

## CHAPTER 2

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# Iraq, Arab Nationalism, and Obstacles to Democratic Transition

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### ***Introduction***

Ten years after the forcible removal of Saddam Hussein's regime, there is still a lot of controversy over the prospects for democracy in Iraq. Although the twentieth century witnessed several periods of democratic experiment in Iraq under the administration of both the monarchical and republican governments, the focus on a unified sense of Iraqi nationalism built around a distinctly Arab narrative remained largely unchanged. In the context of the multiethnic character of Iraqi society, the predominance of the Arab nationalist discourse led to the establishment of a contentious relationship between the state and non-Arab minorities, particularly the Kurds, who form the second largest ethnic group in the country after the Arabs.

The three-way population split between the Kurdish north, Sunni center, and Shia south persisted as one of the most important characteristics of Iraq since the forcible amalgamation of three Ottoman provinces—Mosul, Baghdad, and Basra—after the collapse of the Ottoman Empire.<sup>1</sup> The multiethnic and multi-sect structure of the newly created Iraqi state in the wake of World War I played a significant role in laying the foundations of authoritarian rule in the country. Favored by the British mandatory authorities, the Sunni minority found repression as the most effective strategy for maintaining political power over larger Shia and Kurdish populations.<sup>2</sup>

Although both the Shia and Kurdish groups were exposed to oppressive government treatment particularly during the Baathist regime, given the

fact that Arab nationalism was defined as the primary pillar of the regime's ideological legitimacy, the distinction between Kurds and Arabs appeared more intractable than the divide between Sunni and Shia sectarian groups.<sup>3</sup> From the early beginnings of the Iraqi state, both the ruling Arab Sunni elites and their British patrons recognized the fragmented nature of Iraqi society. Therefore, promotion of an all-encompassing nationalism that would narrow the dislocations between the disparate communities of Iraq became a critical task to ensure stability and effective governance. Hard-pressed to rule Iraq without sparking the resentment of at least one of the two other major constituting groups, the Sunni minority promoted Arab nationalism as the main principle of national unity. This policy inevitably implied the recognition of Shia Iraqis—who shared Arab identification with Sunni Arabs—as representing the next rung on the social ladder, thus pushing the Kurds down to the bottom of the hierarchy.<sup>4</sup>

The inclination of the authorities in Baghdad to see any compromise with the Kurds as the beginning of a perilous process, which will culminate in eventual Kurdish secession, resulted in the constant perception of the Kurdish question as a national security threat by successive Iraqi governments. The enduring capacity of the Kurdish movement to revive and challenge the regime through armed struggle at various times throughout the twentieth century has only hardened this perspective. Furthermore, the suspicious view of the Kurds gradually provoked determination to eradicate all non-Arab presence in the north that was perceived to be an unstable area that threatens the territorial integrity of the country. The end result was that the Iraqi state's dealings with the Kurdish question took its toll not only on the attempts at moving toward democratic ideals and practices, but also on the rights of other minorities through the extension of discriminatory practices to other non-Arab groups in the country.

### ***The Legacy of Mandatory Iraq***

The mandatory period was a defining era for Iraq in many ways. The British idea of the state was mainly based upon the processes of state formation embedded in the Western European political developments from the nineteenth century onwards. The inhabitants of Basra, Baghdad, and Mosul had to contend with this idea after these three provinces were occupied by the British by the end of 1918, which laid the foundations for the establishment of the state of Iraq. In his account of state making in Europe, Charles Tilly emphasizes the central place of force in governmental activity as a strategy to eliminate potential local rivals and popular resistance to authority. In this

respect, Tilly underscores the use of two effective strategies by the European governments for state consolidation: (1) extending their officialdom to the local community and (2) encouraging the creation of the police forces that were subordinate to the government rather than to individual patrons.<sup>5</sup>

Within this framework, in the early years of the Iraqi state, creation of an Iraqi army to protect the monarchy and maintain internal order during the lengthy process of institution building became of paramount importance for the British. However, it was also recognized that coercion alone might not guarantee state endurance in the long run and the acceptance by the populace of state governing structures was crucial to preserve survival and stability. Therefore, building consensus and unity within Iraq and particularly ensuring the integration of the Kurdish north and the Shia south into the national project formed the other main pillar of the state formation strategy adopted by the British and the Sunni ruling elite.

The nation-building project in Iraq was initially founded upon the construction of civic institutions and representative governance for the incorporation of disparate groups into one body politic through constitutional design. However, the problem arose when the primary driving force ordering the discussions regarding the creation of modern Iraq turned out to reflect not the domestic concerns and issues of the peoples of Iraq, but rather the concerns over the protection of Britain's post-war economic and political interests. The British agenda was preoccupied by the management of Britain's imperial territories in a time of severe financial and military weakness following World War I and the difficulties involved in administering troublesome territories, such as Mesopotamia and Kurdistan.<sup>6</sup> Under these conditions, establishment of an Arab government capable of protecting Britain's interests at the least possible cost to the British taxpayer was viewed as the most viable strategy.<sup>7</sup>

To this end, the Hashemite Emir Faisal was offered the job of ruling Iraq due to the good relations he enjoyed with the British officials based on the experience of the Arab revolt against the Ottomans during World War I. Furthermore, because of his history of leading the Arab resistance toward Ottoman rule, he was regarded as a popular figure with authority in the Arab world and expected to foster unity between Sunni and Shia. Nonetheless, the choice of Faisal was not met with the unanimous approval that the British hoped for. The Shia and the Kurds were distinctly unimpressed by a non-Iraqi Sunni monarch. Aware of his limited support base in Iraq, Faisal had little choice but to staff his government with the predominantly Sunni Arab nationalists who had served under him during the Arab revolt. This situation marked the beginning in the Iraqi state of the

prevalence of Arab Sunnis in key positions of legislative, executive, judicial, and military affairs.<sup>8</sup>

The reestablishment of the old Sunni-dominated order of Ottoman times in the new state of Iraq was hardly surprising. The Shia-dominated revolt of 1920 against the British rule in Iraq put the Shia Arabs largely at odds with the British desire to maintain internal stability through a centralizing political authority that was amenable to British demands and dictates. The Kurds, who comprised the bulk of the population of the Mosul province, were even more troublesome for the state-building process and the British policy of Arabizing the regime. While the sectarian question in Iraq was mainly a problem of underrepresentation of the Shia within the organs of the state, the ethnic question was creating a larger problem because of the competing claims of the Kurds to a nation-state of their own. The Shia were encouraged to subscribe to the notion of being “Iraqis” through the establishment of a monarchy that is Arab in composition and orientation. The same cannot be said for the Kurds whose grievance was the creation of the state of Iraq itself, which undermined Kurdish attempts to secure autonomy or independence after the collapse of the Ottoman Empire.

In their attempt to resolve the position of the Kurds in Mosul, the British initially considered establishing autonomous provinces in the Kurdish areas that could be loosely attached to the Arab administration.<sup>9</sup> However, it soon became clear that Sheikh Mahmud Barzanji, a Kurdish tribal leader who was appointed as the governor of Sulaymaniyah, had larger ambitions for the Kurds in the region more generally than the British authorities were willing to countenance.<sup>10</sup> Sheikh Mahmud’s attempts to extend his authority beyond the territorial limits set by the British resulted in a Kurdish revolt in 1919 that was quickly suppressed by the British. However, this was only the beginning of the outbursts of Kurdish nationalism in Iraq that would remain a perennial problem for successive Iraqi governments throughout the twentieth century.

What further complicated the Kurdish problem was the status of the Mosul province that had substantial oil deposits. After World War I, Turkey, Britain, and the Kurds had conflicting claims over Mosul. King Faisal was determined to achieve unification in Iraq and build a strong state and he did not believe that was possible without having control of Mosul. The British, in general, were more sensitive to the Kurdish cultural and political demands than the Arab government. However, they were primarily motivated by oil concessions and the economic importance of the Kurdish areas to the future of Iraq they created. The British, therefore, perceived the Kurds as a disintegrative force in the context of the more important goal of attaching Mosul to the newly emerging Iraqi state.<sup>11</sup>

The settlement of the Mosul question in 1926 eventually marked the incorporation of the Kurdish inhabitants of this province into the new Iraqi state. Since then, the unrest in the Kurdish areas was perceived as a direct threat to the successive governments' objective of consolidating state control over valuable oil resources that were seen as imperative to the stability and prosperity of Iraq. From the 1920s onwards, this perception paved the way for the development of policies of forced displacement and Arabization of northern Iraq that affected not only the Kurds but also the other non-Arab inhabitants of the region.

The mandatory period made a lasting impact on the political development in Iraq particularly in two respects. The first was to put into effect the project to create a nation-state that would amalgamate the country's diverse peoples into a coherent whole. The second was the Arabization of the government that manifested itself as the strategy of favoring Sunni Arabs as the main shareholders of administrative power. Thus, the British strategy of integrating the peoples of the new state paradoxically resulted in the deepening of the societal divisions along ethno-sectarian lines because of the empowerment of one group over the others. This situation generated a state structure that was less a system of government than a means of control and resulted in the continued communalization of political life. As the dominant Sunni elite failed to integrate the Shia south and especially the Kurdish north into the main body politic, the determination of the center to dominate the provinces increasingly required the threat of superior force. A strong army was seen as vital for a strong central state that led to the rise of the military in the political life of Iraq and laid the foundations for authoritarian rule in the country in the decades to come.

### ***Monarchical Period and the Consolidation of Arab Nationalism***

Throughout the monarchical rule, and into the first years of the republican period, the ethno-sectarian societal structure and the idea of democracy were bound to clash in Iraq. The problem was that the project of building a strong central government in order to maintain unity in a socially fractured society remained in conflict with the goal of creating representative institutions which was vital for legitimizing the order in the eyes of the existing communities, but by definition would constrain governmental action.<sup>12</sup> The Hashemite monarchical government succeeded in building a strong central government, but failed, for the most part, in ensuring legitimacy because of the reluctance of the governing elite to cede power in a truly meaningful way that would assure the diverse communities that their identities and interests were fully respected. Accordingly, the belief in the need for coercion

to achieve the discipline and unity required was consistently strengthened. Over reliance on coercion in turn further undermined legitimacy, creating a sort of vicious cycle between the holders of state power and the diverse society they ruled over.

After Iraq gained its independence in 1932, two major phenomena became prominent in Iraqi politics throughout the monarchical period: (1) the rise of nationalist and anti-British political unrest, characterized by a pan-Arab orientation among the members of the modern middle stratum, and (2) transformation of this unrest into a central element of the political arena that led to successive coups by army officers that continued into the early years of the republic.<sup>13</sup> The consequence was the intertwining of pan-Arab nationalist trends with a great admiration for the army that became the symbol of national power and unity and constituted the mainstay of the Iraqi state against the tribal and ethnic threat from within.<sup>14</sup>

After Iraq became an independent state, Arab nationalism provided a response to both the tensions regarding the relations with the mandatory colonial powers as well as the acute identity distresses in society. Controversies over pan-Arabism versus Iraqi patriotism, republicanism versus monarchism led to instability and a number of attempted coups within the monarchy. By the mid-1950s, Arab nationalism emerged triumphant from its competition with other ideologies and became an important ideological force that was bringing Sunnis and Shias together. Although the Shia grievances concerning the Sunni domination of Iraqi politics prevailed, by the end of the 1950s, the Shia were gradually getting integrated into Iraq's body politics and beginning to come to terms with the idea of functioning Iraqi citizens.

What was enabling the Iraqi state to strive for breaking down the sectarian barriers was the same ideological force that was deepening the Arab-Kurdish divide. As a group alienated ethnically from the rest of the society, the Kurds continued to stage revolts against the central authorities under the monarchy that strengthened the pan-Arabists' perception of the Kurds as an impediment to their political objectives.

The most important development of the monarchical period was undoubtedly the foundation and rise to maturity of the Kurdistan Democratic Party (KDP) of Iraq.<sup>15</sup> The 1930s marked the awakening of national consciousness among the first generation of secular educated and urban Kurds in Iraq who began to develop ideas of how best to secure specifically Kurdish identity and interests within the given framework of the Iraqi state.<sup>16</sup> These new urban and intellectual nationalists challenged the dominance of traditional notables of Kurdistan, yet were aware of the power of tribal leaders in Kurdish society. When the British and the Hashemite attempted to penetrate Kurdistan with modern direct rule and replace tribal governance

with more bureaucratic but Arabized administration, some of the tribal notables, determined to defend their privileges, made common cause with the new urbanized and professionalized Kurds who had different grievances and agendas.<sup>17</sup> This model led to the emergence of the KDP, under the leadership of a traditional notable, Mulla Mustafa Barzani, and a range of urban intellectuals, notably Ibrahim Ahmed and Jalal Talabani.

