Political Dynamics in Iraq within the Context of the 'Surge'

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Table of Contents

1 Executive Summary

- The reduction in violence experienced by Iraq today is fragile and fleeting. The surge is only one of several factors contributing to it, with the Multinational Forces acting as a linchpin for a number of local ceasefires and alliances.

- A vital factor in the security improvement is public backlash against the chaos and extremism of the past five years. The backlash is not aimed only at Al-Qaeda but also at sectarian politics of the mainstream parties and forceful efforts to transform society.

- As a result of the surge strategy the insurgency has in effect 'come in from the cold,' and attained official recognition and a coherence it lacked before. More than 70,000 men, many of whom were members of the former military and security structures, are now armed and financed by the US through the Concerned Local Citizens. They pose a challenge to the legitimacy of the official security forces and the state's monopoly on the use of force. They have little trust in the government and are seeking their own say in how the country is governed.

- A bureaucratic awakening is also underway benefiting from the improved security situation and reversal of De-Baathificaiton. Iraq's once efficient machinery of government is slowly beginning to turn in defiance of political gridlock, corruption and incompetence. Tangible progress is also taking place at the local level benefiting from the new local alliances and US military support.

- Without progress at the political level, improvements to security and administration are likely to falter. Progress is needed to bring the various initiatives together and provide them with coherence and resources. Groups currently vying for power will need a way to negotiate a shared vision of the future. Yet the political process, hobbled by a sectarian allocation formula, is showing little signs of movement.

- Rather than broadening the political process and opening the doors for compromise, forces dominating the government are using the lull in the violence to consolidate their hold on power by establishing facts on the ground.

- Growing differences between government and opposition and within individual parties and factions are creating political paralysis. Constitutional review, hydrocarbon and election legislation are in limbo. The laws being passed often fail to address the underlying issues and tensions. Crucial disagreements over the distribution of power, the role of religion or transitional justice remain un-addressed.

- Tensions around Iraqi Kurdistan are at new heights and threaten to spill over into open conflict, due to issues including Kirkuk, disputed internal boundaries, oil contracts and the presence of the Turkish Kurdistan Worker's Party (PKK). At the same time, challenges to Iraq's territorial integrity by Iran and Turkey are left unanswered, setting a dangerous precedent in a 'bad neighborhood.'

- Holding of overdue local elections, under a new electoral law, is the best way to peacefully introduce the actors emerging through the surge, into the political process, be they concerned local citizens, Sadrists observing the ceasefire or old technocrats.

- An open and inclusive dialog will be required to resolve the critical issues addressed by the hydrocarbon legislation,. The current differences can neither be papered over nor resolved unilaterally. In the meantime transparency in the management of oil revenues based on the Extractive Industries Transparency Initiative, which Iraq has just joined, can be a first step towards building lost confidence.

- The package of issues surrounding the limits of Iraqi Kurdistan's self- determination, including Kirkuk and the disputed territories, will need to be addressed through a special UN mandate. This is the only way to give this grave issue the attention and resources it requires without siphoning attention from Iraq's other needs. A new resolution on Kirkuk will also help close the chapter that began with the 2003 invasion, hasten a transition to a more legitimate US role and broaden international engagement in Iraq.

2 Introduction

The situation in Iraq over the past year has been so dynamic that few observers were able to keep pace. Burnt by repeated false hopes and disappointed in most of the leading personalities, a student of Iraq would be forgiven for assuming that nothing will work and that any improvements are bound to be temporary.

However, last year saw tangible progress on many fronts, not only in the area of security following the introduction of the surge. The breathing space provided by improved security is critical for all other developments, but the most remarkable change taking place in Iraq today is at the grass roots level.

As this paper will show, Iraqis across sectarian and ethnic boundaries are taking a stand against extremism of all varieties, alien ideologies regardless of origin, and the chaos and uncertainty of the past five years. The public disgust is aimed equally at foreign Al-Qaeda operatives and hectoring homegrown clerics, narrow-minded sectarian politicians and corrupt officials.

