

The Helsinki Agreement

Framing the Debate on Iraq

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On 5 July, in the Al Zawraa Hall at the Al Rasheed Hotel in the Green Zone in Baghdad, the 17 principles and 15 mechanisms of the Helsinki Agreement were read to members of the Iraqi parliament, the diplomatic corps from several countries, and local and international media.

The solitary voice—staccato—solemn but not somber, sharp but not strident, insistent but not intrusive, hard-edged but not harsh—punctuated the silence as the rhythmic flow of Arabic words segued from one clause into the next, ricocheting off the walls of the cavernous hall, bouncing back to the podium, and becoming a reverberating chorus to what was being read out: An anthem of hope.

In this same hall, Secretary of Defense Robert Gates, U.S. Secretary of State Condoleezza Rice and a host of other administration figures had come from time to time, surrounded by caravans of security, to assure the American public that all was right, that the U.S. was making progress in this seemingly endless war.

Now, in this same room, Iraqi parliamentarians had gathered to assure the Iraqi public that they, the senior leaders of all Iraq's political parties, from Sadrists to Awakening Councils had made progress towards ensuring a more democratic Iraq by agreeing to a framework for conducting negotiations on contentious issues and a set of mechanisms to ensure that the measures agreed to were adhered to: the 17 principles and 15

mechanisms that comprise the Helsinki Agreement.

Among the signatories were Sheikh Human Hamoudi and approximately one-third of the members of the Constitutional Review Committee, which Sheikh Hamoudi chairs. This committee is mandated to review the Constitution of 2005 and propose amendments that will remedy the failure of the 2005 drafting process.¹

The agreement will become part of the Committee's proceedings. Some may be formally adopted by the full committee as draft amendments to Iraq's constitution.

The Helsinki talks process is the outgrowth of a conference, "Iraq: The Way Forward," held at Tufts University under the auspices of the Institute of Global Leadership (IGL) in January 2007.

The process envisioned was quite straightforward and based on the simple premise that people from divided societies are in the best position to help people in other divided societies, that former protagonists, once the purveyors of violence and death who abandoned violence to resolve their differences, are best equipped to share their often tentative and always difficult journeys to the necessity for abandoning violence as the instrument to achieve their political aims.

This thesis was first tested in July 1997 when the University of Massachusetts Boston and the South African government of Nelson Mandela brought together the four key negotiations from each of the political parties in Northern Ireland to Arniston, a remote military location in South Africa, to meet with key negotiators from all the parties to the conflict in South Africa who had reached its historic settlement in 1994—the settlement that brought an end to apartheid and ushered in South Africa's first democratic government under conditions of peace that few in the world had thought possible.

The hope was that by sharing the experiences of their negotiations with their counterparts from Northern Ireland, the Northern Irish would identify with some of the torturous routes the South African went through, draw parallels with their own situations, and see some of the obstacles they had to overcome in Northern Ireland to move their own negotiations forward in a new light.

The conference was a resounding success in the sense that the Northern Irish themselves, who reached the Good Friday Agreement a year later, paid tribute to the South Africans for having had a crucial impact on the Northern Ireland process. They

continue to pay that tribute.

Among the Northern Ireland participants at the meeting in South Africa were Martin McGuinness, chief negotiator for Sinn Fein and reputedly former Chief of Staff of the IRA, Jeffery Donaldson, a member of Ian Paisley's party, the hard-line Democratic Unionist Party, John Alderdice, leader of the nonsectarian Alliance party and Billy Hutchinson, a former leader of the Ulster Volunteer Force, the most militant of the Protestant paramilitary forces. Among their South African hosts were Cyril Ramaphosa, chief negotiator for the ANC and Chairperson of the Constituent Assembly that finalized South Africa's constitution in 1996, Roelf Meyer, chief negotiator for the last apartheid government, Mac Maharaj, cosecretary of the negotiation bodies that produced the settlement of 1994 and Matthews Phosa, a member of the ANC negotiation team from 1991 through 1994. The Helsinki talks would reunite all of them.

The question posed was "Might the political parties in Iraq benefit from hearing the South Africans and Northern Irish share their respective experiences with them?"

The answer was "Yes, they could," and the outcome after two meetings in Helsinki in September 2007 and April 2008, followed by a final round in Baghdad in June/July 2008 between the signatories and me, was the Helsinki Agreement, a copy of which is in your hands.