Barzani was expelled from Iraq to Iran in October 1945 after the collapse of the negotiations between the KDP and the Iraqi state in the aftermath of the Kurdish revolt of 1943. The failure of the Iraqi army to suppress the 1943 revolt, however, reinforced the view that a strong army is vital in order to hold the Kurds in check. Barzani played a significant role in the establishment of the Kurdish Republic of Mahabad in Iran in 1945–1946. After the fall of the Mahabad Republic in December 1946, Barzani went to the Soviet Union and stayed there until the collapse of the monarchy in Iraq in 1958.

### ***Revolutionary Iraq and Attempts to Find a Democratic Solution to the Kurdish Problem***

The revolution of July 14, 1958 and Iraq's transition to a republican state made many believe that the new government would establish a truly democratic regime. The revolution also promised a more hopeful era for the Kurds who welcomed the new government in the belief that it would be sympathetic to their cause. However, an almost schizophrenic attitude toward democracy in general and the Kurdish question in particular continued to exist among Iraq's rulers. This was evident from the revolutionary government's uneven march toward establishing a democratic republic where Kurdish nationalism and cultural rights are recognized, only to deny Kurdish identity again and employ new strategies of assimilation and control due to concerns for personal status and Arab nationalist influences.

The new Iraqi president, General Abd al-Karim Qasim, legalized the KDP, welcomed Mulla Mustafa Barzani on his return from the Soviet Union, and authorized the publication of 14 Kurdish journals.<sup>18</sup> Qasim and his leftist supporters promoted an Iraqi-first identity tied to *wataniyya* nationalism and tried to create a sense of Iraqiness based on Kurdish–Arab fraternity. The new constitution stated that “Arabs and Kurds are partners in the Iraqi homeland and their national rights are recognized within the Iraqi state.”<sup>19</sup> These inclusive discourses and policies of the government gave the Kurdish nationalist leaders and organizations influence in Iraqi politics, and encouraged a constructive relationship between the Kurds and the state elite.<sup>20</sup>

Rising Kurdish nationalist sentiment, however, coupled with the growing salience of the communist movement in Iraq, quickly intensified the power struggle between Qasim and his supporters and opponents. Within a year after the 1958 revolution, the brief political opening, and the left-leaning, pro-Kurdish agenda of Qasim were under attack by the US-led noncommunist bloc, pan-Arab military factions, and regional Arab states. Upon pressures coming from the Arab nationalists and the military, the strategies of assimilation and control resumed in the form of arrests and closing down of Kurdish organizations and replacement of the Iraqi-first discourse with a renewed emphasis on Arab nationalism.

In these circumstances, relations between the Kurds and the state rapidly deteriorated. Fighting broke out in 1961 that was to be the start of a prolonged conflict that continued intermittently until 1975. KDP forces achieved notable successes against the Iraqi army that had little chance of winning in the mountainous terrain of Kurdistan. Yet, it was equally difficult for the Kurds to achieve a decisive victory. As the war in the north became protracted, Qasim's government became increasingly viewed as weak and ineffective and he was held responsible by the Arab nationalists for allowing Mulla Mustafa to return to Iraq and destabilize Kurdistan again.

Qasim's government was overthrown by the Baathists and Arab nationalist military figures on February 8, 1963. For the Baathists, no agreement with Mulla Mustafa or recognition of Kurdish nationalist demands was possible. Like Qasim, they initially reaffirmed the partnership between Kurds and Arabs in Iraq, only to buy time needed to prepare the army for another round and launch a new offensive in Kurdistan as soon as June 1963. However, the first Baathist government did not last long. On November 18, 1963, President Marshal Abdul Salam Arif announced that the military would take control of the country and dismissed the Baathists from their posts that put Iraq under military rule for the next five years.<sup>21</sup>

Before the Baathists made their ultimate comeback in 1968 to rule Iraq for the next 35 years, the last window of opportunity to find a democratic solution to the Kurdish question emerged in 1966 under the leadership of Abd al-Rahman al-Bazzaz, the first civilian prime minister of Iraq since the collapse of monarchy in 1958. While the military officers still held the more powerful presidency and other important government posts, the appointment of Bazzaz appeared as a move from the military-ruled regime to devolve some power to civilians.<sup>22</sup> Bazzaz himself was an Arab nationalist ideologue, but he recognized the centrality of the Kurdish question to the country's progress and attempted to initiate negotiations for a peaceful

solution. On June 29, 1966, Bazzaz declared a 12-point offer to the Kurds that was accepted by Mulla Mustafa as the declaration fulfilled nearly all Kurdish demands. It recognized the binational character of the Iraqi state with full acknowledgment of Kurdish nationality. The Kurdish language was accepted as an official language along with Arabic in the provinces that were predominantly Kurdish. The declaration also promised decentralization with freely elected administrative councils and proportional representation for Kurds in central government as well as establishment of a parliamentary system of government in Iraq within a year.<sup>23</sup>

The Bazzaz Declaration was a crucial initiative in terms of fulfilling the twin requirements whereby the Kurdish question in Iraq could be resolved: establishment of autonomy for the Kurds and an electoral parliamentary democracy for all of Iraq.<sup>24</sup> Nonetheless, the triumph of Bazzaz was short lived given the military rulers' rejection of any concession to Kurdish demands and the fears that peace with the Kurds would remove justification for current military expenditure and open the way for al-Bazzaz to cut the military budget.<sup>25</sup> As considerable hostility toward the Bazzaz government grew among the officer corps, President Arif felt obliged to dismiss Bazzaz in August 1966. With his departure, the best chance for both the Kurds and a democratic republican Iraq disappeared.

### ***The Rise of the Baathists and Forced Displacement and Arabization of Northern Iraq***

The rapid turnover of governments in Iraq since independence suggested that although the successive coups have always taken place through an alliance between the military and various political groupings, it would always be the military that would ultimately monopolize power in the state. As was the case with the coup in 1963, the coup of July 17, 1968 again arose from cooperation between a diverse group of military officers and the Baath Party. This time, however, the Baath Party leadership took measures to secure the new regime from the threat of military coups by incorporating the officers into the state patronage system and turning the army into an expanded party militia. The new regime, then, turned to the task of eliminating other challenges it faced in the internal field, foremost among which was the Kurdish question.

The Baath Party offered the Kurds in March 1970 the most far-reaching autonomy agreement yet seen in Iraq, which was the direct result of the long struggle waged by the Kurdish armed forces in Kurdistan. As the military campaigns had gone badly for the Iraqi army, the government in Baghdad

had decided, as Abd al-Rahman al-Bazzaz had before them, that for Iraq to become strong, the Kurds had to be accommodated and decisively brought into the national fold.<sup>26</sup> The Kurds were troublesome particularly in the context of the Baath determination to take “full” control of the country as well as the concerns that the war in the north would undoubtedly strengthen the hand of the non-Baathist officers in the armed forces, who still constituted a potential source of threat to the regime.<sup>27</sup>

The 1970 agreement, however, was never implemented and the fighting resumed in 1974 following the government’s unilateral declaration of an autonomy decree that did not include the proposals put forward by the KDP. The main friction during the negotiations derived from concerns over the territorial extent of the Kurdish autonomous area which was to be determined through a population census according to the Article 14 of the March 1970 Agreement.<sup>28</sup> Baghdad was determined to ensure that the major oil-producing areas of Kirkuk and Mosul remained outside Kurdish control. For the Iraqi government, Kurdish control over oil fields will give the Kurds the economic power to expand their autonomy to actual independence, which would, in turn, threaten the territorial integrity of Iraq. The government’s failure to implement this part of the agreement aggravated the Kurds’ mistrust of the government which was further deepened by a number of assassination attempts against Barzani during 1971 and the government’s deliberate efforts to change the ethnic composition of the Kirkuk area by encouraging Arab families to move to the north.

One of the important characteristics of the Kurdish–Baath negotiation period during 1970–1974 was the intensification of the government’s “Arabization” policy. The regime was in fact attempting to make demographic changes in the north by moving Arabs to Kirkuk as early as May 1971. In the wake of the 1974 autonomy decree, many Kurdish villages in Kirkuk were bulldozed, and new Arab settlements were built nearby.<sup>29</sup> Kurdish government officials were transferred to areas outside the Kirkuk Governorate and replaced with Arab civil servants and workers and Arabic names were given to Kurdish neighborhoods, schools, streets and markets.<sup>30</sup>

The Arabization policy of the government primarily targeted the Kurds, but was not limited to them. When the regime felt satisfied that it had rid itself of the Kurds, it turned to Turkoman and Assyrian populations in Kirkuk in an effort to wipe out all non-Arab presence in the north. The policy of oppression and discrimination extended even to the long-time Arab inhabitants of the region, that is, those who had been living there before the migration of the “Arab new-comers.”<sup>31</sup> Over a ten-year period between 1976 and 1986, an estimated 4,500 villages in Iraqi Kurdistan were systematically razed with several hundred thousands of their inhabitants becoming

internally displaced with the purpose of ensuring an Arab majority in key oil-rich areas and creating a buffer zone between government-controlled areas and those controlled by Kurdish opposition forces.<sup>32</sup>

The fighting of 1974–1975 resulted in the collapse of the Kurdish revolt in March 1975 following the Algiers Agreement between Iran and Iraq which put an end to direct Iranian military assistance to Barzani and the KDP. However, the outbreak of Iran–Iraq war in 1980 reestablished the Kurdish–Iranian alliance and provided the Kurds with a renewed opportunity to consolidate their hold in Kurdistan after the defeat in 1975. By early 1987, the military successes of the Kurds in alliance with Iran greatly alarmed Saddam Hussein who feared for the survival of the regime. The government’s response to the Kurdish threat led to the most notorious policy in the modern history of Iraq during 1987–1989, known as the al-Anfal campaign, which resulted in the death of likely well over 100,000 civilians in Kurdistan through the use of chemical and neurological weapons.<sup>33</sup>

The Anfal campaign represented a shift in the governmental measures to deal with dissent from forced displacement and Arabization to genocidal actions. During the village clearances of 1987–1988, the inhabitants of the north who took refuge in the Kurdish-controlled areas were all at risk of summary execution by government forces.<sup>34</sup> Furthermore, the national census of October 17, 1987, which was conducted specifically to determine the target group for destruction, offered only two options for the registration of nationality: Arab or Kurdish. This was particularly problematic for the minorities who were largely based in Kurdistan such as the Assyrians, the Chaldean Christians, Turkomans, and Yezidis. Those who refused to register as Arabs were automatically designated as Kurds. When the Anfal campaign was launched several months later, these minorities suffered the same fate as their Kurdish neighbors.

The Anfal campaign was essentially a manifestation of Baathist rule’s perfection of the machine of authoritarianism in Iraq that was already established and consolidated by previous regimes to varying degrees.<sup>35</sup> Nonetheless, the relationship between the Kurds and the state took a different turn when the Kurds gained *de facto* autonomy following Saddam’s defeat in the 1991 Gulf War and the subsequent unilateral declaration by the United States, United Kingdom and France to create a “no-fly zone” over northern Iraq in April 1991. The campaign to wipe out all the non-Arab characteristics of the Kirkuk region, however, continued right up to the fall of Saddam Hussein’s regime in April 2003. Between 1991 and up to May 2002, an estimated 120,000 Kurds, Turkomans, and Assyrians have been expelled to the Kurdish-controlled northern provinces, although other estimates place the figure closer to 140,000.<sup>36</sup>

### *The American Occupation, Regime Change, and Its Aftermath*

From 1991 to 2003, the de facto autonomous Kurdish entity in northern Iraq developed strong economic and administrative capacity. Following the American invasion of Iraq and toppling of Saddam Hussein's regime, the Kurdish north experienced relative stability and certain levels of development.<sup>37</sup> In the context of the new power-sharing system established in Iraq following the approval of 2005 constitution, this asymmetrical growth largely influenced center–periphery relations by strengthening the Kurdistan Region's political power in relation to the state and increasing leverage on the central government to accommodate Kurdish demands.<sup>38</sup> This situation inevitably revitalized the Arab–Kurdish animosity and the perception of the Kurds as a threat to the stability and territorial integrity of the country.

