

**STABILIZING IRAQ:  
OPTIONS FOR DEMOCRACY,  
SECURITY, AND DEVELOPMENT**

**Report of a Conference Held at Stanford University  
Center on Democracy, Development, and the Rule of Law  
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## **PREFACE**

In March 2006, Stanford University's Center for Democracy Development and the Rule of Law (CDDRL) brought together 25 leading scholars and policymakers to discuss the political, security, and economic situation in Iraq.

The purpose of the conference was to consider what could be done to stabilize Iraq at a crucial moment after three elections and with the country in the midst of putting together a viable governing coalition. Participants were asked to generate candid analysis and constructive policy recommendations.

This report summarizes many of the key arguments, suggestions, thoughts and ideas that arose out of the two-day conference. It is offered in the hope of contributing to an understanding of the situation in Iraq and the options for addressing the formidable political, economic, and security challenges confronting that country.

The conference was conducted under the Chatham House rules. All of the remarks were not for attribution. Consequently, this report does not quote any of the participants by name. Moreover, the recommendations are not necessarily indicative of a consensus among the participants. Some of the recommendations had broad support; others represent some significant stream of opinion. No individual listed as having participated, however, should be presumed to have endorsed any particular recommendation.

## ASSESSING PROGRESS TOWARD SECURITY, DEMOCRACY, AND DEVELOPMENT

The December 15, 2005 elections reveal that Iraq has become extremely and dangerously polarized. It is estimated that some 87 percent of Iraqis cast their ballots according to ethno-sectarian loyalties.<sup>1</sup> Crosscutting alliances among the three main groups – Sunni, Shi'a, and Kurd – are crucial for governance and peace, but have proven rare and fragile. There is a dearth of national leaders with broad appeal. Former Prime Minister Ayad Allawi's alliance was the only significant list to draw significant support across identity lines, but it did not attract support during the last election.

In this section, participants examined the extent and nature of this polarization and its effects on the political process and the likelihood of future violence. Participants expressed urgency but warned against the dangers of pessimism as they recommended steps to lessen this polarization and reduce the prospects of additional fighting.

### **Ethno-Sectarian Polarization and Alliances**

In the absence of a figure or force for national unity, Iraqi politics have been dominated by unnatural alliances within the three main ethnic and sectarian groups. For example, Shi'a Islamists cooperated during the recent elections despite profound disagreements over federalism schemes. Some of the parties have not adopted Abdul Aziz al-Hakim's stance on this issue, which calls for a single region spanning all nine Shi'a southern provinces. Furthermore, there are deep-seated divisions within the Shi'a leadership, such as between the Supreme Council on Islamic Revolution in Iraq (SCIRI) and Muqtada al-Sadr, possibly stemming from the 1991 uprising and the assassination of al-Sadr's father, and manifested by struggles for control of holy sites. There are splits even within al-Sadr's camp: many Sadrists are independent militiamen who are following him out of convenience and monetary gain rather than personal loyalty. Still, Grand Ayatollah Ali al-Sistani and Muqtada al-Sadr retain great power and influence over the Shi'a polity; for

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<sup>1</sup> Dawisha, Adeed and Larry Diamond. "Iraq's Year of Voting Dangerously," *Journal of Democracy*, Volume 17, Number 2, April 2006, pp. 89-103.

Sadr this is largely because of his control of Friday mosques and ability to disseminate information and coordinate followers through that religious network.

Some participants questioned whether Ayatollah Sistani can still suppress fighting inside Iraq or whether violence is becoming largely based on personal grudges that the national leadership is less able to stop. Others asked what would happen if Sistani died, who would try to gain influence, and what the subsequent clerical structure would resemble. There were no clear answers to these questions: the Hawza might not agree on a single successor, as has been the case in prior eras when clerical leadership was split among 4 or 5 people. This participant also noted that patronage and bazaar networks might affect Sistani's successor and the dynamics of the Shi'a community after his death.

One presenter criticized the failure of Kurds to form an alliance with the Shi'as and termed Kurdish post-election maneuvering "irrational." He claimed it was in the Kurds' interest to join with the United Iraqi Alliance (UIA), as they did in January, and resolve their differences through private bilateral talks. This presenter thought such an alliance would almost automatically give the Kurds the presidency. Another participant responded that the Kurds understood that Iraq must be a truly pluralistic society and had been trying to involve all sides in the political process. Several participants also questioned why the performance of Kurdish parties had been so weak in Baghdad, and blamed this on the ethnic uniqueness of Baghdadi Kurds, a lack of campaigning, and the security situation.

### **Prospects for Civil War**

If there were a civil war, the nature of the fighting could take a number of forms. One participant quickly pointed out that Iraq is already experiencing a civil war, according to the technical definition, but that it was more important to focus on precisely how violence might escalate. Participants questioned the assumption that there would be a sudden, spasmodic rise in killing, such as mass ethnic or religious cleansing. Instead, they hypothesized that there might be a steady and gradual increase in neighborhood militia-

led killing, similar to what happened in Lebanon and Turkey in the late 1970s. One participant suggested that the police should exert more control over the militias or should try to bring them under some central authority (at the provincial or national level). Yet others worried about military penetration of the police force itself. The need to demobilize the various party and factional militias was a theme that echoed across the sessions.

Participants seemed to agree that further violence would not divide neatly along sectarian lines, but would also devolve into intra-ethnic fighting and local territorial “grabs.” In the event of disintegration, groups would rush to try to control borders in the hope of benefiting from smuggling. Some participants thought Shi’a-on-Shi’a and Sunni-on-Sunni violence was most likely. Insurgents have successfully divided these groups, created religious in-fighting, and inspired fear and suspicion in each.

If a civil war occurs, militias would likely focus on controlling holy sites as well as Baghdad, which several participants viewed as central to all ethnic groups. In the case of such a breakdown, militias would use territory as a base of support as well as a spoil of war. But it is unclear what this would mean for groups such as Dawa and SCIRI, who might have control over Karbala and perhaps a corridor of land from Baghdad to Iran, but little beyond that.