That 37 leaders from parties with competing and often very divisive issues sometimes separating them had agreed to follow Helsinki I, held in Sept 2007, with a second meeting in Helsinki in April 2008 to review and amend the its proceedings (Helsinki II), was itself an accomplishment.

That they should put their signatures to an agreement with potentially far-reaching implications, was a more significant accomplishment.

That in the face of dissenting views regarding the wording of three principles and one mechanism – the parties voicing dissent did not allow their differences with the majority to stand in the way of their signing the agreement was perhaps most significant of all, because when they did not get their way they did not walk out, but were still prepared to sign the full agreement—they signified their willingness to have the issues of dissent addressed within the framework provided by the agreement to which they were

signatories, a gesture that gave immediate authenticity to the agreement.

That they invited us, the conveners—the Moakley Chair at UMass Boston and the Institute for Global Leadership at Tufts University, and the facilitators from Northern Ireland and South Africa— to come to Baghdad to complete the task, was a manifestation of their commitment to the Helsinki process.

The critical question now is: In what areas of potential conflict might the Helsinki Agreement be of help?

Before I delve into that, let me set the context:

Reaching a Memorandum of Understanding with the Bush administration or whatever administration follows regarding the future status of the U.S. in Iraq will mark a turning point in Iraq's history.

Although that agreement has not yet been formally signed, PM Nuri al Maliki has made the position of his government explicitly clear: “It is not possible for any agreement to conclude,” he said, “unless it is based on full sovereignty and the national interest, and no foreign soldier remains in Iraq soil after a defined time ceiling.” Holding up the agreement is Iraq's insistence that American soldiers who commit crimes on Iraqi soil will be held and tried under Iraqi jurisprudence. The U.S. insists they must be subject to American military courts. In other words, the dispute is one over limits the U.S. wishes to impose on Iraq's sovereignty—and Iraq is having none of it.

2011 is set for a withdrawal of all combat troops. Pulling troops out of Iraq's major cities is scheduled to take place in July next year. Both dates are subject to numerous caveats but the intent is unmistakable. In Iraq, the U.S. has entered what Robert Gates, Secretary of Defense, calls “the end game.”

For the first time ever, Iraq will no longer exist either under the rule of monarchy, authoritarianism, brutal dictatorship or occupation.

For the first time, the Iraqi people themselves will take decisions on their future, unshackled from the imposed, answerable only to themselves, their constitution, and the institutions of governance and jurisprudence they have put in place.

For the first time in their history, the people of Iraq will stand on their own political feet, no Saddam to crush their first steps, no state security apparatus to stamp out the

first signs of dissent, no arbitrary detention for opposition to government, no required submissiveness to survive.

Or so it should be in an idealized world.

Unfortunately, we do not live in an ideal world and it would be extremely naïve to take Iraqi professions of harmony, inclusiveness, and reconciliation at face value; many are simply waiting until all foreign troops are out of Iraq to settle some deeply divisive problems.

Only a fool would say that Iraq is not still a country of frozen conflicts, which will slowly de-ice as the great withdrawal gets under way. But when the ice finally melts when the last U.S. soldier flies into the sunset, these conflicts, nurtured, mutated and enriched with new hatreds incubated during hibernation, may erupt in spectacularly virulent forms unless antidotes have been put in place.

In his final assessment before leaving Iraq to take on a more senior role in the region, General Petraeus warned that the gains made during his tenure were “reversible,” that the security situation would continue to be “fragile,” that a stable security situation and lasting security gains in Iraq would be forthcoming only if a host of extraneous variables were successfully addressed and if Iraq’s security forces were cohesive, combat tested, self-reliant and did not fragment along ethno sectarian lines at first challenge.

Indeed, within the last month there has been a sharp increase in violence, a wave of suicide bombings in market places and at security targets, some blatantly sectarian, some random but with a sharp jump in fatalities and injuries. Iraq will remain a very dangerous place for a long time to come.

At the moment, Iraq has security forces composed of 559,000 personnel: 365,000 police and an army of 190,000, all of whom operate south of Kurdistan. By 2010, that number will increase to 640,000. Throw in withdrawals that would reduce the U.S. combat presence from 135,000 to 100,000 and you arrive at **a ratio of one security personnel per 26 citizens**, giving the people of Arab Iraq the dubious distinction of more security personnel per capita than any other region on the world.