The constitution that was adopted in Iraq in 2005, besides recognizing the legal status of the Kurdistan Regional Government (KRG), set up a decentralized federation and put forward a very progressive framework of democratic governance, civil rights, and freedoms. However, the question of how to structure a federation that can alleviate rather than exacerbate ethnic and religious divisions remained to be a challenging task. In this respect, the Kurdish–Arab divide came into the open once more as a major problem facing Iraq and the future of its stability and democratic development. Deep divisions between the two sides regarding the future shape of Iraq and the composition of the new government soon became apparent after the first parliamentary elections in January 2005. While the Kurds desired a loose federation, many Shia and most Sunni Arabs called for a tight-knit Arab Iraq with a strong central government.<sup>39</sup> The end result was that the ethnic struggle between the Arabs and the Kurds transformed into a struggle that pits “centralists” against “regionalists” in a confrontation to determine how power is to be structured in Iraq.<sup>40</sup>

Much of the contention arises from the status of Kirkuk and other disputed territories and the KRG's desire to be autonomous in managing its own internal affairs, particularly the management of its own oil resources. Baghdad believes that annexation of Kirkuk to the Kurdistan Region and allowing the Kurds to make separate oil deals would threaten Iraq's territorial integrity and pave the way for the partition of the country. These concerns increasingly crystallized the discrepancy between the centralization policy of the Baghdad government, headed by Prime Minister Nouri Al-Maliki, and the autonomy aspirations of the Kurdish region in the aftermath of the 2010 parliamentary elections. Maliki has become increasingly critical of the constitution and advocates that the constitution needs to be amended to diminish the power of the KRG and to resurrect the centralized authority

of Baghdad.<sup>41</sup> This crisis between Baghdad and Erbil put the fragile democracy in Iraq under threat and revealed worrying signs that the country may be sliding back to authoritarian rule.

Prime Minister Maliki's authoritarian policies were in fact slowly unfolding since the beginning of his first term in office in 2006, particularly his attempts to fill the ranks of the security and intelligence services with his loyalists and to create constitutionally unregulated structures to bypass the parliamentary approval requirements for the selection of top officers. The parliament's failure to dispose of or check him through the constitution's provisions for parliamentary oversight of executive actions has a crucial role in paving the way for Iraq's drift back toward authoritarian rule. By the second parliamentary election in March 2010, the Iraqi leaders in the parliament were in a position to apply a legislative check on the growing power of the executive and unseat the prime minister and stop authoritarianism. Numerically, the Kurds, the Sunni-based al-Iraqiyya (Iraqi National Movement) and the Shia bloc National Iraqi Alliance had the power to form a grand coalition that is capable of approving a new prime minister. However, the Kurds refrained mainly because of their reluctance to support a prime ministerial nominee from al-Iraqiyya which had a strong anti-Kurd sentiment. Thus, despite their desire for change in leadership in Baghdad, the Kurds chose to allow Maliki's reelection for the sake of advancing issues central to the Kurdish Region.

The Kurdish–Arab relations deteriorated markedly after the withdrawal of the US forces from Iraq at the end of 2011. The Baghdad–Erbil crisis deepened due to Maliki's continued attempts to consolidate his power and marginalize the autonomy aspirations of the Kurds. Within the Kurdistan Region, on the other hand, increased competition between the KDP and PUK and the emergence of a new, more vigorous Kurdish opposition, the Gorran movement, make it much more risky for any Kurdish leader to appear “soft” on Kurdish claims to disputed territories or other Kurdish concerns over oil and autonomy.<sup>42</sup> In this context, the possibility of a Kurdish–Arab compromise seems weak and the future of democracy in Iraq looks perilous.

### *Conclusion*

Fundamental questions about the future of Iraq, such as the process of democratic transition, whether it will become a truly federal state and the stability of the new regime itself have much to do with the Kurdish–Arab divide in the country that is still characterized largely by suspicion and animosity. The prospects of Kurdish–Arab reconciliation do not look very promising in

the short to medium term given the long history of ethnic expulsion, coercive assimilation and genocidal action toward the Kurds. It is a considerably difficult task to change the way the Kurdish question is codified in Iraq's political culture which, throughout the twentieth century, identified the Kurds directly with concerns over national security and territorial integrity. The most brutal manifestation of these concerns was the Anfal campaign which was aimed at the annihilation of not only the Kurds, but also anyone who refuses to accept the regime's authority or definition of the national identity.

The introduction of a power-sharing system in Iraq, so far, contributed little to narrowing the ethnic gap in the country given the absence of a political process that develops across ethnic and religious lines. The 2005 constitution, in fact, provides the legal framework to define subunits that transcend ethnic boundaries and focus on regional identity, with varying degrees of ethnic and religious homogeneity and heterogeneity.<sup>43</sup> However, in the absence of a political culture that promotes "political trust," "social tolerance," and "demonstration of respect," the building blocks of the federation will be constantly viewed in ethnic and sectarian terms, which, in turn, will lead to resurfacing of authoritarian tendencies.<sup>44</sup> As the borders of the Kurdistan Region are predominantly perceived to be ethnically defined as well, the disputes over autonomy, management of oil resources, and the status of Kirkuk and other oil-rich areas are likely to continue to derail the post-Saddam democratization process in the country.

In the long term, Iraq is capable of slowly evolving into a sustainable democracy. Overcoming the Kurdish–Arab tension is one of the primary conditions for this to be accomplished. If the management of this division is successful and results in a durable set of political compromises, then Iraq may gradually progress toward successful democratization. If, however, the divide worsens, or if Baghdad attempts to impose a "solution" on Erbil, a possible violent reaction might unravel the fragile political consensus that underpins Iraq's nascent political order and the very territorial integrity of Iraq will be threatened.<sup>45</sup>

### Notes

1. Adeer Dawisha, *Iraq: A Political History from Independence to Occupation* (Princeton, NJ: Princeton University Press, 2009), pp. 4–5.
2. Lisa Blaydes, "Compliance and Resistance in Iraq under Saddam Hussein: Evidence from the Files of the Ba'ath Party," Comparative Politics Workshop, Department of Political Science, Stanford University, March 1, 2013.
3. Dawisha, 2009, p. 143.

## CHAPTER 9

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# The Iraqi Kurdish View on Federalism: Not Just for the Kurds

*David Romano*

### **Introduction**

Until the 2003 United States-led invasion of Iraq, the country stood out as one of the most authoritarian on earth. The title of Kanan Makiya's 1989 book, *Republic of Fear*, captured the prevailing sentiment regarding Saddam Hussein's Ba'athist regime.<sup>1</sup> Freedom House's 2002 ranking for Iraq was 7 in all three categories of "political freedom," "civil liberties," and "political rights" (7 represents the worst ranking on a scale of 1–7).<sup>2</sup> In 1987 and 1988, Saddam's regime in Baghdad went so far as to mount a campaign of genocide against Iraqi Kurds, massacring some 180,000 of them, razing some 4,000 villages to the ground, and dropping chemical weapons on many of their towns (the most well-known instance of which occurred in the city of Halabja).<sup>3</sup> The removal of Ba'athist tyranny in 2003 offered the first real possibility of changing the authoritarian dynamic in Iraq. At the same time, there remained the very real risk that one regime's authoritarianism would simply be replaced by another's. In 2003, Toby Dodge warned that US administrators, "short of resources and time because of American domestic pressures," would be tempted to "restore the old ruling formula, foreclosing any real attempt at effective reform."<sup>4</sup> By the time the United States withdrew the last of its military forces from Iraq in December of 2011, however, it seemed clear that they had not restored "the old ruling formula." Nor did they originally leave behind a Shiite Arab tyranny to replace the former Sunni Arab one.

If American officials felt tempted to effectively follow such a course of action, the Iraqi Kurds prevented them.<sup>5</sup> Although the 2005 Iraqi Constitution's critics incessantly characterized the law as an American imposition, the Constitution in fact was not dictated by Americans and it did not even reflect the Americans' preferences or suggestions on decentralization, ownership, and management of hydrocarbon resources, regional security forces, and the role of Islam as a source of legislation.<sup>6</sup>

Many Iraqi political actors, from exile groups to Shiite religious parties to Kurdish nationalists, demanded de-Baathification and dismantling of the Iraqi army in 2003. Although it has now become almost cliché to cite the dismantling of the army and de-Baathification (Coalition Provisional Authority Executive Orders One and Two, respectively) as largely responsible for the terrible insecurity that plagued Iraq in subsequent years, these actions may have been necessary to avoid old patterns that followed new governments in Iraq as the same administrators, bureaucrats, and officials remained in their positions of power. Perhaps rather than disbanding it, the Americans could have recalled the Iraqi army to its barracks and paid its soldiers to sit there or guard weapons depots a bit longer.<sup>7</sup> This could have allowed a more gradual culling of the army and its "regime dead-enders"<sup>8</sup> and possibly slowed the post-2003 insurgency's growth. De-Baathification by itself, however, was not enough to alter a system of strongly centralized, authoritarian, and repressive rule. Diamond and Morlino's measures of democracy mentioned at the outset of this volume include eight criteria: the rule of law, participation, competition, vertical plus horizontal accountability, respect for civil and political freedoms, the progressive implementation of greater political equality, and government responsiveness to citizens' demands.<sup>9</sup> Even without explicit criteria, one can easily recognize the absence of democracy when certain political actors successfully monopolize power, ignore the rule of law, ignore the basic needs of the populace, and seek to impose their control throughout the state. To promote democracy and prevent the reemergence of authoritarianism in Iraq, the post-Saddam era regime needed to overcome serious structural problems. This could not occur just by doing away with the Baath Party, of course. Rather, a crucial and fundamental change needed to occur in the basic governing framework of the state.

Iraqis installed a new framework with the 2005 Iraqi Constitution, which the population approved via referendum in October of that year. The 2005 Constitution offers the possibility that Iraq can truly break away from an 80-year-old tradition of an authoritarian, domineering state. Its structure, articles, logic, and language place the constitution within the best tradition

of liberal democratic states the world over. Contrary to what some of its critics claim,<sup>10</sup> the constitution does not enshrine ethnic federalism or establish ethnic proportionalism in the government. Although it recognizes the Kurdistan Region as it existed since late 1991, the constitution envisions the formation of other regions and Iraqi governorates enjoying similarly extensive powers of autonomy. Nor does the constitution apply quotas to different national or religious groups' representation in public institutions,<sup>11</sup> or mandate a certain sectarian identity for the president, prime minister, speaker of the Assembly, or other important posts as do corporate consociational systems like Lebanon's.<sup>12</sup> Although many of the constitution's articles suffer from ambiguities that later engendered disputes, such was the necessary price to achieve consensus within the time frame available to draw up the agreement. Such ambiguities also offer the advantage of allowing Iraqi federalism and governance to evolve as the country changes.<sup>13</sup>

The Kurds emerged as the primary force pushing for a more liberal, pro-minority rights, and decentralized federal system in Iraq. The Shiite religious parties negotiating the constitution lacked the same level of interest in any of these values. Given the Shiites' majority status in Iraq, Shiites also reasoned that they would soon run things in Baghdad. Although many commentators highlight the Supreme Council for the Islamic Revolution in Iraq's (SCIRI, later renamed ISCI, the Islamic Supreme Council of Iraq) commitment to decentralized federalism, this represented more a concession to the Kurds than one of their core values and demands. Even SCIRI's interest in setting up a Shiite region made up of Iraq's nine Shiite governorates in the south may have been more a tactical move than a deeply held ambition.<sup>14</sup> Since Sunni Arab Iraqis had largely boycotted the constitutional drafting process and nonsectarian Iraqi groups had yet to manifest themselves in a powerful form, this left only the Kurds to stand up for these principles as the Transitional Administrative Law (TAL) and then the Constitution were being negotiated.<sup>15</sup> The Kurds were so successful in the constitutional drafting and negotiating process, in fact, that many of their critics began referring to the 2005 Constitution as the "Kurdish Constitution."<sup>16</sup>

Normally the absence of most Sunni Arabs, who account for some 20 percent of Iraq's population, from the TAL and Constitution drafting process should have been a source of grave concern for democracy's advocates. The analysis here argues that most Sunni Arabs initially failed to recognize the extent to which they shared Kurdish interests in a federal, democratic, and highly decentralized post-Saddam Iraq. Sunni Arabs probably thought they and those who spoke for them would manage to recapture political power in Baghdad at some point in the near future, in which case it made sense to

want a strong central government there. Although Sunni Arab opinion on these matters now appears to have shifted dramatically (an issue that is discussed later in this chapter), in 2005 the representatives of this community took stances that proved simply impossible to accommodate.<sup>17</sup>

Although many of the Kurds' critics commented incessantly about how the "pro-Kurdish" and supposedly American-imposed Constitution was so unpopular among Iraqis, we should remember that Sunni Arabs did not boycott the December 2005 Constitutional referendum and the new law of the land nonetheless received a "yes" vote from 78 percent of voters.<sup>18</sup> This level of support probably represents the highest one could expect in the Iraqi context—a huge endorsement, in fact, even if most Sunnis at the time rejected the change.