Other participants questioned whether a civil war was a forgone conclusion, and several stressed that it is premature to draw concrete conclusions. They emphasized that what has happened in Iraq has surprised the Iraqis, Americans, regional powers, and experts alike and that the future would surely be even more complicated and unpredictable. Although participants did not agree on the inevitability of a civil war, they seemed to concur that there was a fleeting window of opportunity to improve the situation in Iraq, perhaps the next four to six months.

### **Recommendations**

- *Avoid defeatism*

Instead, focus on instilling trust between Iraqi parties and within communities, and remain engaged with negotiations, the creation of a national government, and the amendment of the constitution in a way that fashions a viable consensus on the country's future and rules. Avoid using the word civil war, which implies that it is an acceptable or inevitable outcome.

- *Plan for a possible civil war, and discreetly share it with allies*

Have a clear and coordinated policy about what to do politically and militarily in the event of a full-scale civil war, for example, which factions and leaders the U.S. should back, or how it should deploy its force. Share this discreetly with allies to build consensus. Use a system of indicators, which already exist, and prepare contingency plans in the case of escalating violence. One participant noted that historically, no foreign force has ever been able to stop a civil war by military means once it has broken out; from this perspective, the most a foreign force can do is to expedite its conclusion by supporting one side.

- *Slow down the political process*

To create a grand bargain, Iraq needs to slow down the political process and the frequent elections, which have generated intense divisions and polarization. One participant asked if there was a way to postpone provincial elections and defer resolution of a number of political and constitutional issues to allow political actors time to absorb the changes that have taken place. Others thought this was unrealistic and would merely delay the inevitable. Some drew a distinction between elections and negotiations over constitutional revision, suggesting the latter was much more important now. A somewhat controversial proposal was to change the electoral laws to weaken ethnic or sectarian voting patterns.

## **CRAFTING A VIABLE FEDERAL STRUCTURE AND OTHER KEY CONSTITUTIONAL ISSUES**

Though Iraqis recognize the value in maintaining a unified country, very few Iraqis support a dominant central government. The Shi'as associate centralization with the oppression of Saddam Hussein's regime. The Sunnis fear that a democratic and centralized Iraq would cede too much control to the Shi'as, who make up a majority of the population. The Kurds, of course, have long been pushing for more rather than less regional sovereignty.

The constitution as ratified by the people of Iraq therefore embraces a decentralized system of governance. The powers of the federal government are enumerated in Article 108 and include responsibility for foreign policy, armed forces, financial and customs policy and setting budgets. Article 111 then says "all that is not written in the exclusive powers of the federal authorities is in the authorities of the regions. In other powers shared between the federal government and the regions, the priority will be given to the region's law in case of dispute."

In this session of the conference, participants evaluated these articles of the constitution as well as others that relate to the country's federal structure. Many voiced concerns with the current formula for separation of power between the federal government and the states. They discussed the constitutional amendment process and suggested ways in which constitutional provisions might be modified to better ensure Iraq's future stability and territorial integrity.

### **Concerns with the Current Formula**

Participants reflected the widespread sentiment of the Iraqi people that federalism is the only viable way to maintain Iraq's integrity. There was disagreement, however, on whether the current constitutional formula is the best way to effect a functioning federal system.

Some participants argued that the Iraqi constitution had gone too far in limiting the powers of the federal government. They suggested that the federal government had been “disemboweled,” creating not a federation but an unworkable confederation. Some participants were concerned that a weak central government will be unable to properly deliver practical benefits and services. They also pointed to Article 111’s provision that priority will be given to regional laws in the case of dispute with the laws of the federal government. This, they argued, is contrary to the teachings of political science. Indeed, the framers of the American constitution argued forcefully that “if a number of political societies enter into a larger political society, the laws which the latter may enact, pursuant to the powers entrusted to it by its constitution, must necessarily be supreme.”<sup>2</sup>

Other participants pushed back on this point. They argued that the secret to defusing the tensions in Iraq right now is to further limit the powers of the federal government. The idea here is that a powerful federal government will give each of Iraq’s ethnic groups more of an incentive to vie for power at the federal level. As one participant put it, if you lessen the importance of Baghdad, then you make it less likely people will fight for it. Underlying this argument was a sense that the parties presently do not trust each other enough to delegate more power to the federal government. One point that flowed from this trust issue, and a point which most participants agreed on, was the need to reserve for the regions the authority to recruit and regulate the police force.

Participants were also worried that the constitution will tend to “Lebanonize” Iraq by devaluing individual rights in favor of group rights. Evidence of this is the frequent reference to “power-sharing” between the federal government and the regions, and the idea advanced in several articles that laws on a particular issue could be made by the federal government “in consultation with” the regional governments. Participants argued these sorts of principles will lead to ethnicity-based compromises at the federal level, and some suggested these compromises are already taking place: The country is setting a precedent of dividing power along ethnic lines by creating a Sunni speaker of parliament, a Kurdish president, and a Shi’a prime minister.

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<sup>2</sup> Alexander Hamilton, “Federalist 33,” *The Federalist Papers*

Most participants therefore agreed it would be important to ensure that the units of a federal system do not break down purely along ethnic lines. Such a system of a few large ethnic units – in which political party, regional, and ethnic cleavages coincided – led to polarization and ultimately civil war in Nigeria in the 1960s. The federal system should have a number of different units and avoid reducing down to one Kurdish region, one Shi'a region, and one Sunni region.

The ideal solution, some argued, would be purely geographic federalism. Under this system, one would create federal entities that cut across regions and ethnic concentrations. These entities would each be small enough so that there would be no monolithic bloc representing an entire religious or ethnic affiliation. In essence, the existing system of 18 provinces already does this.