Since U.S. troop withdrawals will be replaced with at least an equal number of Iraqi troops, the Iraq that begins to emerge from the claustrophobia of concrete and military congestion is one that is wholly securitized. In such a situation, mechanisms specifically

designed to monitor and guarantee the rights of individuals, that are seen to be working and independent of government, are a prerequisite for democratic governance. The Helsinki Agreement provides such mechanisms.

Civil society in Iraq, outside of the mosques and the tribal communities, is practically nonexistent. But if institutions are not put in place in parallel with American withdrawal, Iraq will inevitably become a state that is so dominated by the security sector that it will not be able to evolve in ways that are compatible with democratic norms. Here, building the structures that the Helsinki Agreement calls for MIGHT provide for the set of institutions that are critically necessary for a functioning civil society that just MIGHT set limits to the powers of a military security complex that will literally overwhelm the state in the absence of strict and enforceable constraints on how that security apparatus operates.

I have used the word “might” twice because the sheer immensity of the proposed build up of the Iraqi security forces in the near future—one member of the security forces for every six Iraqi males—smothers whatever hopes there are of a democracy emerging out of the present quagmire, by the stomping feet of armies on the march.

Add to that powers of detention without trial—there are today some 47,000 detainees in Iraqi and American camps—and frankly, it becomes an act of blind faith to believe that a working democracy is the light at the end of a very long tunnel.

It is for these very reasons that a vehicle like the Helsinki Agreement, with independent structures in place to give biting teeth to its provisions, is so necessary. The instrumentalities that it proposes can serve as an early warning system to flag infringements on civil liberties, establish markers to limit the powers of the military/security apparatus, and cry like bloody hell when the state, with such immense power at its disposal, might begin the slide into authoritarian rule.

Here I point to Principles #2, #6, #10 and mechanisms #2, #11, #13.

American withdrawal or incipient withdrawal will redefine power relationships in Iraq. Full sovereignty, rather than occupation or the perception of occupation or the omnipresence of a foreign power, will alter the relationships between the U.S. and the Iraq and among political factions in Iraq.

Today, Iraq can make decisions at the security level with the knowledge that if things

appear to be going badly, the U.S. always can be called in. For example, PM al Maliki began an offensive last spring against the numerous militias creating operating in Basra. But when things didn't quite work out he called for U.S. for air power to assist him, turning what might have been a military disaster for his government into a successful operation.

With full withdrawal, that fallback position will no longer prevail. Shias, secure in their power under the umbrella of American protection, will feel a little less secure. Sunnis, who see the Americans as occupiers, will feel a little more emboldened. The foci of the perceptual prisms each uses to gauge the intent of the other will be reset. The perceived balance on both sides of the majority/minority relationship will tilt a little toward the minority Sunni side.

The Shias' hands on the levers of power in Iraq, a first in their history, were guided by the Americans. Now that guiding hand is gone. They will be on their own, no protective back up. If their own embedded fears and insecurities and memories of past subjugation surface in the face of perceived threat from the Sunni, their willingness to consider more generous power sharing arrangements with the Sunni will dissipate.

Accordingly, if the new Iraq is to get off its feet, find strong walking legs, and take long strides, it must unlearn the political behaviors that have been the hallmark of much of the political discourse over the last five years—behaviors embedded in the political culture of the region for decades and ready for running on a new behavioral track. No easy task. No miracles of transformation expected.

But the Helsinki Agreement provides the design for that track.

By holding the signatories to that Agreement, mandated by their parties to sign on their behalf, to a binding set of axioms embodying both the rules of political conduct, a code of behavior that levels the political field, and a set of mechanisms that will monitor their adherence to principles that inculcate a culture of democratic practice, the Agreement will fill the political vacuum between what government might propose but how forces on the ground might dispose—between undergoing a new transition, this time from a sibling democracy under the benign presence of a foreign power, to one that is testing the waters of full sovereignty—without lifeboats on standby.

Making that transition more problematic is a public service that is incompetent and

patronage-driven. Such reform cannot emerge from within the system itself since the system is the problem.

Which brings us to the next step in this process: Just how the Helsinki Agreement might serve *political* reconciliation in Iraq and most efficaciously fill the void to which I have referred—and I emphasize political because political reconciliation is a prerequisite for *national* reconciliation—will be the subject of a congressional hearing in Washington DC on 8 October 2008.