Before we turn to an examination of the Constitution and hence the Iraqi Kurds' role in promoting democratization in Iraq, we should consider the communal balance of power in Iraq and the Kurds' role in it. As John Booth (chapter 6) and David Mason (chapter 5) discuss in this volume, and as observed by scholars such as Ted Robert Gurr,<sup>19</sup> relatively large, cohesive, geographically concentrated, and very aggrieved minorities are the most likely to mobilize in significant form and push hard for political changes in their favor. At around one-fifth of Iraq's population and in the wake of the aforementioned atrocities they suffered, Iraqi Kurds could certainly be expected to push hard and take advantage of any weakening of Baghdad's authority to improve their lot.

The Iraqi balance of power after 2003 also allowed the Iraqi Kurds much more negotiating power than they might normally have enjoyed. With the Iraqi army disbanded by Coalition order in 2003, Kurdish forces constituted the most significant, able, and willing local ally for a Coalition Provisional Authority that was rapidly losing control of the security situation in the country. With Sunni Arabs largely boycotting the new government and new constitution writing process, or divided about how to approach either, the Kurds' relative weight likewise grew. As various Sunni and Shiite parties increasingly confronted each other, the Kurds were also able to set themselves up as "kingmakers"—uninterested in ruling more than their autonomous region, but willing to participate and help whichever parties ran the rest of the country, provided their interests were respected in the process. Lastly and perhaps most importantly, the various Kurdish parties managed to approach constitutional negotiations from a united front, which gave them an advantage when confronting the myriad Sunni and Shiite actors.

Whereas the Kurds could have just argued for their own autonomy rights in Kurdistan, they instead successfully pushed for a system that allows the formation of other regions and devolves a lot of power to the 15 governorates

not in the Kurdistan Region.<sup>20</sup> Most Shiites, who count themselves as some 60 percent of Iraq's population, looked forward to a rule of the majority as soon as possible (with Ayatollah Sistani, the most important Shiite religious figure in Iraq, especially pushing hard for a prompt transition from Coalition Provisional Authority (CPA) and governing council rule to "one man one vote"), although SCIRI support for decentralized federalism acted as an insurance policy in case they failed to control Baghdad democratically.<sup>21</sup> By pushing so hard for a decentralized political system in Iraq, the Kurds increased the chances that the state could accommodate both democracy and many communal groups' different preferences (in their own regions). This would be the kind of system, in other words, that might prove able to "incorporate ethnic minority demands by building institutions capable of channeling these demands into nonviolent forms of participation and competition."<sup>22</sup>

Federalist systems come in many forms, of course.<sup>23</sup> The purpose of federalism and decentralization in most multiethnic societies revolves around keeping the state together via institutionalized means of power sharing between the most relevant communities. By limiting the amount of power concentrated in Baghdad, the 2005 Constitution offers the losers of national level elections the chance still to wield significant authority over their own affairs. The incentive to engage in an "all or nothing" contest for control over the government in Baghdad likewise declines if that government only enjoys limited powers. This gives Iraqis today their best chance at democracy by diffusing power and somewhat lessening the stakes of the national-level political contest in a divided society.

### ***Key Features of the 2005 Iraqi Constitution***

Section Four of the constitution details the exclusive authorities of the federal government in Iraq. Besides fairly mundane issues such as formulating fiscal and customs policy, issuing currency, regulating commerce across regional and governorate boundaries, drawing up the national budget, formulating monetary policy, running the central bank, managing antiquities, drawing up the general and investment budget bill, and regulating weights, standards, measures, citizenship, naturalization, residency, asylum, broadcast frequencies, mail, population statistics and a census, this includes:

Formulating foreign policy and diplomatic representation; negotiating, signing, and ratifying international treaties and agreements; negotiating, signing, and ratifying debt policies and formulating foreign sovereign economic and trade policy.

As well as

Formulating and executing national security policy, including establishing and managing armed forces to secure the protection and guarantee the security of Iraq's borders and to defend Iraq (Article 110).

None of these items are particularly controversial or disputed. Article 111 specifies, "Oil and gas are owned by all the people of Iraq in all the regions and governorates." All of Iraq's political actors, including the Kurds, accept that this means the revenues from oil and gas sales are to be distributed throughout all of Iraq proportionate to population, irrespective of where the hydrocarbons are extracted from.

Article 112 goes on to explain how these resources should be managed:

First: The federal government, with the producing governorates and regional governments, shall undertake the management of oil and gas extracted from present fields, provided that it distributes its revenues in a fair manner in proportion to the population distribution in all parts of the country, specifying an allotment for a specified period for the damaged regions which were unjustly deprived of them by the former regime, and the regions that were damaged afterwards in a way that ensures balanced development in different areas of the country, and this shall be regulated by law.

Second: The federal government, with the producing regional and governorate governments, shall together formulate the necessary strategic policies to develop the oil and gas wealth in a way that achieves the highest benefit to the Iraqi people using the most advanced techniques of the market principles and encouraging investment.

This is the extent of exclusive federal powers elaborated in the constitution. As the language in Article 112 makes clear, even federal authority over oil and gas is not exclusive, but rather limited to "present fields"<sup>24</sup> and collaborative with the "producing governorates and regional governments." This has led to significant disputes between Erbil and the Maliki government in Baghdad.

Other powers "shared between the federal authorities and regional authorities" are not very extensive either. Article 114 lists them as managing customs, regulating electricity, and formulating environmental policy, development, and general planning policies and health policy, all "in cooperation with the regions and governorates that are not organized in a region."

Public educational and instructional policy (listed in the same Article) is to be formulated “in consultation with the regions and governorates that are not organized in a region” and internal water resources are to be formulated and regulated “in a way that guarantees their just distribution” (the phrase “in cooperation with . . .” does not appear here, but is implied since this item appears under the same Article<sup>114</sup> about “shared competencies”).

Article 115 then goes on to make the most remarkable statement in the constitution, a point that the Kurds fought hard for in negotiations:

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

Especially given the slim list of powers in the exclusive federal jurisdiction, this represents a very strong devolution of power—making the Iraqi federation one of the most decentralized (at least on paper) in the world. The change appears all the more noteworthy given Iraq’s long history of exceedingly centralized rule. Critics of the constitution argue that as a result, the central government stands eviscerated, lacking sufficient power to keep Iraq together and functioning.<sup>25</sup> Many Iraqi Arab nationalists viewed this, as well as some other subsequent clauses discussed below, as a prelude to Kurdish (or even southern Shiite) secession. For the Kurds, however, Article 115 is supposed to act as a guarantee against a creeping return of central government control and authoritarianism.

Article 115 did not prevent the serious disputes over oil and gas resources that have plagued Iraq since even before the constitution was adopted. From their regional capital in Erbil, Iraqi Kurds claim the constitution gives them the right to exploit new oil and gas resources they may discover, given Article 112’s language of collaboration over “present fields.”<sup>26</sup> Especially in the absence of a supplementary hydrocarbons law, agreement over which continues to elude Erbil and the Iraqi parliament, Kurds claim the right to sign agreements with foreign multinationals for exploratory drilling and exploitation of new fields as well as exports. The Kurds do not, however, claim the right to keep all the proceeds from these new ventures. Rather, they accept the principle of proportional distribution of the revenues via joint mechanisms set up with Baghdad, even for “non-present fields.”<sup>27</sup> From the Kurdish point of view, retaining some control over contracts, management, and exports is both legal and essential to keep a

check on Baghdad's control of the country's finances, some 90 percent of which come from oil exports. The Maliki government's centralist view in Baghdad, in contrast, holds that even in the absence of a hydrocarbons law, all oil contracts, all management of fields, and all exports of oil must pass through the federal oil ministry. Abdullah al-Amir, the principal personal advisor to Hussein al-Shahristani, Iraq's deputy prime minister for energy affairs, put it this way: "If you have one part of the country producing and exporting and selling the oil, then Basra, the southern part, will do the same, and the other governorates will do the same, and this will have no government planning... There will be no [central] government revenues because each governorate will do whatever it wants. This is against the constitution of Iraq."<sup>28</sup> This is not true, of course, since the central government retains a constitutional role in managing the very rich "present fields" and governorates or future regions could also choose to work with Baghdad on the issue. Nonetheless, the Maliki government blacklisted the small multinationals that first signed contracts with the Kurdistan Regional Government (KRG) and intermittently blocked Kurdistan's access to the national export pipeline. The KRG responded by independently exporting oil to Turkey via tanker trucks, and then building its own independent pipeline export infrastructure and hydrocarbons regime with Turkey.<sup>29</sup> Now that bigger oil companies also signed deals with the KRG (including Exxon, the world's largest, which also holds a concession in southern Iraq), Baghdad's boycott policy looks less sustainable.

Section Five of the Constitution also has more to say about the powers of the regions, describing Iraq's federal system as "made up of a decentralized capital, regions, and governorates, as well as local administrations" (Article 116). Article 117 explicitly recognizes the Kurdistan Region and its "existing authorities." Articles 118 and 119 outline procedures to form new regions in Iraq (besides the Kurdistan Region), but all efforts in this regard have been blocked by the Maliki government.

Articles 120 and 121 give regions the right to determine their own structures of governance as long as these do not contradict the Constitution. In case of a contradiction in legislation on matters outside the exclusive domain of the federal government, regional law takes precedence. Regions are also "responsible for all the administrative requirements of the region, particularly the establishment and organization of the internal security forces of the region such as police, security forces, and guards of the region" (Article 121, Part 5). This provision allows the Kurdistan Region to retain its fighting forces, known as the *peshmerga* (which the Kurds translated as "national guard" in order to reassure American diplomats anxious to disband militias in Iraq). Although the retention of troops outside the monopoly of force of

the federal government elicited a lot of criticism,<sup>30</sup> from the Kurdish point of view (and given Kurdish history in Iraq) all the paper constitutional promises mean little without some additional means of restraining central power in Baghdad. Iraqi army forces and the *peshmerga* nearly came to blows in the ongoing dispute over disputed territories (discussed below) on a number of occasions after 2007.