As Iraqis reject those responsible for the chaos, they turn to those they naturally associate with stability and functioning government. These are not the Baath party bosses who have been long discredited, but the professionals, the steady hands who kept the state humming while Saddam was busy hatching megalomaniacal plans and writing novels.

The most remarkable 'awakening' taking place in Iraq today is that of its onetime efficient bureaucracy. Technocrats and professionals, including military and security officers, are trying to jump-start whatever is left of the machinery of government and restore a modicum of normalcy.

The regime that could emerge from the return of these elites will look different from either the theocracy of Al-Qaeda or democratic vision of the political exiles. It could look a lot more like Russia under Putin than Germany under Adenauer.

One of the most remarkable failures of Iraq's observers over the past five years has been the selective application of other post-authoritarian and post-totalitarian experiences. Those who wanted to re-engineer society from the ground up chose the model of Germany and Japan. Those who saw partition as the solution thought of Yugoslavia as a model. Yet, it is Russia and other post-communist countries in Eastern Europe and the Former Soviet Union which offer the most pertinent lessons for Iraq – first, that the least likely embers to be found under the ashes of totalitarianism are those of liberal democracy and second, that parts of the old elites and power structures always find their way back to the top.

This is not to say that the people of Iraq are unfit for – or undeserving of – democracy and the right to manage their own affairs, but that having suffered through so much pain for so long, especially over the past five years, their priorities and preferences are skewed towards order, security and normalcy.

The grass roots awakening taking place in Iraq today is very fragile. By definition it is lacking in political direction. It needs power and resources and a benign security environment to be sustained. The extremists and criminals thriving on the war economy will do anything to stop the forces of normalcy.

This paper does not advance a sanguine view about the return of the old elites and the prospects of a Putin scenario in Iraq. It identifies several risks of conflict and reaction that such a course of events may entail, chief among them a conflict in Iraqi Kurdistan. However, the alternatives, short of a permanent surge, are too gruesome to contemplate.

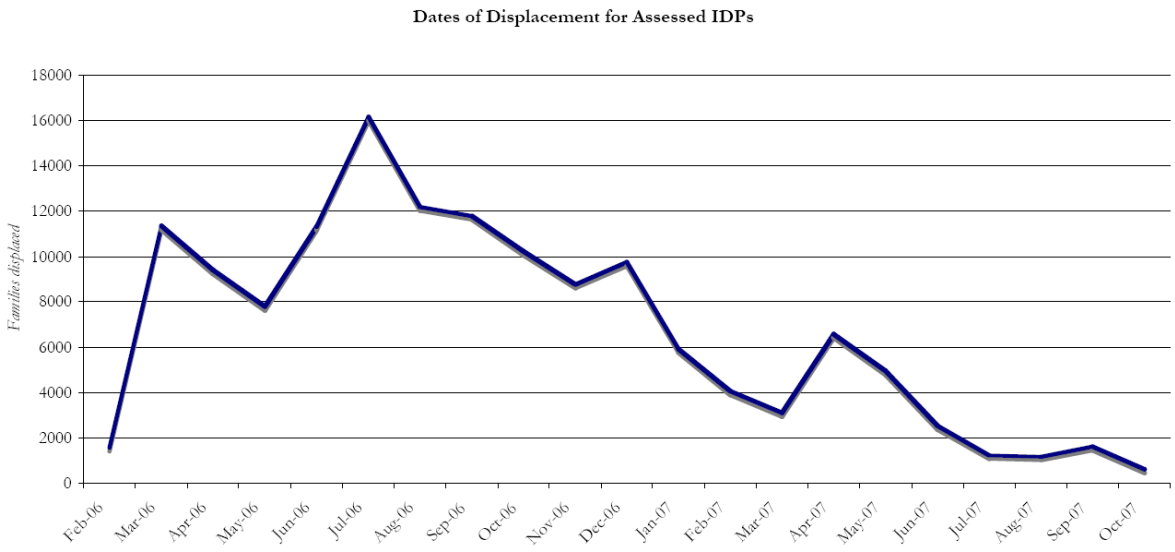
The paper concludes with some recommendations, not only aimed at sustaining the current momentum but also at ensuring that it develops in a more democratic, less violent direction.