The hearing will be held under the auspices of the subcommittee on International Organizations, Human Rights and Oversight, which is chaired by Congressman William Delahunt, democrat of Massachusetts, and I might add, a close colleague of the late Joe Moakley.

Among those who will give testimony are the Agreement's South African and Northern Irish facilitators: Cyril Ramaphosa by a video link from South Africa; and, in person, Mac Maharaj and Roelf Meyer from South Africa, and Martin McGuinness, Lord Alderdice, and Jeffery Donaldson from Northern Ireland.

In both Northern Ireland and South Africa, structures were created to effectuate changes in the political/security/ and socio-political status quos called for by their respective settlements. As a result, there is a vast repository of experience available in these two countries and in others that have made successful transitions from virtual democracy to real democracy.

Congressman Delahunt will follow these hearings with a visit to Iraq after the presidential and congressional elections in November to ascertain, among other things, how Congress might best mobilize the international community to provide the resources that will be required to give real teeth to the implementation mechanisms to ensure compliance with the agreement.

Again, I use the word "international" with specific intent. We have begun the process of de-Americanizing the conflict. Iraq wants to flex the muscles of full sovereignty, not only to be free, but to feel free, to insist that America has had its turn and that now it is theirs. This is fine, except that it overlooks one inconvenient truth: in Iraq nothing works very well and assessing the skills, building the capacity to absorb these skills, auditing the needs of a country that largely remains bereft of essential infrastructure, must be done at

the invitation of the Iraqis themselves when they are forced by events to confront the paralysis that is slowly running the country into the ground and fomenting potential conflict.

But assistance must be as broad based as possible so that Iraq does not feel that once again its sovereignty is being impinged upon by the benign intentions of previously colonial masters or more recent would-be liberators.

Now back to the question posed at the start of this talk: In what areas of potential conflict might the Helsinki Agreement be of help?

There are many, but rather than keep you here all night, I will address some of the most immediate and important.

POWER SHARING AND DEMILITARIZATION

- Power-sharing is ineluctably tied to the issue of disarmament of militias. It is impossible to decouple them. Verifiable decommissioning of weapons on the part of political militias will accelerate accommodation on power sharing.

For Sunnis in particular, present constitutional arrangements are unacceptable and do not, they believe, reflect a sufficient concern for Sunni interests and access to the levers of power. While the ostensible reason for the insurgency advanced by constitutional Sunni politicians is the American military presence, it is also an expression of an undiluted intensity in their resolve not to play a subordinate role to Shias in a new Iraq.

In the perceptual prisms through which partners in minority/majority dichotomies view themselves, Sunnis in Iraq, despite being in a minority, see themselves as the rightful majority, a historical attenuation going back to Ottoman days. Al Qaeda in Iraq—that is, Sunni extremists—should not be confused with the Sunni resistance in which American occupation is an allegorical substitute for Shia control.

Until Shia/ Sunni power relationships are brokered to the sufficient consensus of both communities, the potential for clashes between the two with unpredictable and, as always is the case, unintended consequences, will remain an unscripted mandate for violence.

Here is where adherence to Helsinki can collapse the parameters that might create that unscripted mandate for violence. Requiring all parties to resolve all disputes by democratic means without resort to violence only can be meaningfully implemented if all militias attached to political parties or free roaming in search of causes are brought into a process that compels their political bosses to agree that they must be disarmed and their weapons verifiably destroyed.

Creating the appropriate structures to ensure compliance with principles #3,#4, #7, mechanism # 4, #6 and in particular mechanism #7 could ensure an orderly and well monitored process of decommissioning of militias.

Here the experience of Northern Ireland, which established an International Monitoring Commission under the Chairmanship of John Alderdice to monitor the decommissioning of arms by paramilitary groups, is especially pertinent. The expertise developed in carrying out that task over a period of ten years has produced a reservoir of capacity and skill.

In this context, the two organizations that most identifiably can be dealt with, and which pose the most serious risks to potential conflict, are as follows:

Motquada al Sadr's al Madhi army

The 10,000 strong militia has been quiet since Motquada al Sadr called a ceasefire and then called for his army to put aside its weaponry and engage in charitable work, providing services for its constituents. But the militia's structures still remain in place and can be resurrected at a moment's notice. Its stockpile of weaponry also remains intact and rapidly accessible. The prevalent wisdom is that the threat of being excluded from provincial elections because his political movement had a paramilitary wing convinced al Sadr that the more prudent course of action for the present was to eschew violence.