Participants doubted, however, whether such a solution is realistic since there is general agreement that the autonomy of Kurdistan will have to be preserved. At best, then, one might end up with a federal system that is largely geographic but with an asymmetrical quality, preserving the special regional status of Kurdistan. (This, in essence, was the structure produced by the interim constitution, the Transitional Administrative Law). This, too, might be unrealistic, however, since past experience suggests any special treatment given the Kurds would be demanded by the Shi'as as well. For the Shi'as to be given the same degree of regional autonomy as the Kurdistan area, however, was deemed by several participants as an unacceptable solution that would lead to severe polarization, imbalance, and instability – especially if the Shi'a were to unite all nine southern provinces into one new super-region, as the new constitution would permit.

### **Amendment Process**

Several participants were hopeful that some of these problems could be addressed by constitutional amendment. Under an agreement reached just before the October 15 referendum in 2005, there is supposed to be a four-month window during which constitutional amendments can be proposed and considered by a constitutional review commission, appointed by the parliament. These amendments would require only a

majority vote of parliament to pass but would then need to be approved in another referendum.

Other participants suggested a more modest strategy of pushing for legislation to clarify the ambiguities of the constitution and to fill in its missing provisions. These participants thought there was enough ambiguity in the wording of the constitution for this to be a viable option. The advantage of going about the amendment process this way is that it would be simpler and perhaps quicker. Also, it may be more realistic, as there appears to be little enthusiasm among Kurdish and Shi'a leaders for revisiting basic constitutional questions at this time.

Some participants cautioned against treating either the amendment process or legislative enactments as a panacea. They argued that the same people who designed the constitution would be deciding on the amendments or the legislation. The issues are therefore no likelier to be resolved differently this time than the first time around.

There was also disagreement on when these issues should be addressed. Some argued that the situation is presently too volatile for politicians to properly focus on amendments and sweeping legislation. These participants argued that the government should be focusing its energies on security and economic reconstruction before moving on to revisiting the issue of federalism. Most participants took the opposite position. They argued that postponing these issues only means that the present institutional arrangements will become entrenched while fears and resentments fester. These participants argued that the parties who feel insecure because of the present provisions must have their insecurities addressed as soon as possible.

### **Recommendations**

- *Use the influence and leverage of the U.S. to ensure that the constitutional reform commission convenes, that there is broad representation on the commission, and that it addresses the country's major problems.*

One of U.S. Ambassador Zalmay Khalilzad's most significant accomplishments was to establish a framework through which to amend the constitution after the December 2005 parliamentary elections. That framework gave Sunnis hope that there might still be a chance to change provisions of the country's constitution and thereby incentivized their participation in the parliamentary elections.

To capitalize on that hope, it will be important for the U.S. to ensure that the amendment process actually takes place in the manner promised the Sunnis. The U.S. must pressure the various parties, particularly the Shi'as, to convene the constitutional reform commission soon. It must also persuade the parties to establish broad representation on the commission. Finally, the U.S. should make sure the parties discuss amendments that would address the current constitution's most controversial problems.

Other countries can, of course, also play a constructive role in this process. Suggestions for this were offered later in the conference (see "Regional Perspectives," pp. 30-31).

- *Expand the enumerated powers of the Federal Government.*

The powers of the federal government are presently circumscribed by Article 108 of the Iraqi constitution. The limitations built into that article have contributed to the sense that Iraq is more of a confederation than a federal state. To ensure that Iraq has a viable central government, it will be necessary to expand the list of powers enumerated in Article 108. Among other things, the central government must be given greater authority for the control and management of the country's oil resources (see "Reviving and Restructuring the Oil Industry," p. 20).

- *Amend the constitution to limit to no more than three the number of provinces that can aggregate into a region.*

The ambiguity built into the Iraqi constitution theoretically allows for the creation of super-regions composed along ethnic lines. If this happens, Iraq will descend into a polarized and unworkable political system resembling pre-civil war Nigeria. The Transitional Administrative Law was mindful of this and therefore limited to three the

number of provinces that could aggregate into a region. The current constitution should be amended to restore the TAL's protections against super-regions.

### **SECURITY: DIMINISHING THE INSURGENCY**

The Iraqi insurgency is a reactive and organic force that sprang from the post-invasion power vacuum and consists of upwards of seventy-four separate groups. Although initially framed and influenced by the former regime, the insurgency quickly "Islamified" and cohered around a more austere form of Salafism. Insurgents are often linked by family and tribal ties and communicate face to face or via the Internet more than by mobile phone. By one count, ninety percent of the insurgency is indigenous, but these domestic jihadis cooperate and intermingle with foreign fighters.

In this section, participants discussed insurgent ideology and tactics in order to better understand and ultimately defeat the insurgent threat. Participants put forward a spectrum of recommendations, ranging from improved intelligence, to additional economic tools, to negotiation, to a flexible timetable for withdrawal.

#### **Insurgent Qualities and the Military Learning Curve**

Ideologically, indigenous insurgents are a hybrid of nationalism and Islamism. Some Islamists are genuine "born-again" Muslims and others are mere opportunists. The insurgent creed was de-Baathified after the arrest of Saddam, but former members of the Baathist military and intelligence community remain involved in the insurgency. One presenter posited that the primary long-term threat is from Shi'a Islamic militants, who might affect or appeal to a much wider section of the population and thus are the most subversive rather than from Al Qaeda affiliates, who do not have much political traction inside of Iraq.

The insurgency has recently shown it can sustain aggression at higher levels, with attacks peaking last year (2005) but decreasing so far this year. Insurgents have initiated some “hit and run” attacks, but still rely primarily on Improvised Explosive Devices (IEDs) because previous attempts to directly engage Americans consistently failed. In the last half-year, insurgents have been unable to accomplish a number of objectives, such as overrun a police station, directly defeat Iraqi security forces, capture a U.S. military advisor (despite many in very vulnerable positions) or penetrate a U.S. base. Militarily speaking, the U.S. probably has enough weapons and manpower to continue fighting the insurgency indefinitely, assuming Sunni support continues at its current levels. According to one participant, insurgent-friendly politicians greatly underestimate U.S. staying power.