The juxtaposing of an armed Kurdistan Region determined to guard its autonomy and extend its writ into disputed territories with a prime minister in Baghdad determined to increase central government powers (as well as his own) has been viewed as the most dangerous issue threatening Iraq today.<sup>31</sup> In the long run, if Iraq is to remain a stable, single state, the Peshmerga forces will probably have to be transitioned into more of a genuinely internal security force rather than a counterweight to the central government's military force. This would appear to be the intent of this section of the Constitution. The level of distrust between the Kurds and Baghdad does not permit such a development for the time being, however. Such things may require time, power sharing in Baghdad, and a functioning democratic system to build the needed levels of trust. Until trust is built, it could also make sense for mostly Sunni Arab governorates of Iraq to be allowed more of a national guard as well, so they can gain a greater sense of security from Baghdad. It was Sunni Arab Awakening Councils, after all, that played the more decisive role in stemming the insurgency of the 2004–2008 period in Iraq.<sup>32</sup>

Article 122 addresses the powers of governorates that are not incorporated into a region (which means 15 of Iraq's 18 governorates given that Erbil, Suleimani, and Duhok governorates make up the Kurdistan Region). Governorates are to elect both a governor and "governorate councils" to run themselves, and governorate councils "shall not be subject to the control or supervision of any ministry or any institution not linked to a ministry." The councils will also enjoy "independent finances" and those governorates not incorporated into a region "shall be granted broad administrative and financial authorities to enable them to manage their affairs in accordance with the principle of decentralized administration..." Article 123, however, adds that "powers exercised by the federal government can be delegated to the governorates or vice versa, with the consent of both governments..." Such language is fairly vague, however, and Article 123's provisions seem to foresee a dynamic process in which governorates unwilling or unable to handle some issues can turn to Baghdad for help.<sup>33</sup>

Section Six of the Constitution lays out "final and transitional provisions." Article 140, along with aforementioned Article 115 on oil and gas resources, shares the distinction of having created the most controversy in post-Saddam Iraq. Known as the "disputed territories" law, Article 140

(formerly Article 58 of the Transition Administrative Law) stipulates that: (1) people expelled from Kirkuk and other regions during previous governments' Arabization campaigns be allowed to return and compensated for their losses, and settlers brought in under previous regimes return to their places of origin in the south—a process called “normalization”; (2) a census be conducted in the disputed territories; and (3) a referendum be held to determine if the people of these areas wish to remain under Baghdad's federal authority or become part of the Kurdistan Autonomous Region. The issue here relates to the accidental but now official boundaries of the Kurdistan Region, which were determined by how far Saddam's military forces retreated after the creation of the Northern No-Fly Zone in 1991. Saddam's forces at the time retained control of the oil rich and in many cases majority Kurdish-inhabited plains around Mosul, Kirkuk, Khanequin, and Kalar. These areas now lie just south of the constitutionally recognized borders of the Kurdistan Region, and the Kurds would like to incorporate the majority Kurdish-inhabited areas (and presumably much of the oil-rich territory as well) into their administration. Most Arab and Turkmen residents of these “disputed territories” strenuously reject such inclusion, however.

Successive governments in Baghdad promised to carry out Article 140's provisions, but the issue remains politically toxic among Arab Iraqis. Being seen to “surrender Kirkuk” to the Kurds would also likely prove to be political suicide for most Arab politicians in Iraq, and so the dispute has dragged on. While Kurdish leaders in Erbil refuse to surrender on the issue, Arab leaders in Baghdad have begun claiming that Article 140 is now dead because of the following language in Part 2 of the article:

The responsibility placed upon the executive branch of the Iraqi Transitional Government stipulated in Article 58 of the Transitional Administrative Law shall extend and continue to the executive authority elected in accordance with this Constitution, *provided that it accomplishes completely (normalization and census and concludes with a referendum in Kirkuk and other disputed territories to determine the will of their citizens), by a date not to exceed the 31st of December 2007* [emphasis added].

December 2007, along with several new deadlines, all came and went, of course. In late 2010, Prime Minister Maliki nonetheless again promised the Kurds that Article 140 would be enacted, as a condition for their support of his new government following the March national elections. To date, none of the article's provisions have been carried out, and the disputed territories continue to hang over the Iraqi political system like a Sword of Damocles.<sup>34</sup>

The wish to extend the borders of their autonomous region is probably not one of the Kurds' contributions to democratization in Iraq, unfortunately. The contest over these territories hampers democratization and increases the confrontational nature of Iraqi politics. Although Arab politicians share a part of the blame for failing to enact Article 140, this article is extremely unpopular in non-Kurdish parts of Iraq and democratic leaders, in particular, must pay attention to their constituents' wishes. The issue is thus crying out for some kind of "grand bargain" as the United Nations Assistance Mission to Iraq (UNAMI) suggested in 2008, but such a deal continues to elude Iraqis.<sup>35</sup>

A few final observations about the constitution are now in order. In its preamble, the constitution describes the new Iraqi system as "republican, federal, democratic" and "pluralistic." The Constitution recognizes Islam as the official religion of the state and *a* (rather than 'the') source of legislation while also guaranteeing "full religious rights to freedom of religious belief and practice of all individuals such as Christians, Yazidis, and Mandaean Sabaeans" (Article 2). Shiite religious parties originally preferred a stronger wording of "the source of legislation," but compromised with secular Kurds and Arabs on the issue. Articles 3 and 4 recognize "multiple nationalities, religions and sects" as belonging to the country, which at the same time is "a founding and active member in the Arab League and is committed to its charter, and it [Iraq] is part of the Islamic world." This too represented a compromise between Arab and Kurdish negotiators, since the Arabs originally wanted wording recognizing Iraq as an Arab state. Article 4 recognizes Arabic and Kurdish as the two official languages of Iraq, but also guarantees other groups such as Turkmen, Syriac, and Armenians the right to educate their children in their mother tongue in government schools.

Section Three of the Constitution describes the federal powers. Article 48 states that "The federal legislative power shall consist of the Council of Representatives and the Federation Council." The first is the Iraqi Parliament, while the latter is supposed to function as a senate of sorts for the regions and their interests. The Federation Council has yet to come into existence, however, especially since Iraq still only has one region (Kurdistan). According to Dr. Sherzad Nejar, an expert on constitutional law and federalism and a former Chancellor of the University of Kurdistan in Hawler, the failure to create the Federation Council and more than one region in Iraq means that Iraq is not yet really a federal state.<sup>36</sup> With only the Kurdistan Region, Iraq currently suffers from an imbalance: some 20 percent of the country's population (mostly Kurds) find themselves and their region face to face with a federal government that directly represents the remaining 80 percent of the country (mostly Arabs). In states like Canada, Switzerland, and India,

three or more regions together make up federal systems that work.<sup>37</sup> If Iraq had several regions as the 2005 Constitution intended, alliances of these regions could emerge. Besides fostering inter-communal and inter-regional cooperation, such alliances could check the power of the federal government should it overstep its bounds. Articles 92–94 of Section Three of the Constitution establish the Federal Supreme Court as “an independent judicial body, financially and administratively.” The court is supposed to oversee the constitutionality of all new laws and regulations, and settle “disputes that arise between the federal governments of the regions and governorates, municipalities, and local administrations,” as well as disputes between “governments of the regions and governments of the governorates.” Although the constitution clearly envisions the Federal Supreme Court as residing separate from and above the politics of the state, recent trends raise fears that the judiciary is falling under control of the prime minister in Baghdad.<sup>38</sup>

The prime minister’s increasing control over the Federal Supreme Court appears to have compromised its intended role regarding the establishment of new regions as well. On December 12, 2011, Diyala governorate council members prepared a demand for a referendum on forming themselves into a region, as the Constitution permits (other recent demands have come from the governorates of Salah-al-Din in the north and Basra, Wasit, and Kut in the south). Prime Minister Maliki responded by quickly declaring martial law in Diyala, sending units of the Iraqi army that he personally controls to Diyala and having arrest warrants issued against the Sunni governorate officials who signed the referendum request (they promptly fled). At the same time, “thousands of Shia demonstrators stormed the provincial government headquarters” and “unidentified armed groups blocked major highways.”<sup>39</sup> The prime minister justified ignoring Diyala leaders’ request by claiming he could not accept initiatives that are “based on sectarianism.” Of course, he had no legal basis to refuse them on these grounds (the constitution does not give such powers or discretion to the prime minister).<sup>40</sup> The prime minister then announced new justifications for ignoring the Diyala and other regional initiatives, based on the inclusion in their boundaries of as-yet unsettled “disputed territories” described in Article 140. According to Sowell, “The incident shows that Mr. Al Maliki can now permanently close off legal channels for addressing local frustration over excessive central control. Since the disputed-territories issue has been frozen for years in the conflict between Arabs and Kurds, Mr. Al Maliki can act as he pleases.”<sup>41</sup>

Chapter Four of the Iraqi Constitution also describes the functioning of independent commissions: “The High Commission for Human Rights, the Independent Electoral Commission, and the Commission on Public Integrity are considered independent commissions subject to monitoring by

the Council of Representatives, and their functions shall be regulated by law” (Article 102). Prime Minister Maliki in December 2010 complained to the aforementioned Supreme Court that Article 102 was ambiguous about what “monitoring [of the independent commissions] by the Council of Representatives” actually meant. In January 2011, the court issued a ruling that agreed with the prime minister’s complaint and placed the “independent” commissions under the authority of his cabinet. Critics see this as “a clear bid by Maliki to monopolize powers.”<sup>42</sup>

### ***Coming around to the Kurdish View on Federalism***

After the 2010 elections, Prime Minister Maliki took on the posts of not only prime minister, but Minister of Defense, Minister of the Interior, and Minister of State for National Security, all at the same time. He also moved to take direct personal control of the army, increasingly sidelining its Kurdish Chief of Staff, Babakir Zebari. Tens of thousands of special “counterterrorism” troops answer only to him, along with a half dozen disparate spy agencies he created. Besides Mr. Maliki’s famous issuance of an arrest warrant (via the Supreme Court) for Sunni Arab Vice-President Tarek al-Hashemi, he also sacked Sunni Vice-Prime Minister Saleh al-Mutlaq. The widely respected head of Iraq’s Higher Electoral Commission, Faraj al-Haidari, complained after his commission was placed under the authority of Mr. Maliki’s cabinet. He was arrested in April 2012 on what many viewed as clearly spurious corruption charges.

At the same time that Nouri al-Maliki worked so hard to strengthen his position and that of the central federal government, he failed to include Iyad Allawi and his mostly Sunni Arab *Iraqiya* party in any meaningful power-sharing mechanisms, breaking the promise he made to them after the 2010 elections. It should be recalled that Allawi’s party won two more seats in that election than Maliki’s State of Law Party, but the Supreme Court reinterpreted the law giving the largest vote winner the right to try to form the next government first. The court ruled that this actually meant “the largest bloc of vote winners,” meaning that Maliki could try to form the next government first if enough other parties joined him in the request. After Maliki gathered enough parties around him to form the next government (a process that took almost a year), *Iraqiya* reluctantly accepted an offer to join Mr. Maliki’s new “national unity” government. At the time, Mr. Maliki promised to form a National Council of Strategic Policies that Mr. Allawi would head. The new National Council would have significant powers ceded to it by the prime minister, which was supposed to soften the blow of Allawi being denied the Premiership even though he won the

most votes. The council was never formed, however, and the aforementioned campaign of judicial intimidation of *Iraqiyya* politicians took its place.<sup>43</sup>

As a plethora of political groups, including Moqtada al-Sadr's Shiite Arab bloc, the various parties under Iyad Allawi's *Iraqiyya* umbrella, Kurdish parties, and others now scramble to limit Mr. Maliki's power, they begin to see the "Kurdish Constitution" of 2005 as something beneficial to more than just the Kurds. The Constitution provides these groups with their most important legal, institutional bulwark to safeguard power sharing, and hence democracy, in Iraq. In a very real sense, Iraqi Kurds after 2003 thus came to offer the entire country an important tool in struggling for a long-awaited democratic transition. They did so not because of some altruistic impulse to help other groups in Iraq, but for their own self-interest. Kurdish interests centered on safeguarding their autonomy via a democratic government in Baghdad. Kurdish leaders also no doubt wanted to maximize their power, which decentralization offers them. Finally, they may be preparing the ground for secession at some point in the future—which they claim is their right if the government in Baghdad ignores the Constitution.