These observations are based mainly on interactions with policy makers and politicians over the past two years and do not give sufficient credit to the courageous civil society activists and opinion formers who shaped the public backlash against extremism, sometimes at the cost of their own lives. Dr. Isam Al-Rawi, professor of Geology at Baghdad University and a moderate member of the Sunni Association of Muslim Scholars is one of those heroes. He sought to stem the slide into civil war and was the first to condemn Al-Qaeda. He was assassinated while trying to stop the carnage working closely with moderate Sadrists through the worst months of 2006.

The following sections will look at the improvement in the security situation and the dynamics that led to it; the changing political fortunes of the various groups and parties forming the Iraqi political scene; and the defunct political process and the crises and fissures it is generating. The paper concludes with possible future scenarios and policy recommendations aimed at mitigating the worst possible outcomes.

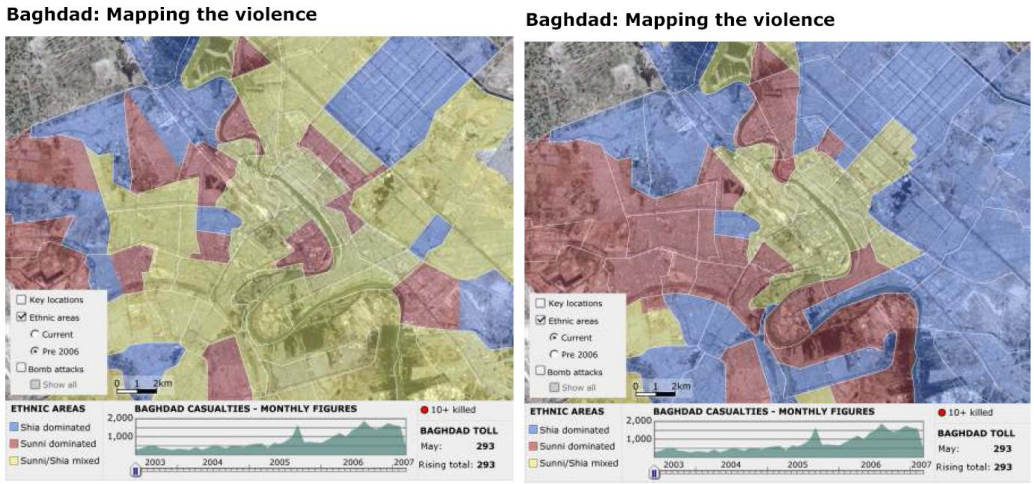
3 Security Improvements and the Surge

According to Multinational Forces Iraq (MNFI) figures the violence throughout Iraq and particularly in its most volatile areas is down to 2005 levels. This is a substantial reduction in comparison to the horrific levels reached in 2006, but 2005 was hardly a peaceful year.
The figures do not reflect the full picture and particularly the perceptions of people on the ground. While many Iraqis assert that there is still a lot of violence particularly crime, their actions speak otherwise. This is not only demonstrated by the anecdotal evidence of revived economic activity, traffic on the streets or the trickle of returnees. International Organisation for Migration (IOM) figures, for example, show a significant decline in displacement rates starting as early as the end of 2006.



Source IOM

These figures do not only demonstrate the drop in violence but may also help explain the causes. A significant decline in displacement by early 2007, long before the 'surge' forces were in place (the deployment of additional brigades was only completed in June 2007), indicates that other factors are at play - Among the most important, is the **completion of ethnic cleansing** in many areas particularly large swaths of Baghdad.