The U.S. military’s learning curve, in response to these changing insurgent tactics, was delayed by cognitive dissonance in 2003. Now, the military has a number of models on which to fashion future operations, including Tal Afar, Mosul, and Samara. One presenter noted the decrease in U.S. military casualties but others questioned if that was due to greater caution as opposed to a degradation of insurgent capabilities. Some also pointed out that Iraqi deaths have increased recently, and the presenter responded that the latter statistic was to be expected, given the larger numbers of Iraqi troops involved. The military has learned that historically, insurgencies have ended in a number of ways: through foreign pressure, withdrawal of foreign support, war fatigue or exhaustion, political calculations on the part of insurgents to secure their community against competition, the capture of a community leader, collapsed resolve, or a surge in inter-communal violence.

## **Recommendations**

- *Improve intelligence, embrace risk, and focus on youth*

U.S. forces must understand Iraqi youth in the hopes of winning them over through a more nuanced and appealing social compact. This presenter emphasized the need to better organize intelligence gathering efforts in prisons and detention centers, which

currently and inadvertently radicalize many detainees. Detainees can be used as a strategic asset to locate recruitment centers and dissuade further participation in the insurgency through economic incentives and family accountability. The presenter contended that tip lines are an ineffective means of gathering intelligence and were often being used to settle grudges between neighbors. Finally, this presenter focused on the necessity of embracing risk – to our own forces and to Iraqis’ – in our counter-insurgency strategy, especially in Baghdad, which is central to the “hold and build” strategy. Our current plan is giving Iraqis the impression that we are just protecting ourselves, not them, and consequently, degrades Iraqi morale.

- *Use economic tools to satisfy popular expectations and undermine insurgents*

Historically, failure to secure economic gains can greatly stifle liberalization in newly-democratizing nations. In Iraq, Provincial Reconstruction Teams (PRTs) are a key vehicle for improving the economic situation, but they are currently woefully understaffed and under-funded. Iraq would require 11,000 PRT staffers to compose a reconstruction force commensurate with that in Vietnam. This presenter suggested that there needs to be a single high-ranking official who can focus full-time on these economic tools for developing capacity and reducing dysfunction in local government.

One participant disagreed with the centrality of economic tools, asserting, based on Stephen Biddle’s recent article in *Foreign Affairs* that Iraq’s internal violence is better characterized as communal war rather than nationalist insurgency.<sup>3</sup> The participant also pointed out the “chick and egg problem” that economic measures might not get very far if the security situation is poor. Other participants discussed Biddle’s article and one suggested that perhaps Iraq is morphing from one type of conflict to another, in which case, it is less clear what strategy to adopt. Another disagreed with Biddle’s thesis but agreed with his proposal of a social compact. Yet one other participant found that Biddle’s theory did not easily apply to foreign fighters and suggested there might be two wars going on inside Iraq right now meriting two different strategies.

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<sup>3</sup> Biddle, Stephen. “Seeing Baghdad, Thinking Saigon,” *Foreign Affairs*, March/April 2006.

- *Engage in negotiations with insurgents*

Insurgents have already drawn up a twenty-one-point basis for negotiations with the U.S. and have garnered the support of the main insurgent groups for the platform. There was some disagreement among participants as to whether or not these demands were maximalist or not. This insurgent negotiating front, which consists of five key groups in particular, has refused to talk to the Iraqi government (and vice versa), so any prospective deal would have to be reached (at least initially) in talks with the U.S. government. Two participants pointed out that it would be very difficult to have comprehensive negotiations with the Sunni-based insurgency because the U.S. does not have a cognitive map of who they are.

Were America to engage in serious negotiations, one participant stressed that the U.S. should clearly promise not to seek permanent military bases in order to counter-act the perception of a permanent occupation. These negotiations would likely have to take place with insurgents outside of the country and with extensive mediation. But participants were unclear as to the parameters of a deal that the U.S. and other international actors would be willing to make. One participant speculated that insurgent demands would range from ones the U.S. could fairly readily accept (e.g., significant Sunni representation in government, constitutional review, balanced composition of Iraqi security forces, and clear statements about America's intention to withdraw) to more radical ones that would be non-starters.

- *Consider proposing a flexible timeframe for withdrawal*

Put forward a timeframe based on flexible goals and benchmarks and driven by improvements in Iraqi capacity and reductions in violence, not by a rigid timetable. This could help build domestic support in the U.S. for the war and assist Iraq in dealing with the insurgency. The U.S. should also enumerate a clear set of conditions and processes for handing over military control of Iraqi provinces.

- *Encourage Iraqis to create a vision for the future of their country*

Such a vision would span ethnic groups, clarify Iraq's relationship with the international community, and spell out a plan for prosperity and economic reconstruction.

- *Negotiate a Status of Forces Agreement (SOFA)*

Some participants urged that a SOFA be negotiated between the Multi-National Force (MNF) and Iraq, arguing it would give the force more legitimacy, treat Iraq as genuinely sovereign, and provide a new legal basis for the MNF that would go beyond the current U.N. resolutions.

- *Pressure Iraqis to appoint non-sectarian ministers*

This might have to be done discretely and behind-the-scenes and would be particularly important for the posts of minister of the interior and minister of defense. Furthermore, the Iraqis should focus on controlling, not just building capacity in, police stations.

- *Maintain reasonable expectations, achievable goals, and a sense of reality*

The American experience in Iraq so far has shown that any policy innovation is extremely difficult to implement in this environment, given the "friction" of war.

- *Promote education and cultural development*

This should be aimed especially at the middle class and centered on developing textbooks as well as materials for professionals and teachers that promote reconciliation and democratic values. The international community, including NGOs, could play a large role.