Sunni Arab groups who once saw "federalism" as synonymous with "secessionism" now increasingly embrace the idea, however, no matter what the Kurds' ultimate goal. An interview with Sunni Arab Deputy Prime Minister Salah al Mutlaq, once an arch-critic of federalism, illustrates the dynamic at the time of this writing:

The way Al-Maliki is dealing with the provinces is pushing the people toward the option of federation. About 99 percent of the people of Al-Anbar had rejected federalism in the past. These days, however, they are asking for it in order to dissociate themselves from the central authority that they consider to be an unjust authority. They know that they will lose on the economic level but the cost is their dignity that they wish to safeguard. They want to be delivered from the raids and detentions and the absolute control of the central authority.<sup>44</sup>

The Sunni *al-Hadba* party in Mosul also appears to have finally understood what the Kurds gave them in 2005. In September 2013, Nineveh (Mosul) governorate's provincial council granted Governor Atheel al-Nujaifi "the power to sign deals with foreign oil firms independently of Baghdad, which immediately rejected the move."<sup>45</sup> Although an unnamed senior government official stated that "The government will not tolerate such a decision, whether from Nineveh or any other province," Governor Nujaifi appears to be going ahead anyhow: "We will start oil investments in

the province with a priority to the downstream industry, and that could be followed by broader investments in the upstream sector,” he said. Governor Nujaifi reportedly stated that “neither the central government nor the oil ministry have the right to stop him from developing the energy resources of the province.”<sup>46</sup>

Even Iyad Allawi, another once staunch opponent of decentralization in Iraq, has now become an advocate of the Kurdish view on the issue. His majority Sunni *Iraqiya* party recently announced its support of the Kurds’ separate oil exports to Turkey: “There is no harm for Kurdistan to export oil if its imports go back to the central treasury.”<sup>47</sup>

Such leaders as Mutlaq, Nujaifi, and Allawi generally do not share the Kurds’ interest in an ethnically defined region. The 2005 Constitution does not force them to either, but rather offers them the opportunity to pursue increased local autonomy based on whatever grounds they prefer. Many might prefer more autonomous governorates to insulate themselves from inept or increasingly dictatorial rule from Baghdad, but if regions comparable to Kurdistan turn out more suitable to the task, that will do too. Slowly but surely, non-Kurdish Iraqis are discovering that federalism need not be ethnic and need not lead to secession.

### ***Democracy, Stability, or One or the Other?***

This brings us to an old question: Are democracy and stability mutually exclusive in today’s Iraq? Must Prime Minister Maliki, or the next prime minister after him, increase both the powers of his office and the central government in order to keep Iraq under control and together? Although Prime Minister Maliki and his supporters may think they can bring stability to Iraq, their current strategy (“centralize via any means necessary”) will eventually necessitate extreme levels of coercive violence, reminiscent of the policies of past regimes. Such strategies also clearly sacrifice democracy on stability’s altar.

For Iraqi democracy’s sake, the 2005 Constitution should be given a chance. This means that especially the leadership in Baghdad needs to take its decentralizing provisions seriously. Other regions need to be given a chance to form, and the regions and governorates should be allowed to pursue their own oil and gas strategies with the new fields they develop, so long as they pay what is due to the rest of Iraq. It is true that the Kurdistan Region of Iraq’s claims on majority Kurdish disputed territories follow an ethnic federalist logic, which is a result of the Kurds’ desire for greater autonomy, self-determination, and security vis-à-vis the Arab majority in Iraq. If

Article 140 of the Constitution remains too difficult to enact, as it likely will, this needs to be settled via some sort of “grand bargain” between Erbil, Baghdad, and the affected communities.

Thanks to the Constitution’s flexible provisions regarding the formation of new regions and how much power regions and governorates decide to appropriate from Baghdad, Iraq can develop its own system which need not fall on one side or the other of the “ethnic vs. territorial federalism” dichotomy. The country can adopt a mixed system, whereby some governorates such as Baghdad (which the constitution forbids from joining a region but devolves significant governorate level powers to), Diyala, Kirkuk, Nineveh, and Salah-al-Din may become their own ethnically diverse regions or join others in new regions. More homogeneous governorates such as Anbar or the southern, mostly Shiite Arab governorates could form regions to parallel Kurdistan, pursue their own individual governorate level autonomy, or form regional blocs based on geography rather than identity.<sup>48</sup> This would result in an asymmetric combination of ethnic, territorial, and “regional” federalism for Iraq.<sup>49</sup> It would also satisfy one of the Iraqi Kurds’ original concerns—that the new Iraqi system should not function as a binary opposition between one region (Kurdistan) and the central government.<sup>50</sup>

After 2003, Iraqi Kurds agreed to remain part of Iraq as long as their inclusion was viewed as a “voluntary union” with the other national communities of the country. This union is based on the constitution they negotiated with them and approved in a referendum in October of 2005. For years, scholars have pointed out that the new Iraqi state would fracture should such constitutional negotiations be reopened too soon, before the country’s various communities have learned to work together and trust each other more: “Ironically, then, the resurgence of Arab/Iraqi nationalist political sentiment premised on the preservation of a unified, centralized Iraq is the one thing most likely to shatter the unity it seeks to preserve.”<sup>51</sup> As the preceding discussion hopefully makes clear, genuine Iraqi unity is the last thing we should expect from a stronger central government. Such a strong central government would instead prove much more likely to again resort to the use of extreme force to dominate and shape society according to the wishes of its leaders.

As long as sectarian divisions remain salient in Iraq, especially the Sunnis will need the Kurds to remain in the country—lest they be left as an even smaller minority face to face with a newly empowered Shiite majority. Civil war, as Gurses and Mason (2008) argue, may lead to more inclusive polities if it serves to even the balance of power between contending groups in the nation. Power balance is more likely to bring about more democratic polities, especially where power sharing is formalized in a negotiated settlement.

Although the Iraqi Constitution did not emerge as a negotiated settlement of a civil war, the post-2003 insurgency in Iraq, the country's sectarian divisions, and the state's history of dealing unequally and often very repressively with various communal groups make the same logic quite applicable to this case.<sup>52</sup> Iraqi history, including the era before Saddam Hussein's rise to power, offers no reason for anyone (especially the Kurds) to place their faith in an imagined Iraqi political system that respects human rights and eschews sectarian politics and conflict. A more benign Iraqi political arena may one day emerge, if today's exercise of political power can be checked and balanced.

Identities and resultant identity-based politics in Iraq are not static, and a virtuous cycle of politics functioning within established institutional frameworks may help develop a healthy civic identity for all Iraqis. The "separatist" Kurds ironically helped furnish the building blocs for such a system, via the 2005 Constitution. As time passes within such a constitutional framework, sectarian divides may recede. To eschew the checks and balances envisioned in 2005 and support recentralization of power today, however, prioritizes a unitary Iraqi identity and stability at any cost. This was the approach of previous Iraqi dictatorships, and in fact nowadays places the cart before the horse. An Iraq for all Iraqis needs to emerge via a voluntary union of its constituent parts, power sharing, and the frustrating day-to-day compromises that permeate a diffuse political arena.

### Notes

1. Kanan Makiya, *Republic of Fear* (Berkeley, CA: University of California Press, 1989).
2. "Iraq—Freedom in the World 2002," Freedom House, <http://www.freedomhouse.org/report/freedom-world/2002/iraq#.Ut1nibTnaUk>, accessed on January 20, 2014.
3. Kanan Makiya, "The Anfal: Uncovering an Iraqi Campaign to Exterminate the Kurds," *Harper's Magazine*, May 1992.
4. Toby Dodge, *Inventing Iraq* (New York: Columbia University Press, 2003), p. 170.
5. Peter Galbraith, *The End of Iraq* (New York: Simon and Schuster, 2006), chapter 10.
6. Brendan O'Leary, *How to Get out of Iraq with Integrity* (Philadelphia, PA: University of Pennsylvania Press, 2009), pp. 110–111. O'Leary does not mention the American preference regarding *Sharia*' here, however.
7. In Paul Bremer's accounting, he did not "disband" the Iraqi Army, because nothing was left to disband—the army had dispersed with the Coalition invasion and effectively stopped existing ("How I Didn't Dismantle Iraq's Army," *New York Times*, op-ed, September 6, 2007).

## CHAPTER 13

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# Ankara, Erbil, Baghdad: Relations Fraught with Dilemmas\*

*Ofra Bengio*

### **Introduction**

At the beginning of 2013, a new book was published in Turkey under the title *Yeni Komşumuz Kürdistan* (Our New Neighbor Kurdistan).<sup>1</sup> This very title represented the revolution that the Turkish–Kurdish–Iraqi triangle has undergone of late. First of all, the Turkish author Simla Yerlikaya is not reluctant to use the term Kurdistan which only a few years ago could have sent her to prison in Turkey.<sup>2</sup> Second, by referring to Kurdistan, namely the Kurdistan Regional Government (KRG) as neighbor, it is implied that this neighbor is no longer the Iraqi state but the Kurdistan entity in Iraq. Presented in this manner, this entity does not seem to pose a threat to Turkey any more, but rather present opportunities. Though not an official publication, Yerlikaya’s book does reflect the changing approach in the higher echelon of power in Turkey toward its neighbor. While for the greater part of the twentieth century Ankara’s partner was Baghdad, now it has become Erbil. Indeed, the dramatic change covers various economic, cultural, and political spheres.

This essay seeks to answer the following questions: What was the nature of the relations between Ankara and Baghdad before the shift? What is the explanation for the change among the three partners of the triangle? What is the role of the United States in this change? To what extent are the changes tactical and to what extent strategic? This essay argues that

there was a paradigmatic shift among all players; that in this shift Turkey appears to be the initiator, the KRG the activist, and Baghdad the reactive partner; and finally that all players having had to choose between two evils are now on the horns of a dilemma regarding the possible outcomes of their choice. The state of turmoil in the region, the changing alliances among the different players in the Middle East, the agonizing democratization process and the rise of the Sunni-Shi'i divide only serve to accentuate these dilemmas.

### ***The Cooling of Relations between Ankara and Baghdad***

Historically speaking, there was a kind of natural alliance between Ankara and Baghdad. Indeed, Baghdad's relations with Ankara were the smoothest and the least troubled of all its other neighbors. These relations were based on various common denominators: common economic and geopolitical interests; common internal enemies (namely the Kurds) and at the time also external rivals such as Syria and Iran; as well as common ideological and political affinities. Thus, even though the regimes in both countries declared themselves to be secular and opposed to political Islam, there was still strong Sunni bonds between the governments of the two states which were led by Sunnis until 2003. In certain periods, the two states also shared a pro-western orientation.

This partnership found expression among other things in the Saadabad Pact of 1937 and Baghdad Pact of 1955. Similarly, during the Iraqi-Iranian war (1980–1988) the two parties signed a hot pursuit agreement against the Kurdish Turkish *Partiye Karkeren Kurdistan* (PKK). Economically speaking, Iraq and Turkey built the strategic oil pipeline that became active in 1977 and that was the only outlet to Iraqi oil during the crucial years of the war up until 1991. Iraq's total dependence on the Turkish outlet was due to the closure of the pipeline to the Shatt al-'Arab immediately at the flare up of the war in 1980 and the closure of the Iraqi-Syrian pipeline by Damascus in 1982. On the whole, economic relations between Iraq and Turkey flourished during the war and were beneficial to both. On the political level, it can be argued that during the 1980s there were also certain affinities between the two governments that reached power by way of a putsch and militarized their societies in one way or another.

The gradual cooling of relations between Ankara and Baghdad began in the aftermath of the 1991 Gulf War after which at each new phase another building block of the ties collapsed, with relations reaching their nadir by 2013. The catalyst for this development was the American wars on Iraq

in 1991 and 2003; however, internal processes in each part of the triangle accounted for the tectonic change.

The first component to be severely hit was economic relations. Following the Iraqi invasion of Kuwait in August 1990, Turkey joined the allies in their sanctions against Iraq by closing the strategic oil pipeline to Ceyhan in Turkey. In fact, Turkish President Turgut Özal took the initiative by cutting off Iraq's pipeline to Turkey even before President George Bush asked him to do so.<sup>3</sup> This move caused a severe blow to Iraqi economy but it hit Turkey as well. At the same time, Turkey allowed for smuggled oil emanating from the KRG to reach Turkey by way of tankers. Even though economically speaking this was far from compensating Ankara for the loss of dividends from the closed Iraqi pipeline, the move nonetheless necessitated direct ties between Turkey and the KRG, thus granting the latter certain legitimacy.