Ethnic segregation in Baghdad before and after 2006 (source BBC.co.uk)

Much less susceptible to quantification is the **public backlash** against the excesses committed by almost all parties during 2006. The backlash is not limited to the extremist versions of Islam propagated by Al-Qaeda or some Shia clerics. It is also aimed at some of the sweeping changes

which Coalition authorities and their Iraqi allies sought to push through over the past five years. The backlash is forcing most religious leaders, politicians and warlords to distance themselves from the sectarian, fundamentalists or radical change rhetoric.

The violence of 2006 seems to have provoked a sense of **defiance** among Iraqis who felt dragged into a civil war against their will and better judgement. The backlash was propagated through formal and informal civil society networks which survived despite the violence and the chaos. Baghdad University, Iraqi Women's Network, websites and blogs like the mysterious Shalsh Al-Iraqi who poked fun at everyone from the Sadrists to the Marines all played a role in affirming the public consensus against the extremism and chaos of the past five years.

The events of 2006 and the near collapse of the Iraqi state seem to have also shocked Iraq's **neighbours** who have either condoned or actively supported many of the combatants over the past five years. MNFI and Iraqi Government reports point to a dramatic decline in the flow of fighters and weapons from Syria and Iran during 2007.

A combination of these factors and the strategy adopted by the Multinational Forces under the command of **General Petraeus** led to the current improvement in the security situation.

The improvement is fragile and fleeting. It could be best described as a **truce** - an informal complex arrangement bringing together 1) most Iraqi insurgent groups particularly those drawn from former military, security structures and Ba'athists, 2) the Sadrists and the affiliated Mahdi Army 3) Iraqi security forces particularly the National Police and affiliated Badr militia and 4) the MNFI who are also acting as broker and guarantor.

Today, MNFI has more **substantive control** over the situation in Iraq than at any other time since the beginning of the invasion. This was not achieved by dominating the battlefield, where the troops remain just one of many actors, but by brokering a complex web of alliances and arrangements that put them at the centre.

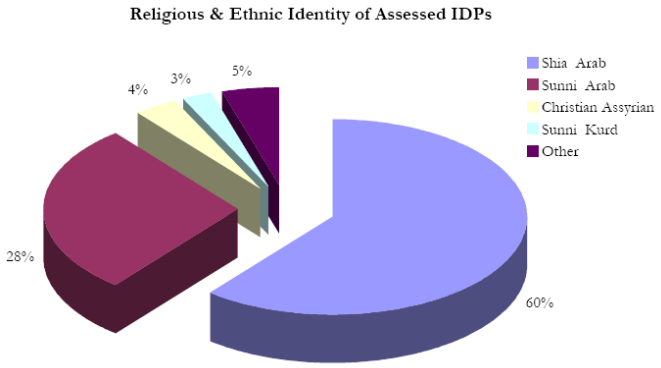
The first element of the truce began to emerge in mid 2006 long before the surge. The Anbar **Awakening Council –** a coalition of Sunni Arab tribal leaders declared a campaign to expel Al-Qaeda from the province. The Awakening 'movement' originated in rivalries between tribes which aligned themselves with Al-Qaeda in Iraq, on one side, and those who felt threatened by the group, on the other. What started as isolated skirmishes over illicit revenues, gradually evolved into an Anti-Al-Qaeda 'uprising' uniting the bulk of the insurgency in the Sunni areas. The movement grew out of rising alienation and fear caused by the Al-Qaeda and the foreign ideology it represented to most Iraqis, particularly, to the relatively secular former military and security personnel forming the backbone of the insurgency.

Al-Qaeda and the regime it attempted to establish through the Islamic Emirate of Iraq gradually displaced the occupation as the most immediate threat perceived by most insurgents in Sunni areas. This was as much a result of the group's own actions as the reactions they provoked across the country. Al-Qaeda violence was seen as providing a pretext for both Shia sectarian violence and greater Iranian influence, seen by many as an existential threat. Large-scale spectacular attacks and day to day identity killings, attributed to Al-Qaeda, culminating in the bombing of the Askariya Shrine in Samarra in February 2006, unleashed a cycle of sectarian reprisals that threatened to decimate society.