## **REVIVING AND RESTRUCTURING THE OIL INDUSTRY**

Current Iraqi oil output is 1.7 million barrels per day (bpd). This is far below Iraq's potential, which has been estimated at roughly four times that amount given the country's proven reserves of 112 billion barrels. It is also below the pre-war levels of 2.8 million bpd and below Iraq's peak production, which reached 3.5 million bpd between 1979 and the outbreak of the Iran-Iraq war.

Iraq's lackluster output is costing the country a great deal of money. At pre-war output levels, the country would be making \$54 billion per year. This is money that could be used for security and economic reconstruction. Instead, the country has had to spend roughly \$3 billion per year importing gasoline. It is therefore important to understand why output is so low and to examine what steps can be taken to revitalize Iraq's oil industry.

### **Reasons for Diminished Output**

Participants agreed there are several reasons for Iraq's low output levels. First, years of underinvestment and mismanagement have resulted in damage to plants and equipment including "corrosion problems at various oil facilities; deterioration of water injection facilities; lack of spare parts, materials, equipment, etc."<sup>4</sup> Some participants argued that the underinvestment and mismanagement were caused largely by policy failures under Hussein's regime; others thought the international community was partly to blame because the United Nations did not allow enough oil-related materials and equipment to flow to Iraq during the decade of sanctions. There was general agreement, however, that deterioration of Iraq's oil infrastructure was substantial.

Second, there were several phases, most recently during the 1990s, when oil was being pumped too rapidly in an effort to maximize revenues. Citing a United Nations report, one participant stated that "thanks to [these] over-production policies, 20% of wells have been irreparably damaged." This has had a deleterious effect on the quality of the crude

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<sup>4</sup> Anthony Cordesman, *Energy Developments in the Middle East* (Westport, CT: Praeger 2004) p. 177

oil. During overproduction, water seeps into the reservoirs. This corrupts the oil, which then requires additional refining to be fit for export.

Third, oil exploration throughout the country has been limited, so that “only 17 of 80 discovered fields have been developed...overall, only 2,300 wells reportedly have been drilled in Iraq...compared to about 1 million in Texas for instance.”<sup>5</sup> According to one presentation, no new wells have been drilled in fifteen years and some existing wells have gone dry. Some alleged that the neglect of exploration was more drastic in the Kurdish areas than elsewhere, but others disagreed, arguing the neglect was ubiquitous throughout the country.

Fourth, insufficient security has allowed widespread sabotage and smuggling. The government is unable to properly monitor the flow of oil and the extent of smuggling, partly because there are not enough meters along the pipelines. Militias have been able to establish their own berthing facilities, the revenues from which have in turn allowed them to expand their operations and finance new projects. Some participants raised the possibility that the smuggling activities are so widespread there is now a large class of people in the country with a vested interest in perpetuating the country’s instability.

### **Constitutional Concerns**

Participants evinced a general concern that the constitution’s legal-regulatory framework will make it difficult to take the steps necessary for output to increase. Their concern centered on Article 110. That article establishes the federal government as the sole authority in the administration and extraction of oil from *current* fields. It reserves for future negotiation the issue of who will be in charge of developing *future* fields.

Participants were unhappy with the distinction between current and future fields. One participant said he had never heard of any other country with a legal-regulatory framework which made that kind of distinction and thought it would do nothing but create confusion. Other participants added that the terms themselves are ambiguous

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<sup>5</sup> Ibid., p. 176

because they do not specify what constitutes a current field. Is it limited to those which are presently producing, or does it include all fields that have been discovered? The exact interpretation of this language is important because it determines the scope of federal authority over oil fields.

Regarding future fields, irrespective of what that term ultimately is deemed to encompass, the participants were in agreement that split authority between federal and regional governments will make it difficult to establish the stable and coherent legal authority that will be necessary to attract foreign investment. This is exacerbated by the fact that the biggest fields are not confined to particular provinces—rather, they extend underground from one to another. One participant wondered whether this meant there would have to be inter-provincial agreements on how to develop these fields or whether the same field might be subject to several different legal regimes.

Several participants stressed that it is much easier for companies to deal with one legal-regulatory framework for the entire country rather than several different ones at the regional or provincial level. Some participants also worried that devolving too much autonomy to the subnational units of government with respect to development of future fields will stifle exploration because these subnational governments do not have access to the same expertise and funds as the federal government and they do not have the capacity to deal with refining and exporting.

Several participants predicted that the constitutional formula for future fields will lead to continuous struggle among Iraq's ethnic groups. Oil, they argued, is a very emotional issue for Iraqis. They have a strong stake in its exploration and distribution. Iraqis of all groups will feel threatened by the ambiguity surrounding the federal vs. regional distribution of authority and the current vs. future oil fields.

At least one participant believed that the constitutional provisions on oil were not going to be changed, but that legislation and inter-governmental agreements would make the existing provisions workable. This participant also believed that the split in authority

between current and future fields is not as problematic as others suggested because it does give the central government control over the vast majority of Iraq's oil resources.

Most participants, however, thought change was necessary. They were convinced that the constitutional provisions relating to oil are in some respects more troubling even than the security problem. Oil companies are used to dealing with volatile security environments. They do it in countries like Colombia and Nigeria, where they frequently provide their own security. Oil companies are deterred more by legal than by physical risks. Indeed, one participant had been told by several oil executives that they would be willing to invest in Iraq if they were confident the country had a clear and stable legal infrastructure.

### **Privatization vs. Nationalization**

Several of the participants argued that privatization of the oil industry would help speed up its reconstruction. The Iraqi government's budget is already strained. The country can ill-afford to make the investments that are necessary for updating facilities and exploring new oil fields. Multinational private companies, by contrast, are in a significantly better position to incur the risks and expenses associated with these tasks because they have high capital levels and their exploration risks are diversified across many countries.

Other participants countered that privatization will never be accepted by the Iraqi people or the country's religious institutions. Iraqis will view attempts to privatize as selling out to foreign interests. This is exacerbated by the fact that many Iraqis still believe U.S. involvement in Iraq was largely oil-related. Any party that strongly advocates privatization would therefore be committing political suicide. The more realistic option, these participants argue, is to reestablish the Iraqi National Oil Company (INOC) and give that entity the authority to contract out certain tasks to private companies.