Given, too, the pummeling his militia took, first in Basra and then in the slums of Sadr City in the early months of 2008, by the Iraqi army, backed up by U.S. military, the better part of valor is to withdraw from the terrain of war until conditions are more favorable.

The Sunni Awakening Councils or Sons of Iraq

Ninety thousand Sons of Iraq, many former insurgents who turned on Al Qaeda in Iraq and have subsequently co-opted by the American military, which arms them and pays each member \$300 per month to fight terrorism and not kill Americans. Many are now deployed as neighborhood watches, eerily reminiscent in Baghdad of Saddam's own neighborhood watches, more warily accepted by wary Shias, for whom their presence evinces memories they would prefer not to have to deal with again.² As of 1 October, the Iraqi government will take over the payroll of the Councils. What will happen to them is yet unclear: The government may strike to dissolve them or integrate them into the Iraqi army—something it is not too keen on doing because a further 90,000 Sunnis in the army would seriously disrupt the sectarian balance of the security forces.

THE POWERS OF THE PROVINCIAL GOVERNMENTS AND THE POWERS OF THE CENTRAL GOVERNMENT

The relevant principles are principles #1, #2, #4, #6, #11, mechanisms #1, #2, #12, and #15

The Constitution of Iraq provides for three levels of governance: central government, provincial, and regional. The latter took cognizance of the *de facto* existence of Kurdistan, a semi-autonomous region of Iraq since 1991. Under the constitution, two or more provinces can agree to amalgamate and form a region, ceding their respective provincial powers to a regional one.

The debate in the Council of Representatives (CoR) on the provincial powers Act was protracted and acrimonious, exposing the many fault lines that exist regarding the nature and remit of the powers that should be devolved. Adding to the complexity were the shifting alignments of political interests. Some forms of provincial governance were more likely to trigger the impetus for regional government—a “Shiastan” in the South with powers concomitant with

Kurdistan, and the rump left to the Sunnis—while other forms were likely to make that process a lot more difficult.

Once upon a time it was the received wisdom that the Shias wanted their own statelet—the South rich in oil and overwhelmingly Shia. But the Iraqi Supreme Islamic Council (ISIC), the largest Shia party, moved away from that position to one to one advocating provinces with substantial powers devolved from the centre, but with the central government in firm control. The more power provinces had, it is believed, then the more difficult it would be to get them to amalgamate into a single region. Provinces with weak governance remits would be easier to incorporate into strong regions. In addition, there was the question of whether or not the arrangement that the C of R arrived at would be constitutional, an issue compounded by the fact that articles in the constitution dealing with provincial structures appear to contradict each other.

In the end, to the surprise of all, parliament, with the support of the SIC, passed a Provincial Powers Act providing provinces that would be little more than administrative units of the central government. The Shia VP, Abdul al Madhi, vetoed the legislation, to sighs of great relief from the ISIC, which tabled objections to 21 provisions of the Act. But some months later al Madhi withdrew his veto and the provincial powers act became law. But implementation is still highly problematic.

The law prohibits provincial legislation from contradicting federal law. The law also gives the CoR the power to remove provincial governors and to dissolve provincial councils and allows the Council of Ministers to remove other senior provincial officials. But, significantly, the law gives provinces direct control over local security. The law was supposed to come into effect after provincial elections that were mandated to be held no later than 1 October 2008. However, the Electoral Powers Act has not yet been enacted,³ as a standoff between the Kurds and the Arabs over the status of Kirkuk has proved, for the moment, insuperable.

But even in the event of these elections taking place, the Provincial Powers Act seems at odds with different sections of the constitution. Litigation challenging its constitutionality is all but a certainty, and the true remit of legislative authority probably will not be known for some time to come.

I have spent some time on this issue because it cuts to the core of the different visions of Iraq that are competing for attention, each one delineating a different distribution of power between centre and periphery, each with different implications for Sunni and Shias.

The Shias in particular are more divided over a Shiastan, a nine province Shiite super region on a par with Kurdistan. Some commentators interpreted the ISIC's veto of the law as a move to bypass provincial elections, thus leaving regionalization, the third level of government provided for in the constitution as the only means for provinces to gain some degree of self rule. But other Shia constituencies are strongly opposed to regionalization, preferring a strong central government.