The second building block suffered a blow as a result of the Kurdish uprising, the *Serbildan*, in the aftermath of the war in 1991 and the concomitant withdrawal of the Iraqi army from the Kurdish region. These two moves brought the Iraqi Kurdish problem to the very door of Turkey. For one thing, as a result of the uprising about half a million Iraqi Kurds flocked to the Turkish borders in an attempt to find refuge in Turkey from the Iraqi army. For another, the withdrawal of the Iraqi army suggested that Iraq was no longer the master of the common borders between the two countries, which meant that Ankara had to deal directly with the KRG in order to avert the spillover effects of these developments into Turkey. The direct dealing with the KRG was all the more pressing since the upheavals in the region enabled the PKK to further enlarge its bases inside the Iraqi Kurdistan Region while they also helped enhance ties between Iraqi and Turkish Kurds. Little wonder then that Turgut Özal, the Turkish president at the time, was behind the idea of a safe haven for the Kurds of Iraq that allowed for the return of the Kurdish refugees to their home, but at the same time gave birth to the Kurdish autonomy in Iraq.<sup>4</sup>

The Gulf War of 2003 and the rise of the Shiites to power in Iraq caused gradual estrangement between the governments of Ankara and Baghdad. This was no coincidence as at almost the same time the two governments which came to power had unambiguous religious inclinations. Thus, for the first time in modern history the two governments in Ankara and Baghdad had conflicting worldviews on Islam: The Adalet ve Kalkınma Partisi (AKP) government in Turkey was Sunni and the government in Baghdad was led by the Shiite majority. The Turkish journalist Semih İdiz described the new development, saying that Turkey was witnessing Islamization and Sunnification of its foreign policy.<sup>5</sup> The fact that this trend coincided with

the Islamization and Shi`ization of Iraq's foreign policy made the estrangement between the two parties almost inevitable.

It was true that as late as March 2011 Erdoğan came on a visit to Iraq which included Erbil, Baghdad, and Najaf. Though the visit to Najaf was indeed unusual for a Sunni Muslim leader, it still did not manage to bridge the growing gap between the two governments in Ankara and Baghdad. Nor did the policies of Iraqi Prime Minister, Nouri al-Maliki, make relations any easier. Maliki's growing authoritarian tendencies did not endear him in the eyes of Ankara. Turkey's expectations were that the democratization process in Baghdad which was unleashed by the United States following the 2003 War would lead to a reconciliation between all parts of Iraqi society and enable the Sunnis to have a share in power. But this was not to be. Even though the framework of democracy, such as constitution and elections, was put in place, the democratization process was far from taking root. One of the reasons was Maliki's ongoing policies to isolate the Sunni community and marginalize the Sunnis in his coalition government. In this way rather than solving problems in a democratic way in the parliament, Sunni and Shi`i reverted to the language of violence which brought the country to the verge of civil war. These developments served in turn to increase the Sunni-Shi`i divide between Ankara and Baghdad. Adding fuel to the fire was Erdoğan's support in the 2010 Iraqi elections to al-`Iraqiyya, the majority Sunni list, against that of al-Maliki. Erdoğan went on to give refuge to one of the leaders of this party, Tariq al-Hashemi, against whom the Maliki government issued death punishment. This is another example of how Turkey initiated certain moves against the central government in Baghdad to which the latter was mainly reactive.

The two other developments that accelerated the pace of estrangement between Ankara and Baghdad were the upheavals in Syria which started in March 2011 and the final withdrawal of the American forces from Iraq at the end of 2011. Following the withdrawal of the American forces there started a strong competition between Ankara and Tehran to fill the vacuum left by the United States. And while Iran deepened its penetration into the Arab part of Iraq, Turkey did so in the Kurdish part whose population is also mostly Sunni. Furthermore, due to religious affinities between the Iraqi and Iranian governments, there was, for the first time in decades, a shift in the Iraqi worldview and orientation. While until 2003 Baghdad looked at Ankara as a kind of strategic depth against Shiite Iran, now Baghdad began to view Iran as a strategic depth for facing a hostile Sunni neighborhood that was reluctant to grant real legitimization to a Shiite-led government.

It seems, however, that the major factor that put Ankara and Baghdad at geopolitical loggerheads was the upheavals in Syria. While Ankara became

the pioneer in seeking to oust its erstwhile ally Bashar al-Asad from power, Baghdad joined the Iranian wagon by allying itself with the Syrian Ba'th regime. Here too, the sectarian divide played an important role. While Ankara granted all out support to the Sunni Syrian opposition, Baghdad facilitated support to the Alawite government in Damascus with its pro-Shi'i tendencies. A Shiite Iraqi minister even went as far as to declare that the support that Turkey granted to the rebels in Syria was tantamount to a declaration of war on Iraq because the sectarian struggle in Syria might spill into Iraq and endanger it as well.<sup>6</sup> This shift in discourse and practice is all the more ironic since after the 2003 Iraqi war it was Syria that was the main exporter of terrorist activities into Iraq.

To sum up, all these parameters demonstrate severe erosion in the Baghdad–Ankara relationship, which shifted the weight of Turkey's foreign policy priorities toward Erbil. Meanwhile, deep changes have taken place in the KRG as well, which have facilitated Turkey's dramatic shift.

### ***Evolution in the Kurdish Camp***

While the 2003 War severely destabilized the central government in Baghdad, brought to the surface the Sunni–Shi'i divide, failed to democratize the state, and wrought havoc to the economy, different dynamics were at work in the KRG where a quasi-state has been emerging. Analyzing the political system in Iraq, political scientist Aram Rifaat suggested that in Iraq there were two quasi-states, the Kurdish and the Iraqi one, with the main difference between them being that the former lacked recognition which the latter had it. Regarding the quasi-state, Rifaat mentions four major elements characterizing such an entity: a process of nation building; militarization of the society and the establishment of an army independently from the existing state; weakness of the state that brings about a change in the balance of power between itself and the quasi-state; and finally the existence of external patronage.<sup>7</sup>

Examining these criteria it is doubtful that one can talk about Iraq as a quasi-state; rather, it is a failed state. However, the Kurdish entity certainly fits this model because the four elements do exist there. The nation-building process has been accelerated since the 2003 War, including all the trappings of an independent entity both on the political level such as an independent parliament and government and on the symbolic level such as an anthem and a flag. Regarding the criterion of militarization, the KRG has turned the guerrilla force, the *peshmerga*, into an army with reportedly 200,000 soldiers<sup>8</sup> and heavy arms that included “a large fleet of Russian-made war-planes left from the Saddam era”<sup>9</sup> as well as tanks that were taken as booty from the two wars of 1991 and 2003.

The weakness of the central government needs no elaboration. Suffice it to mention that Baghdad has lost control altogether on the Kurdish region even though the system is a federal one.<sup>10</sup> Thus, on paper, Iraq is still the sovereign in the Kurdish region, but in practice it is not. The weakness of the Iraqi government was demonstrated in its recent call on the KRG to hand over the warplanes and tanks at its disposal if it wanted to remain “within a united Iraq.” However, not only did the KRG ignore the call but it even went on to purchase new weapons.<sup>11</sup>

As to patronage it is quite paradoxical that in the last few years Turkey has assumed the role of patron of the KRG or may be better said its main lifeline. Seen from a historical perspective, this region which represented the *vilayet* of Mosul under the Ottomans was indeed naturally linked to the northern part of the Ottoman Empire and the Jazira rather than to the *vilayet* of Baghdad and Basra.

In addition to the four criteria mentioned by Rafaat, one should add three other important ones that highlight the autonomous disposition of the KRG, namely separate elections for a Kurdish president and parliament, foreign relations, and economy. Even though foreign relations should have been the exclusive domain of the central government, in the unique federative system which has evolved in Iraq the Kurdish region is conducting its own foreign relations almost independently from Baghdad. This is evident in the consulates which many countries have established in Erbil and which function as embassies in all but name.<sup>12</sup> The frequent visits of the President of Kurdistan Massoud Barzani to different countries including the United States and Russia where he is being accorded a welcome of a head of state are another indicative of this autonomous status. The same is true for all the other Kurdish officials who have become *personae grata* in many of these countries. Similarly, many countries and companies feel at greater ease to cut deals with Erbil rather than with Baghdad because the KRG is more stable, prosperous, and secure. In the case of certain Arab countries, the antipathy toward the Shi'i-led government in Baghdad adds another incentive for maintaining relations with the Kurds.

The economic realm is even more intriguing because of the huge oil and gas resources that were found in Kurdistan and that turned them into the main bone of contention between Erbil and Baghdad. The KRG's independent policy is evident in its deals with various firms and companies that more often than not bypass the central government's injunction. Even more dangerous from the central government point of view are the new pipelines that are being built in full steam in the KRG and that, when completed, may grant the KRG economic autonomy and thus accelerate the pace of political independence.

Another very important point which distinguishes the KRG from the Baghdad government is that the democratization process is proceeding there at a better pace than in the Arab portion of Iraq. This was borne out among other things by the different elections which are held independently from that of the central government. In fact, as a rule nonrecognized entities seek to improve democratic norms as a strategy in order to enhance their chances for gaining international recognition and preserving their de facto independent status.<sup>13</sup>

### *Turkey's Changing Conceptualization*

Under the AKP government which first came to power in 2002, there were dramatic changes in this party's perception of the Kurdish issue in Turkey which in turn had its repercussions on Ankara's ties with the KRG. And vice versa, the dramatic changes in the KRG had repercussions on the domestic Kurdish issue in Turkey, moving Ankara to articulate a new policy toward the Kurds.<sup>14</sup> Generally speaking, the domestic Kurdish issue has always been an important component of Turkish foreign policy but in the last decade this factor was accelerated significantly so that the domestic Kurdish issue became intertwined with the external one in a way that they cannot be separated any more. Anyway, the changing paradigm in Turkey's approach to the KRG can be summarized as follows: while in the past the KRG was perceived as part of Turkey's internal Kurdish problem, in the last few years the KRG came to be perceived as a partner to the solution.

Paradoxically enough, in its deeds and misdeeds the AKP government contributed immensely to the establishment and flourishing of the KRG. By not permitting the allies to attack Iraq from its lands in 2003, Ankara enabled the KRG to seize this golden opportunity to consolidate its quasi-state and put itself on the regional and international map. First, the KRG managed to develop open relations with external powers, the most important of which were the Americans. Second, it proved its loyalty and prowess when it helped occupy the northern part of Iraq and later also in establishing the new Iraqi government. Similarly, it proved its importance to the United States in comparison to Turkey and forced the latter to accept the KRG as a *fait accompli*. Indeed, the AKP's approach became now the old dictum: "if you cannot beat your enemy, join him."

Concurrently, there were important changes vis-à-vis the Kurds in Turkey itself. In its drive to weaken the military and win the Kurdish vote, the AKP initiated a new approach to the Kurdish issue that was not based solely on military means.<sup>15</sup> The "Kurdish opening" of 2009 which purported to solve the Kurdish issue by peaceful means was just this program. It seems that it

was no mere coincidence that the “Kurdish opening” in Turkey coincided with the new opening toward the KRG. Ankara’s double track policy was meant to marginalize and neutralize the PKK at home while also using the KRG’s good will in order to contain the PKK whose bases are in the KRG. However, while the internal track failed to materialize at least until 2013 the external one succeeded beyond expectations. While until 2008 Turkey perceived the Kurdish entity as a great danger to itself, from then on Ankara began to tilt toward the KRG at the expense of Baghdad. In other words, Turkey forged an unwritten alliance with the KRG while dropping the historical close relationship with Baghdad.<sup>16</sup> An illustration of this shift were Massoud Barzani’s visits to Turkey in four consecutive years 2010, 2011, 2012, and 2013 where he was accorded a reception of a head of state and not that of a tribal leader as before.<sup>17</sup> The last one was pathbreaking as it took place in Diyarbakir, the “capital” of the Kurds in Turkey. Thus within one year from 2007 to 2009 there was a dramatic shift in the relations from near eruption of military conflict between Turkey and the KRG to one of understanding and close relationship. A Turkish commentator described the change saying: “In the past, Turkey and Barzani had very different relations, but today they meet as two close allies.”<sup>18</sup> Another commentator had this to say on the new role of Barzani: “Some time ago he was considered as a local bandit. Now he is considered as statesman.”<sup>19</sup>

### ***Turkey’s Motivations for the Shift***

Economic interests were the first trigger for the change and only later were they followed by geopolitical ones. Over time, the KRG managed to attract Turkish entrepreneurs whose vested interests in the region turned them into the best advocate for strong relations with the KRG. More importantly, the rich oil and gas resources in the Kurdistan Region were so attractive to the Turkish government that it was willing to sign agreements with the KRG including for the building of two oil pipelines and one gas pipeline from the KRG over the strong objection of Baghdad. A government whose main pillar of power was economic success did not find it so difficult to change partners especially when in the unstable Arab part of Iraq such relations were far from promising. Thus, within a few years Turkey became the main player in Iraqi Kurdistan using soft power as its main tool for increasing its influence in the region.<sup>20</sup> Numbers speak for themselves: 60 percent of all the companies active in the KRG are Turkish, employing 50,000 Turks.<sup>21</sup> The volume of trade between Turkey and the KRG reached \$9 billion in 2012 equaling that between Turkey and Iran.<sup>22</sup> In this sense, there is a shift in the roles of Turkey and Iran who was the Kurds’ patron during the 1970s and 1980s.