### **Revenue Distribution**

Participants also discussed several possibilities for distribution of oil wealth. Although there was general agreement that the Iraqi people feel a strong personal attachment to the

country's oil wealth, participants unanimously argued that an Alaska-style solution is not appropriate for Iraq at this time. In Alaska, oil revenues are held in trust and the annual interest on the revenues is distributed directly to the citizens. Participants were of the opinion that Iraq's infrastructure needs are too great for oil revenues to be distributed in this way.

Beyond this point, however, there was substantial disagreement on distribution. Some participants argued that all revenues should flow to the central government, which would then decide to invest in infrastructure projects or otherwise disperse the funds. Other participants argued that the regions from which the oil is extracted do not sufficiently trust the central government for that kind of plan to be acceptable. They argued that the regions should be given greater autonomy with respect to distribution of oil revenues.

The solution that attracted the greatest interest among participants was the model currently used in Nigeria, where the federal government collects all oil revenues but then sets aside a certain percentage which it returns to the regions of derivation. That percentage can be negotiated, and could be higher in some areas that have historically suffered from inequitable distribution of revenues. Another percentage is retained by the federal government for its own budgetary needs, while a third share of the revenue is distributed to the 36 Nigerian states (like Iraq's provinces) by a formula that gives weight both to population and to equality among states.

### **Recommendations**

- *Grant more authority to the central government with respect to oil exploration and production.*

The participants agreed almost unanimously that the central government should exercise control over the oil industry. The general sense was that no other solution was workable. The oil fields do not neatly fit into the country's political subdivisions. Any decision on oil will therefore require agreement among the regions. Rather than requiring the regions and provinces to negotiate individual agreements with each other, it is more practical and administrable to allow the federal government to establish laws and policies on these

issues. As the Iraqi constitution itself says, the country's oil belongs to all the Iraqi people.

Giving the central government control over the country's oil will also make it significantly easier for multinational oil companies to invest in Iraq. They will be able to deal with one central authority rather than multiple smaller authorities with overlapping jurisdiction and potentially differing legal frameworks. This will lower transactions costs for all parties. It will also give the oil companies greater confidence in the stability of the country's legal-regulatory framework.

Strategically, participants believe the best way to transfer more authority to the central government would be by reworking Article 110 to abandon the distinction between current and future oil fields. The argument here would be that the distinction is logically unsound and without economic justification. The second clause of Article 110 would then be abandoned, either by amendment or legislation, and the first clause would be altered to give the federal government control not just over current fields but over all of the country's oil fields.

- *Revise Article 110 to clarify the distinction between current and future fields.*

If it is no longer possible to fully abandon the distinction, the backup suggestion offered by several participants is to add language clarifying exactly what fields qualify as current as opposed to future. The preferred interpretation would be to expand the definition of current so that it includes all fields that have been discovered, not merely those that are presently operational. This would allow for a more subtle expansion of federal authority and limit the more contentious clause, which gives authority to the federal government and the regions jointly, to fields which have not yet been discovered.

- *De-politicize the oil ministry.*

Given the enormous potential for controversy surrounding decisions related to Iraq's oil industry, most panelists urged that the oil ministry be staffed by technocrats who are non-

political and non-sectarian. These technocrats should be insulated from political pressures so they can more easily make difficult decisions without immediate repercussions.

To do this, participants suggested a variety of approaches. One would be to have a non-political board of directors appointed for a few years. Another would be a system that allows consultants who do not have vested political interests to make decisions under a type of trusteeship for the oil industry. Finally, some believed it would be possible to establish a “code of honor” among all the major players in Iraq so that oil-related policy is conducted in a way that advances only the interests of the country and the people of Iraq.

- *Strive for partial instead of full privatization.*

There was widespread agreement that full privatization of Iraq’s oil industry would not be acceptable to the Iraqi people or its religious institutions. Groups opposing the U.S. presence in Iraq would politically exploit this issue by accusing parties who advocate privatization of colluding with the occupier to plunder Iraq’s resources.

Full nationalization, however, is also unappealing. The Iraqi government has neither the resources nor the technology to repair existing oil facilities and develop new fields. Private companies are better positioned to provide the necessary investment. They have access to the most current technologies and methods. They are also better able to guard against the financial risks inherent in exploration.

Participants therefore suggested that the most workable solution is partial privatization. This means reestablishing INOC and giving it primary control over the oil industry. INOC would then partner with multinational corporations in the development of oil fields.

- *Develop the industry in phases, with a concentration on taking care of the reservoirs first.*

It is tempting to focus the bulk of efforts on pipelines and reservoirs since this will have the most immediate impact on the Iraqi economy. More important for the fundamental health of the oil industry, however, is to evaluate the reservoirs and assess the damage done by the water seepage. The oil ministry should be mindful of this as it formulates its priorities in the upcoming months.

- *Install meters along the pipelines.*

The installation of meters is an inexpensive measure that will make a big difference. It will allow authorities to account for all oil that flows through the country's pipelines. This will enable them to better keep track of whether and where smuggling occurs. More generally, it will also give the oil ministry a better sense of exactly how much oil is being exported every day.

- *Train and equip mobile guard units.*

Mobile guard units have been effective in Colombia and other areas where oil facilities are frequently subjected to attacks by insurgent groups. These units are deployed to centers at regular intervals along pipelines. They monitor pipelines by installing sensors and are capable of dispatching rapidly upon detection of sabotage.

## **ECONOMIC RECONSTRUCTION**

The Iraqi economy is currently in disrepair. Unemployment is hovering between 20% and 30%. The electricity sector is providing only an average of 12 hours of service per day. Oil, despite all of its problems, accounts for 65% of the country's GNP. In this session, panelists discussed the areas in which Iraq's economy is underperforming, the ramifications of that underperformance, and ideas for the Iraqi and U.S. authorities on how to improve the economic situation.