Regionalization is an anathema to Sunnis who see themselves as left with the leftovers of Iraq, one that is resource-poor, with Baghdad, a multi-ethnic city, at its centre.⁴

IMMIGRATION AND DISPLACEMENT

The relevant principles and mechanisms are: principle #12, mechanism # 8.

- According to various estimates, there are about five million Iraqis. Twenty percent of the population is displaced: about one-half are refugees, mostly in Jordan and Syria, and the others are what euphemistically is called Internally Displaced Persons (IDPs). Iraq's refugee crisis ranks as the world's second largest.
- About 62 percent of refugees are Sunni, far more than the proportion of Sunnis in the population as a whole (20 percent) and of a magnitude that would reduce the voting Sunni population in Iraq by about 25 percent, ensuring the permanent underrepresentation of Sunnis in all elected forums.⁵

- Most refugees have been very slow to return to Iraq, even as conditions may be improving there. And, according to the International Crisis Group, those who do return do so not because they want to but because of “the unbearable conditions in exile.”⁶
- Return of refugees will create circumstances that will require astute management if conflict is to be avoided. The first potential source of conflict comes from refugees trying to return to their homes. Most of their properties were seized, often by militias, then handed over to their supporters or sold to generate funds. In such a situation, how would returning refugees reclaim their homes, especially where they are now in the possession of another religious sect?
- The mass exodus of Iraqis was mainly from the middle class, including skilled people, managers, and administrators.

Today a shortage of skilled labor undermines Iraq’s recovery at every level of public and private sector activity, hampers the delivery of public services.⁷ The continuing failure to achieve a satisfactory delivery of electricity, clean water, and other staples of life further alienates the people from electoral politics, providing fertile ground for further radicalization of the poor, disadvantaged, and those whose living conditions have further deteriorated since 2005.

Hizbollah established its grip on the Shia population in Lebanon not through the gun but by providing communities with the basic services government could not provide.

According to the ICG, “...the reverse side of the refugee equation is the situation of the many who benefitted from patronage or political protection.” They took control of the state’s management levels, lacking competence to do so, but resisting any attempt to relinquish gains. “The refugee crisis politicized the bureaucracy: thus we have one of Iraq’s many vicious cycles: violence triggers flight, flight hampers reconstruction, and faltering reconstruction, in turn, fuels violence.”⁸

- Of the approximately two and a half internally displaced persons, an estimated 64 percent come from Baghdad and 20 percent from Diyala. The religious breakdown is this: 58 percent Arab Shia, 30 percent Arab Sunni.⁹ Again, Iraq faces the same challenges: Can the people ever return to their homes? And if, in some unlikely scenario, they do return and find their homes occupied by others, most likely not co-religionists, what then are they to do? Will new militias protecting the carpetbaggers establish themselves in Baghdad's neighborhoods?

RECONSTRUCTION AND DEVELOPMENT

The relevant principles are #10, #12, #14, and mechanism #8.

- Perhaps nothing better illustrates Iraq's dearth of skills, lack of managerial and technical capacity than either its inability or unwillingness to use the huge resources at its disposal to rebuild vital services and engage in huge reconstruction projects.
- By year's end, due in part to soaring oil prices, the cumulative budget surplus will approach \$80 billion. In comparison, the U.S. has spent \$48 billion in American taxpayer money since 2005 to rebuilding Iraq. In some critical areas—security, oil, electricity, and water—the U.S. has spent \$23 billion since the invasion in 2003. In comparison, Iraq has spent just \$4 billion on similar projects. Iraqi oil revenue from 2005 through the end of 2008 will come to \$158 billion. Meanwhile, Iraqi deposits at the Federal Reserve Bank in NY have obliged the bank to make \$435 million in interest payments.

So, the U.S. is paying for reconstruction that Iraq is in a position to pay for itself. Meanwhile, Iraq hoards astronomical amounts, with large deposits in the U.S. Federal Reserve System requiring the American taxpayer to pay interest in its deposits. Few eyebrows are raised, either here or in Iraq.

