compatible with the views of other Iraqis than the maximalist demands such as those made by certain members of the KDP today and external advisers like Peter Galbraith during the heyday of "soft partition" between 2004 and 2007. In particular, the Kurdish desire for an interna-

tional guarantee for their autonomous status stands out as an enduring demand that conceivably could make them back down from maximalist claims regarding Kirkuk and the oil sector, if it were met. Liam Anderson has previously suggested that the international community could come up with arrangements based on the model adopted for the Åland Islands (a Swedish-speaking archipelago in Finland) after the First World War.[23] In the Iraqi case, a similar approach could bring closure to the disruptive federalism debate as well as security for the Kurds in the long term.

This kind of more sustainable arrangement is perfectly achievable, but it would demand changes in the ways in which the international community thinks about the Kurdish dossier in Iraq. Firstly, it would involve recognizing that the Kurds are the only ethno-sectarian community in Iraq with a resounding demand for federalism, and that most other Iraqis would be comfortable with a moderately centralized state without ethno-sectarian categories being formally enshrined in the state structure. After the failure of the "soft partition" wave of 2007, this point is beginning to sink in among international actors, if not yet universally. Secondly, it would mean acknowledging the complexity of the Kurdish political scene instead of conceptualizing the Kurds as a monolith or even as a community divided into two internally united sub-communities (i.e., eastern and western, loyal to PUK and KDP respectively). This view is also gaining ground, especially since the elections for the Kurdistan parliament in July 2009 returned a substantial number of deputies not affiliated with any of the two major parties. Finally, and most critically, it would require a serious re-examination of the historical depth—or lack of such depth—of a number of the Kurdish demands that have dominated the post-2003 period in Iraq, such as the idea of annexing Kirkuk or managing a separate Kurdish army and oil sector. On this score, there is a teleological tendency in western think tanks to see such demands as deep-rooted Kurdish demands that have always been there, which patently is not the case. The fact is that Kurdish policy only became fundamentally irreconcilable after it had been exposed to the contradictions of American policies in post-2003 Iraq and figures like Paul Bremer and Peter Galbraith; only when this realization becomes widespread will external players be able to devise a policy for Kurdistan that is viable in the long term. ■

ENDNOTES

1 An Arabic version of the KDP proposal is reproduced in *Report on the Transition to Democracy in Iraq*, Democratic Principles Working Group, December 2002, 241–54.

2 Reidar Visser, "Shi'i Perspectives on a Federal Iraq: Territory, Community and Ideology in Conceptions of a New Polity," in Daniel Heradstveit and Helge Hveem, eds., *Oil in the Gulf: Obstacles to Democracy and Development*, (Aldershot: Ashgate, 2004), 125–66.
3 This point was even included in article 82 of the KDP constitutional proposal.
4 "President George Bush Discusses Iraq in National Press Conference", White House press release, March 6, 2003.
5 See Donald Horowitz, *Ethnic Groups in Conflict* (Berkeley: University of California Press, 1985).
6 For an overview of the TAL process, See Larry Diamond, *Squandered Victory: The American Occupation and the Bungled Effort to Bring Democracy to Iraq*, (New York: Times Books, 2005).
7 See Peter Galbraith, *The End of Iraq*, (New York: Simon & Shuster, 2006), 160–71.
8 "American Adviser to Kurds Stands to Reap Oil Profits," *The New York Times*, November 11, 2009, <http://www.nytimes.com/2009/11/12/world/middleeast/12galbraith.html> (accessed January 18, 2010).
9 Reidar Visser, "Sistani, the United States and Politics in Iraq: From Quietism to Machiavellianism?" *Norwegian Institute of International Affairs (NUPI)*, NUPI Working Paper 700, 2006.
10 Galbraith, *The End of Iraq*, 199 (footnote); Galbraith's access to the key closed-door negotiations is also referred to in Jonathan Morrow, *Iraq's Constitutional Process II: An Opportunity Lost*, United States Institute of Peace (USIP) special report, 2005, 13 <http://usip.forumone.com/files/resources/sr155.pdf> (accessed January 18, 2010).
11 Galbraith, *The End of Iraq*, 169.
12 For a copy of the bylaw, See *The Bylaw of Iraqi Council of Representatives: 2006*, UNDP, Program on Governance in the Arab Region <http://www.pogar.org/publications/other/laws/bylaws/iraq-cr-06e.pdf> (accessed January 18, 2010).
13 For an early example, See Marina Ottaway, *Back from the Brink: A Strategy for Iraq*, Carnegie Endowment for International Peace, Policy Brief No. 43, November 2005 <http://www.carnegieendowment.org/files/pb43.ottaway.FINAL.pdf> (accessed January 18, 2010) .
14 Under the 2005 constitution, Baghdad is given a role in managing "existing" oilfields but not "future" ones.
15 As quoted in al-Taakhi, November 20, 2007.
16 *Al-Hayat*, November 20, 2007.
17 Galbraith, *The End of Iraq*, 211.
18 For a discussion of the process surrounding the provincial powers law, See Reidar Visser, "Debating Devolution in Iraq," Middle East Research and Information Project (MERIP) report online, March 10, 2008.
19 For a key speech on this subject, See *Al-Sabah*, November 8, 2008.
20 See, for instance, *Al-Sharq al-Awsat*, May 15, 2009.
21 For a typical example of the tenor of this trend, See *Al-Bayyina al-Jadida*, December 9, 2009, in which alleged Kurdish designs to acquire Russian support for a separate Kurdish state were discussed.
22 It is often overlooked that, in the elections themselves, the State of Law coalition performed dismally in the Sunni-majority governorates north of Baghdad.
23 Liam Anderson, "A Comparative Perspective on Iraq's Federal System," paper presented to the Middle East Studies Association (MESA), annual meeting in Montreal, 2007.

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