### **Iraq's Economic Underperformance**

Participants pointed to a number of problems with the current state of reconstruction efforts in Iraq. The overriding area of agreement surrounded the lack of a high-profile point man (or "czar") whose responsibility is economic reconstruction. Participants argued that Ambassador Khalilzad clearly leads American engagement with the political process, General Casey clearly leads coalition military efforts in Iraq, but there is nobody of comparable stature who so clearly leads and reports to the President or the Secretary of State on issues of economic reconstruction. Participants argued forcefully that this has made it more difficult to formulate a coherent strategy with respect to reconstruction.

Beyond that, participants varied in their assessments of why Iraq's reconstruction was flailing. Some participants argued that lack of security was hampering reconstruction efforts throughout the country. Others conceded that although this was true, there were a number of situations in which the military had created a stable security environment but those in charge of reconstruction had failed to take advantage by starting projects. One participant argued that even if it is the case that lack of security is a substantial impediment to economic development, providing more resources to security means diverting more funds away from reconstruction, which is ultimately counterproductive as well.

Some participants talked about the black market. They argued that more Iraqis are turning to the underground economy, partly because the absence of well defined property rights

and concerns with the rule of law are pushing them out of the legitimate economy, partly because there are insufficient opportunities for legitimate employment. There were differing opinions on how to deal with this. Some argued that the government could address the problem by localized dispersal of funds in an effort to spur entrepreneurship. One participant recommended putting money directly into the pockets of individual Iraqis. Another thought it would be better to focus on infrastructure development.

One participant lamented that until now there have not been actionable criteria for success. Establishing such criteria, the participant argued, would help formulate policies for dealing with some of the important economic issues. For example, Iraq might pursue the overriding goal of increasing per capita income from \$800 to \$2,000 in the next two years. The idea is that having a specific goal like this would help clarify how to move forward.

Finally, there was agreement that focusing more attention on local projects would be helpful. Participants lauded the provincial reconstruction teams (PRTs). There are currently four PRTs in Iraq, in Mosul, Baghdad, Hilla, and Kirkuk. Participants were concerned, however, that the amount of funding for the PRTs – \$10 million each – was insufficient and would not have a visible impact.

### **Electricity**

Considerable time was devoted to discussing the issue of electricity. Participants agreed that the U.S. has been less able to increase and stabilize dispersal of electricity than expected. The best measure for electricity is not megawatts (MW) but average hours of service per day. This is because MW does not describe the interplay between supply and demand. An increase in MW might therefore seem like a positive development, but it is not particularly impressive if demand is increasing even more rapidly.

Using that measure, the national average is no higher than 12 hours per day. That figure is even lower for Baghdad, where the average is closer to 8 hours per day. This is worse than pre-war levels. Participants argued that the reasons for the low levels of electricity

provision are the difficult security environment, the underperformance of several power plants, and the ministry of energy's small budget. Indeed, the budget is roughly \$650 million, half of which goes to electricity imports. Much of it also goes directly to Iraqis in the form of an energy subsidy—the cost of electricity service is currently between 8 and 12 cents per kilowatt-hour (kWh), while the average tariff to consumers is closer to 0.08 cents per kWh. This does not leave enough money for the development of infrastructure.

Electricity dispersal has also been hampered because a supervisory control and data acquisition (SCADA) system is not in place. A SCADA system allows for automated monitoring and management of an entire electrical infrastructure from a centralized location. Iraq once had such a system, but it is currently not functional. Without the system, Iraq's grid remains vulnerable to local disruptions, regional hoarding, and broad-scale blackouts, problems that have plagued all of Iraq and Baghdad in particular.

### **Recommendations**

- *Appoint a reconstruction czar.*

Participants argued that it is important for there to be a representative of stature comparable to that of Ambassador Khalilzad or General Casey whose sole responsibility is to oversee reconstruction efforts. This will enhance accountability, since presently there is no one individual who can be held accountable if reconstruction efforts in the country are failing. It will also help focus attention on the issue of reconstruction and facilitate communications between the U.S. government and the Iraqis on individual projects.

- *Focus on security as an absolute prerequisite to reconstruction.*

There was widespread agreement that reconstruction without security is not sustainable. Indeed, one participant said that in the absence of security, some areas have turned away reconstruction projects for fear that they would attract insurgent attention. In areas where the U.S. or Iraqi government launches a reconstruction project, therefore, it is of paramount importance that it focus resources on the security dimension.

- *Localize dispersal of aid where possible and increase funding for PRTs.*

Participants argued that local dispersal of aid is often quite effective. One example of effective localized aid is the PRT system. At present, however, PRTs are under-funded, with each PRT receiving only \$10 million. This is not enough money for the PRTs to have a real impact. PRTs and similar programs should be expanded and given better funding.

- *Increase funding for the energy ministry; develop a more coherent energy policy; devote attention to reestablishing a SCADA system.*

Participants agreed that with respect to electricity provision, increasing the national average of 12 hours per day would be tremendously helpful to U.S. efforts in Iraq. The first step towards achieving this is to increase funding for the ministry of energy. The present budget simply does not allow the ministry to build new power plants. Power plants are necessary, however, if the Iraqi oil ministry is to meet consumer demand. Part of the budget increase can come from U.S. aid, part of it can come from increasing the price of electricity so that it comes closer to covering costs.

The Iraqi government also should be encouraged to spend more of its funds planning for the future. Participants agree that Iraq has the natural resources to provide for its own security. Natural gas, for example, could be an important component of a comprehensive energy policy. At present, however, very little money is going into developing that sector.

Finally, Iraq's electrical infrastructure would benefit greatly from reestablishing a SCADA system. A functioning SCADA system would immediately alleviate some of the country's electricity distribution problems. Baghdad's average hours per day of electricity, for example, are currently lower than the national average in part because regions are not sharing locally-produced electricity. A SCADA system will allow a central facility to exert more control over distribution decisions and would help prevent regional hoarding.