Adding to the mix of incongruities, convoluted, and pure farce is the revelation that in 2007 Iraq only spent 28 percent of its \$12 billion reconstruction budget, and that from 2005 to 2007 Iraq devoted a meager 1 percent of the operating expenses in the budget to maintain reconstruction

projects that were built mostly with American money. When confronted with this array of discrepancies between resources available and the use to which they mostly were not being put, Mr. Ali Baban, the Iraqi Minister of Planning, excused his country's performance with the wry observation that "...we're trying to improve things, but you know the situation in Iraq."¹⁰

Whether you want to attribute this egregious misallocation of resources to a failure of oversight, lack of accountability, absence of regulation, or a longer litany of malfeasances, what appears to be indisputably clear are these facts: that Iraq lacks a modern managerial/technical/skilled/management cum bureaucracy sector to deal with the fundamental issues of economic transformation; that much of that sector resides outside Iraq with little near hope of returning; that powerful vested interests have everything to lose by the refugees' return; and that both recovery and return are pawns in the continuing internal competition for power over the country's vast wealth, without much regard for the concerns of ordinary Iraqis who live lives of quiet desperation punctuated by violent outbursts when the limits of their tolerances of their government's ineptitude hits a ceiling.

KIRKUK

The relevant principles are principle #1, #2, #3, # 4, #6 #9 and mechanism #1#2.

- Failure on how to deal with Kirkuk has resulted in delay in ratifying the Electoral Powers Act, which will demarcate constituencies, and revise the provincial voting system.
- In 1957, the last official census not distorted by the Baath party, Kirkuk's population was 113,989. Turkmens predominated, making up 40 percent of the population, while Kurds made up 35 percent, Arabs 24 percent, and Christians 1 percent. That census revealed a population in the surrounding at-Tamim province in which Kurds made up 55 percent of the population, while Turkmens made up 14 percent, Arabs 29 percent, and Christians less than 1 percent.

- Kirkuk, about 150 miles north of Baghdad, contains oilfields accounting for 13 percent of Iraq's proven reserves. The region around Kirkuk accounts for as much as 40 percent of Iraq's oil production and 70 percent of its natural-gas production.
- Under Saddam Hussein, perhaps as many as 200,000 Kurds were forced to leave Kirkuk and were replaced by Arabs, mostly poor Shia Arabs from the south.
- After Saddam's overthrow, Kurds began to reclaim their homes and Kurdistan wants to annex Kirkuk. The Turkmen, hitherto the city's largest ethnic group and the foundation of its urban elite, have virtually disappeared as a result of campaigns of intimidation. Perhaps up to 350,000 Kurds, many of whom never lived in the city before, have replaced the Arab population.¹¹ Although there are no definitive figures available, it is generally accepted that Kurds are now in the majority. Article #140 of the Iraq Constitution stipulated that a citywide referendum to determine the status of Kirkuk would take place before 31 Dec 2007. However, citing security concerns, the government postponed the referendum.
- Turkmen in particular are opposed to a Kirkuk ruled by Kurds, because they see it as the first step to incorporate Kirkuk into Kurdistan. Turkmen complain of being scapegoated by Kurds, subject to attack and discrimination. Other ethnic groups harbor similar complaints in the face aggressive moves on the part of the Kurds who have taken majority control of al Tamin province, allowing them to place Kurdish loyalists in key positions in the civil service and take control of Kirkuk's intelligence services and policemen. Kurdish Peshmerga patrol the streets, and street signs have been changed from Arabic to Kurdish.
- Turkey fears that a Kurdistan with Kirkuk as its capital and sitting atop such oil abundance would constitute a move by Kurdistan toward creating an independent Kurdish state.

- Iraq's Sunnis and Shiite nationalists, fearing an eventual split-up of Iraq, say Kirkuk is home to Arabs as well as Kurds and thus should not be incorporated into Iraq's autonomous region of Kurdistan. They accuse Kurds of forcibly driving Sunni and Shiite Arabs out of their homes. But to most Kurds, Kirkuk is their “Jerusalem,” linked by centuries of history and culture.
- A UN proposal to divide the city’s representations in the provincial council on an equally proportionate basis—Kurd, Arab and Turkmen—has been rejected out of hand by the Kurds.

Kirkuk is Iraq’s tinderbox of conflict, with the potential of all-out war between the Peshmerga, the army of Kurdistan, and Iraqi security forces as well as internecine ethno/sectarian violence among Turkmen, Kurds, and Shia Arabs.