Linked to this is the geopolitical consideration. The stable and prosperous Kurdistan Region is now performing as a kind of buffer zone between Turkey and the turbulent Arab part of Iraq. It is also a kind of safety valve against the spread of Shi'ism into Turkey. No less important, the fact that it is Erbil and not Baghdad which is controlling the common border with Turkey turns the KRG into a more important partner for security cooperation along the border and beyond.<sup>23</sup> Similarly, the latent and sometimes open competition between Turkey and Iran on spheres of influence in Iraq and elsewhere in the region made the contiguous KRG a natural choice for Turkish influence.

The vision of neo-Ottomanism that was promoted by Turkish Foreign Minister Ahmet Davutoğlu fits well in the new policy of engaging the KRG. Generally speaking, this ideology sets to encourage engagement with regions which had been previously under the Ottoman Empire, and indeed Davutoğlu was the mastermind behind the opening toward the KRG.<sup>24</sup> Davutoğlu came on a “historic” visit to the KRG in October 2009 where he declared that Turkey could serve as a bridge to Europe for the KRG while the KRG could serve as a gateway to the Gulf for Turkey.<sup>25</sup> In a way this Turkish move for “integrating” the KRG appears as a vindication for the loss of Mosul *vilayet* to Iraq back in 1925.<sup>26</sup> Ironically enough, the KRG appears to be the only region where the other pillar of Davutoğlu’s foreign policy architecture, the “zero problems with the neighbors,” is being realized.

Then there was the religious-ideological consideration. As the Sunni-Shi'i divide between Ankara and Baghdad continued to deepen, the religious affinities with the Sunni Kurds made them appear more reliable or pliant partners than Baghdad. A Turkish Professor Tayyar Arı maintained that “especially after Maliki’s policies in Iraq, it became compulsory for Turkey and the KRG to be in close contact. Maliki’s insincere attitude towards Sunnis led Turkey to take more initiatives towards the Sunni issue.”<sup>27</sup> A symbolical reflection of this approach was that Ankara and Erbil cooperated in granting safe haven to Tariq al-Hashemi. It seems therefore that Ankara had to choose the lesser of two evils and at that point of time Erbil appeared the right choice.

Still, of all the other considerations that of the internal Kurdish tipped the balance in Turkey’s decision to open up toward the KRG. The fact that Ankara initiated the opening toward its own Kurds and the KRG simultaneously speaks for itself. For one thing, the KRG appeared a factor that may help contain or rather pacify the Kurds of Turkey. Cengiz Aktar described Barzani’s role saying that the Turkish government was trying “to subcontract the solution of its own Kurdish problem to him.”<sup>28</sup> Indeed, one

unexpected outcome of the rapprochement between Ankara and the KRG may be that it has enhanced the process of democratization vis-à-vis the Kurds of Turkey.

Indeed the KRG, especially President Massoud Barzani, has assumed an important role in the mediation between Ankara and the PKK in the new phase of the peace process that started in early 2013.<sup>29</sup> Furthermore, contributing its own crucial part to the AKP–PKK deal, the KRG agreed to the withdrawal of PKK militants to its own region. This move was vehemently opposed by Baghdad which regarded it as an infringement on its sovereignty and a further boost to the KRG's independent foreign policy activities. However, its warning that the withdrawal would threaten Iraq's security and stability went unheeded and the withdrawal took place over Baghdad's objection as had happened in other cases in the past.<sup>30</sup> Iran too was totally opposed to the Turkish–Kurdish peace process for three reasons: First, it feared that the peace process would inspire its own Kurds. Second, it feared that a bolstered PKK in the KRG would bolster *Partiya Jiyana Azad a Kurdistanê* (PJAK), the Kurdish Iranian opposition group which is related to the PKK and which has its bases in the KRG too. Third, Iran worried that the PKK would assist the emerging Kurdish autonomous enclave in Syria. It was even reported that at a certain point Iran offered military assistance to the PKK if they remained in Turkey.<sup>31</sup> But this did not work either and the PKK began to fulfill their part in the agreement by withdrawing to the KRG. However, the PKK stopped the withdrawal in September 2013 due to lack of progress in the peace process.

With the eruption of upheavals in Syria and the establishment of Kurdish autonomy there in the summer of 2012, the KRG assumed another role in the Turkish perception, namely a possible pacifier of that region as well or as a balancing power to the influence of the PKK there. Even before the takeover, Massoud Barzani's visit to Turkey in April of that year centered on the topic of the Kurds of Syria and their possible moves in what they described as post-Assad Syria. In fact, Turkey was wary that the Kurds of Syria would declare autonomy or even independence.<sup>32</sup> An indication of these worries was the visit of Turkish foreign minister Ahmet Davutoğlu to the KRG immediately after the July 2012 takeover of the Kurdish region in Syria by the Kurds.<sup>33</sup>

All in all the KRG's acceptance of the PKK militants to its region and the role it has been playing in pacifying the Kurds in Syria may in the longer run prove as a balancing tool against possible future Turkish encroachment on the KRG. In other words, its new regional role may grant the Kurds a card vis-à-vis Turkey.

### *The Ambiguous American Role*

For the greater part of the twentieth century, the United States kept aloof from the Kurdish issue in Iraq, one of the main reasons for which was the American unwillingness to antagonize Turkey, its main ally in the region. The United States was extremely sensitive toward Ankara's apprehensions of the Kurdish issue not just at home but in the neighboring countries as well, which threatened to have spillover effects on the Kurds in Turkey.<sup>34</sup> Another reason was that the American administration has always prioritized the integrity of the nation-states that had emerged after the collapse of the Ottoman Empire at the end of World War over any other ethno-national consideration. However, developments on the ground in Iraq forced the United States to change its policies, though not its strict concepts. The erosion in the American policy started in the 1991 Gulf War when it decided to establish a "safe haven" region for the Kurds from which then emerged the Kurdish autonomy in Iraq. From that time onwards, the United States became enmeshed in the Kurdish issue in Iraq, prioritizing this time the ethno-national group over the Ba'thi Iraqi state with which it was in a state of war. However, the main turning point in the American policy toward the Kurds took place in the aftermath of the 2003 Iraqi War in which the Kurds played a pivotal role in the liberation/occupation of Iraq. The Kurds were rewarded by having been granted a leading role in the formation of post-Saddam Iraq as well as with the entrenchment of their autonomy. This American policy toward the Kurds conflicted with its two other concepts, namely preserving the integrity of the nation-state and assuaging Ankara's fears regarding the spillover effects of the Kurdish autonomy in Iraq on the Kurds in Turkey. Accordingly, in a policy of eating the cake and having it too the United States continued to advocate the integrity of Iraq while further empowering the KRG, as well as playing the pacifier between the KRG and Turkey.

This American ambiguous stance is indeed one of the greatest ironies of the unfolding situation in the Turkish–Kurdish–Iraqi triangle. While for the greater part of the last two decades the United States had played the role of pacifier between Ankara and Erbil, in the last few years it has changed its approach by 180 degrees.<sup>35</sup> Now Washington is trying to put brakes on the ever-extending relations between Ankara and Erbil, warning both of closer relations. However, while the administration continues to stick to the idea of a unified Iraq, a growing number of voices in American think tanks do encourage the administration to change course and support an independent Kurdistan.<sup>36</sup>

The main cause for the official American stance is that it found itself now between the Turkish hammer and the Iraqi anvil: between Turkey that is

one of its closest allies in the region and Iraq whom Washington had hoped to turn into a strategic asset and a model of democracy for all the Arab states. Put differently, the American administration has been endeavoring to balance between equally failing models of democracy which it had hoped to export to the Arab world: that of post-Saddam Iraq sponsored by President George W. Bush and that of Turkey's AKP sponsored by President Barak Obama.<sup>37</sup>

While Turkey has softened on the idea of a unified Iraq, now paying it mere lip service, Washington continues to hope and work for this elusive target. Clearly, for all the support which the Kurds had granted the United States, Washington does not want to be perceived as responsible for splitting Iraq. However, for all of the American endeavors and warnings Ankara and Erbil are going their own way, building pipelines which might change the geopolitical map of the region. This development is yet another symptom of the weakening clout of the United States in the region as a whole. Its withdrawal at the end of 2011 only served to accentuate this weakness.

### *Conclusion*

The tectonic changes in the region changed the balance of power within the state system as well as between the state system and the Kurdish subsystem. On the whole, all the players are on the horns of a dilemma. As far as Baghdad is concerned, if it puts too much pressure on Erbil to toe al-Maliki's line, it might push it to declare independence; if it does not, it might lose the support of Shi'is and Sunnis who look with anxiety at the vanishing dream of a unified Iraq. As to Baghdad-Ankara relations, they are in such a fragile state that should Baghdad strain them further it might push Turkey to increase its support to the KRG even to a point of supporting independence. While such a Turkish stance might be beneficial economically and strategically, it can also sow the seeds of Kurdish separatism in Turkey. Erbil too has its own dilemmas. On the one hand, it needs Turkey as its most likely outlet to the sea and for oil exports. On the other hand, a too close a relationship with Ankara might risk the KRG becoming a Turkish satellite, loose economic assets in Iraq, and exposing the Iraqi Kurds to Iranian threats and manipulations. Already now Iran warns Erbil against forging close relations with Ankara or thinking about independence.<sup>38</sup> Nor is the United States more comfortable with its choices. American oil companies, Turkey, and growing number of states and companies seek to do business with the KRG far from Iraqi control, but if Washington gives them the green light it will help break up Iraq. Increasingly, the United States is no longer in a position to decide either way, however.

While the KRG was considered as part of the Kurdish domestic problem in Turkey, now it is considered as a partner to the solution—a solution that holds out the distinct possibility of being more democratic than military. As for Iraq, while in the twentieth century it perceived Turkey as its strategic depth against Iran, after the 2003 War the Shi'i-led government in Baghdad perceives Iran as its strategic depth against a hostile Sunni neighborhood which includes Turkey as well. Turkey's empowerment of the Iraqi Kurds also helps assure that Baghdad will not easily reassert authoritarian control over Erbil. Regarding the Janus-faced Kurds, in the last 20 years they have been distancing themselves from their Iraqi past while accelerating their movement toward a Turkish-oriented future.

The Middle East is now in a state of flux. The upheavals that have engulfed many countries in the region, including Iraq and Syria, did not stop at Turkey's doorstep but came to include it as well. The old Turkish–Iraqi alliance has collapsed and so did the decade-long Turkish–Iranian–Syrian axis, leaving Turkey with only the KRG as an ally of sort in the Fertile Crescent. If or when Assad's regime falls, Turkey might want to further strengthen its relations with the KRG as a counterbalance to probable growing Iranian penetration into Iraq. In the process, the old Iraqi, Turkish, Syrian, and Iranian state consensus on forcefully repressing Kurdish aspirations appears fatally weakened.

The great Arab poet of the tenth century, Al-Mutanabbi, wrote in one of his poems: “The winds blow not to the liking of the ships.” Indeed, this metaphor suits wonderfully the situation in the Middle East. The winds of change are so strong that the governments in these states cannot but wait patiently until the storm is over. Survival is the name of the game.

## Notes

\* Portions of this chapter are adapted from Ofra Bengio, “Ankara, Erbil, Baghdad: Relations Fraught with Dilemmas,” *Ortadoğu Etutleri* 5.1 (July 2013), pp. 65–84 and are reproduced with permission of ORSAM (the Center for Middle Eastern Strategic Studies and publisher of *Ortadoğu Etutleri*).

1. Simla Yerlikaya, *Yeni Komşumuz Kürdistan* (Istanbul: Timaş Yayınları, 2013).
2. In 1995 a female Kurdish human rights lawyer, Eren Kesken, was sentenced to three years imprisonment because she had used the term *Kurdistan* in one of her articles. Heidi Basch Harod, *Kurdish Women of Turkey: Rewriting Their Historical Legacy*, MA thesis, Tel Aviv University, 2013.
3. Morton Abramowitz, “Remembering Turgut Özal: Some Personal Recollections,” *Insight Turkey* 15.2 (2013), p. 40.