## **STABILIZING IRAQ: REGIONAL PERSPECTIVES**

Iran sees itself as a major regional power, and its desire to be recognized as such goes back to the period of the Shah. Tehran's leaders seek to reframe the terms of the debate accordingly, and they have been very successful in persuading others that they will ultimately determine the fate of Iraq. But Iran is not nearly as influential as it makes itself out to be: the Shi'a of Iran and Iraq are more distinct than is often appreciated, as they embody ethnic divisions as well as historical grudges and suspicions.

Participants in this session discussed Iraqi-Iranian relations from Iraqi and Iranian perspectives. They also went on to examine regional relations more broadly, suggesting two possible international mechanisms to improve the situation in Iraq.

### **Role of Iran**

Within Iraq, it is unclear that Iran can deliver concessions from the Iraqi Shi'a or exert leverage on the leading alliance in the government, the United Iraqi Alliance (UIA). The Iraqi Army, which is 80% Shi'a, did not switch sides during the 1980-88 Iran-Iraq war and is unlikely to be greatly moved by Iranian influence today. Similarly, SCIRI is not an Iranian puppet and may be developing better relations with the U.S. Iraqi Shi'as, for their part, may be "holding on" to Iran at the moment, in the hopes that Revolutionary Guards might support them in the case of a civil war. But Arab nationalism might surface later and stifle Iranian meddling.

Inside Iran, this Iraqi-Iranian Shi'a split was exemplified when al-Sadr received a state reception in Iran, and conservative Iranian papers criticized the government and derided him as a "murderer." Similarly, Iran's recent willingness to negotiate with Iraq has been roundly criticized by reformists who were excluded from the deal or fear that Iran is strategically weak at the moment. One presenter suggested Iran was "over-reaching" and exaggerating its power, a characteristic but ultimately self-destructive practice of the current regime.

More broadly, Iran wants a continuation of the status quo – which some described as “controlled chaos” – but not a costly and unpredictable all-out civil war. Were the U.S. able to quickly disengage and leave behind a stable and democratic Iraq, it would show Iranians that a Shi’a-majority country can have a democracy, and at least a partially secular one. Furthermore, the U.S. would then have much more time and resources to deal with the threat from Iran.

There was a brief discussion of American policy towards the Mujahedin-e Khalq (MEK), which the administration has officially designated as a Foreign Terrorist Organization. Unofficially, however, some in the administration still seem inclined to use the MEK in some way against Iran and the group continues to operate openly in Washington, D.C.

Some participants proposed reasons why Iran might have a vested interest in a stable Iraq. Iran benefits from pilgrimage trade, holy site tourism, and business interests in Iraq. Iranian courts and seminaries are filled with Iraqis, who lobby and mentor members of the Islamic Republic. Furthermore, the Iranian leadership fears the impact of an independent Kurdistan on Iranian Kurds and are similarly scared of the Arab nationalism in the Khuzistan province. But other participants questioned if Iran would want to be seriously involved in stabilizing Iraq and what role the Hawza (the Iraqi Shi’a clerical leadership) might play, especially under the quietist tradition.

### **Recommendations**

- *Create a quartet to facilitate consensus-building*

A quartet, consisting of the U.S., U.N., E.U. and Arab League, could help to mediate the construction of a political and constitutional consensus in Iraq. The pursuit of such a national accord is hampered by the weak new central government created by the constitution as well as the triumph of ethno-sectarian politics in the last election.

The international community has an interest in speaking to Iraq with one voice, serving as an impartial mediator within Iraq’s fragmented society, and integrating diverse groups in the consensus-building process. Countries that do not have a direct stake in Iraq are

best positioned to provide impartial mediation. These countries can prevent Iraqis from “playing” regional actors against the U.S. Eventually, the quartet might evolve to include other countries in the region.

This quartet would be different from the traditional multilateralization of Iraq or from the Bonn process that negotiated Afghanistan’s constitutional future. It would not give more military responsibility to the U.N. or Arab League, which are neither capable nor willing to accept this. Instead, it is a means of choreographing international resolve, solidarity, and pressure on Iraq. The quartet would be focused primarily on political and economic operations (as opposed to diplomacy) and on assisting the Iraqis in deciding how to move forward. The quartet should be based in Baghdad, led by the U.S. Ambassador, and should involve the E.U. for stabilization operations, the Arab League to try to moderate regional opinions and actions, and the U.N. for other tasks. To do this, the U.N. mission in Iraq would need to be staffed by more people with Iraq expertise and [to be] “re-activated,” perhaps by President Bush directly engaging Secretary General Annan and the General Assembly.

One participant asked if the Arab League had enough resources or willpower to try to exert influence on Iraq and noted the League only acts after Saudi Arabia has signaled its support. The League also would have to retract its previous negative comments about democratization in Iraq. Another participant questioned if the E.U., U.N., and Arab League are ready to go back into Iraq, what the terms of re-entry would be, if security concerns would deter them, if the Iraqis would accept them, and if the U.S. would give sufficient “space” for multilateralization. One other participant stated that the U.S. should be realistic about the limited capacity of external actors. Another suggested that the U.N., as well as U.S. aid agencies, should invest more aid locally inside Iraq, instead of spending it on programs and events outside the nation.

- *Establish an Iraq neighbors’ group*

An Iraq neighbors’ group, set up by Turkey, could focus on increasing regional security cooperation and reconstruction efforts. Ultimately, Iraq’s neighbors would be greatly

affected by spillover effects, such as Iraq becoming a drug smuggling route, and would have an interest in stabilizing the country. Regional actors have already accepted Iraq's recent electoral winners and seem to have moved beyond some of their past mistrust of particular groups. Such a neighbors' group might help pull Iraq back from the brink and could become a forum for engaging the international community in a host of other ways.