The ensuing civil war involved uneasy and, ultimately, unsustainable alliances along sectarian lines between Al-Qaeda and relatively secular and nationalist Sunni insurgents, on one side, and between the Mahdi Army of Moqtada Al-Sadr and the new state security services dominated by its arch rival the Islamic Supreme Council and its Badr Organization, on the other.

Both the insurgents and Sadrists condoned and engaged in sectarian violence in the name of protecting their respective communities. Both risked losing their legitimacy and nationalist credentials in the process. The violence, at the end, caused only more pain and suffering to the communities in the name of which, it was allegedly perpetrated. The numbers of displaced people indicate that the suffering was roughly proportionate to all of Iraq's communities (with the exception of Kurdistan).

RELIGION AND ETHNICITY	% of Assessed IDPs
Shia Arab	60.9%
Sunni Arab	28.2%
Christian Assyrian	3.6%
Sunni Kurd	2.6%
Christian Chaldean	1.6%
Shia Turkmen	1.2%
Shia Kurd	0.9%
Sunni Turkmen	0.8%
Other	0.2%



Source IOM

The Multinational Forces in Iraq (MNFI) seized on the opportunity provided by the Anbar Awakening Council, not only by refraining from prosecuting armed groups engaged in the fight against Al-Qaeda, but also by providing them with cash and weapons. Coalition forces and Iraqi army units working under their command provided fire support to the armed groups against the better equipped Al-Qaeda. This amounted to an outright alliance and established a relationship of trust among the former adversaries that was to prove invaluable in other parts of Iraq.

In Baghdad and some of the surrounding countryside, Coalition forces under Petraeus's command had to break up the complex cycle of violence into its various components in order to allow for the mobilisation of efforts by all sides against the extremists in their midst. They achieved this by brokering localised ceasefires and alliances with all but the most extremist groups, be they Al-Qaeda, 'special groups' or 'death squads'.

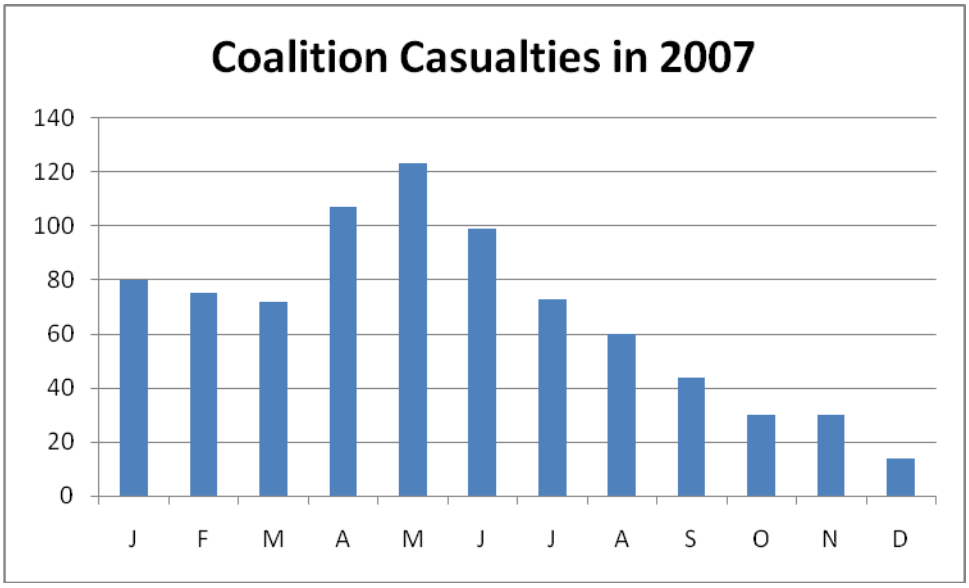
A combination of nuanced rhetoric and the threat of force on the part of the MNFI, for example, allowed the Sadrists to distance themselves from the so-called 'special groups' (bands attributed to the Sadrist Mahdi Army which have been carrying out lethal attacks on coalition forces, sectarian and vigilante atrocities) and led, ultimately, to the Mahdi Army ceasefire in August 2007, which was recently extended for another six months. Coalition officials and officers go to great lengths to distinguish between the 'special groups' and the rank and file of Al-Sadr's Mahdi Army.