OTHER AREAS REQUIRING MEDIATION

- ***Detainees.*** There are 51,000 detainees in Iraq prisons—24,700 in U.S. custody and 26,000 in Iraq custody.¹² Nearly 85 percent of the detainees in custody are Sunni Arabs. None has been given due process. All are in detention without trial.
- ***A census.*** The last full census was conducted in 1957; the one conducted under Saddam Hussein in 1997 did not include the Kurdistan region. The last census in 1997, which estimated the population at 22 million, did not count the three Kurdish provinces then separated by a U.S.-imposed no-fly zone.¹³ Estimates of the population and the composition of the major ethnic blocks vary widely, from a low of 20 million to a high of 26 million. A census was supposed to have been carried out before the provincial elections but “security concerns” stymied efforts. In the allocation of oil revenues, population is obviously the crucial variable, especially when allocation on a per capita basis becomes the criterion. Hence,
- ***Legislation allocating oil revenues*** is on hold until there is consensus, in the absence of a census, regarding population estimates. This already

emerged as an issue with the Kurds, who successfully argued last year that its allocation did not accurately reflect its share of the total population.

In this lecture I have touched on some of the problems, each of them a source of potential conflict, each capable of producing the spark that ignites the forest fires, and I have explicated on a few.

Unless some catastrophic event intervenes, American troops will be withdrawn from Iraqi cities by June 2009—in less than a year—and the withdrawal of American troops will be completed two years later.

Iraq has two choices here: it can let the clock run out and wave good riddance to the Americans, or it can begin to catalogue the problems a post-American Iraq will face, problems that will be honed, refined, and sharp-edged during the stages of withdrawal, and then thrown at the authorities.

If Iraq chooses to invest in the latter course, then it can draw on the principles and mechanisms enshrined in the Helsinki Agreement, begin to build the structures to give teeth to the monitoring compliance, and call on the international community for assistance to develop the myriad of skills and technical knowhow so that when American withdrawal begins, Iraq will have in place the mechanisms to ensure no political void emerges. In place will be the mechanisms to deal with residual grievances from the past, grievances accumulated during years of occupation; the sins and errors of maladministration; the complex refugee problems and equally complex ones related to internal displacement; corruption; and demilitarization. In place will be the mechanisms to reach final agreement on the distribution of power, allocation of resources, and identity, according to rules and in conformity with the mechanisms and monitored by structures that ensure adherence to what has been agreed to and which provide for transparency, inclusiveness, and accountability.

¹ That process was largely boycotted by the Sunnis. Sunnis, we should recall, only entered government on condition that the constitution be amended.

² "Fear Keeps Iraqis Out of Their Baghdad Homes" *New York Times*, 25 August 2008.

³ The Provincial Elections Law was passed, after months of bitter negotiation, on September 25, 2008. Thus elections will be held in most parts of the country by January 2009. The lawmakers did not deal with the control of Kirkuk and how to achieve political representation for Iraq's Christians and other minorities. "Iraq Passes Provincial Elections Law," *New York Times*, 25 September 2008.

⁴ Survey data indicate sectarian preferences as follows: One unified Iraq with a central government in Baghdad: All: 62 %; Sunni Arab: 97 %; Shia Arab: 56 % ; A group of regional states with their own regional governments with a federal government in Baghdad All: 28 %; Sunni Arab: 0 %; Shia Arab: 42 %; A country divided into separate independent state: All: 9 % Sunni Arab: 0% ; Shia Arab 2 %

⁵ International Crisis Group, *Failed Responsibility: Iraqi Refugees in Syria, Jordan and Iraq*, Middle East Report #77, July 2008

⁶ Ibid., ii. The Iraqi government has been particularly remiss in providing assistance to refugees, relying on the generosity of the host countries, Jordan, Syria, and Lebanon. For a country drowning in oil revenues, unable to spend its surpluses, it has allocated next to nothing towards care of refugees. American taxpayers are paying more toward assistance of refugees than Iraqi taxpayers.

⁷ *Measuring Stability and Security in Iraq*, Report to Congress, June 2008, 3-4

⁸ Ibid., 29.

⁹ IOM Emergency Needs Assessments: *Post February 2006 Displacement in Iraq*, Report, 1 August 2008.

¹⁰ "As Iraq Surplus Rises, Little goes Into rebuilding," *New York Times*, 6 August 2008.

¹¹ Lionel Beehner, *Backgrounder*, Council on Foreign Relations, 23 April 2007 (www.cfr.org/publications/131/Iraqi_Kurdistan_question).

¹² "US and Iraq Holding 51,000 Iraqis Behind Closed Bars,, Most Illegally (www.globalresearch.ca/index.php?context=vaq&aid=8987).

¹³ (www.reuters.com/articles/latestCrisis/idUSL28863809).