A similar approach is used with Sunni insurgents, re-christened by the MNFI as Concerned Local Citizens (CLC) and Neighbourhood Militias, and distinguished from the foreign led, if majority Iraqi Al-Qaeda. This is quite a significant shift, if one takes into account that the insurgents have, for most of the past five years, allied themselves with Al-Qaeda, and that both they and the Mahdi Army are responsible for the bulk of US casualties.

Coalition forces also pressured the government in Baghdad to curtail the 'death squads' associated with the National Police. Heavy and highly visible coalition presence in the most vulnerable areas provided added assurance to communities and militias, who purported to act on their behalf.

The multinational forces succeeded in gaining the trust of communities by **changing the focus of the mission from the prosecution of insurgents to protection of civilians**. This is a significant departure from past practices and is a reflection of Petraeus's counterinsurgency philosophy.

US Troops were taken out of their fortified basis and placed literally 'in harm's way', as evidenced by the spike in US casualties in the initial months of the surge. This was done with the explicit aim of providing protection and assurance to civilians. The troops were often based at Iraqi police stations and carried out police duties along with Iraqi Army units, which are relatively more trusted by the restive communities than the police. They often brought with them services and reconstruction relief to areas long ignored by the government.



Source Coalitioncasualties

This approach, together with the good will established through cooperation in Anbar, allowed both communities and insurgents to provide the coalition with the main weapon they need to fight Al-Qaeda and other extremists – information.

Acting on supplied intelligence, coalition forces are devoting more care than in the past to minimising collateral damage to civilians by relying on skilled Special Operations Forces to carry out pinpoint raids.

This approach, while clearly effective, has its **limitations and pitfalls**. This is particularly visible in Diala and Nineweh provinces, where the Awakening model can not be replicated. Unlike Baghdad and surrounding areas, these provinces, in addition to Salahuddin and Kirkuk have the added complication of the 'disputed territories' – areas contested by the various communities. The Kurds have made inroads into these provinces, provoking a hostile reaction by other communities.

In 'disputed areas' it has been more difficult to mobilise insurgents to fight Al-Qaeda since they perceive the threat from Kurdish expansion as a higher priority. Moreover, the chaotic environment in these areas, pitting the various communities against each other, has produced a level of anonymity in which terrorists have thrived. Al-Qaeda historically dominated these areas even when it used the Anbar as 'base camp.'

Other limitations of the surge approach emanate from the continued use of indiscriminate measures which affect large sections of the population. The numbers of administrative detainees have soared to an estimated 40,000, in both Iraqi government and coalition custody (There are

23,000 in Coalition custody as of March 2008 (*Source MNFI*). Estimates for those in Iraq government custody range from 15,000-20,000 thousands (*Source Brookings Index*). Many have been held for years without charge or trial. There are still numerous incidents of civilian casualties as a result of MNFI actions and those of their contractors. The use of high concrete barriers has turned many neighbourhoods into disjointed enclaves limiting freedom of movement and economic activity.

The mobilisation of the insurgents under the Concerned Local Citizens (CLC) banner as well as the permissive attitude towards the Mahdi Army, key ingredients of the prevailing ceasefire, are problematic in the medium and long term. They detract from the already tarnished legitimacy of the official security forces. The use of 'neighbourhood watch' and militias amounts to a vote of no confidence in the National Police, in particular. With no realistic prospects or any real efforts at demobilisation and reintegration, these militias and paramilitary formations undermine the prospects for establishing a state monopoly on the legitimate use of force.

The surge is also creating tensions with erstwhile allies in the Iraqi Government who feel threatened by the new groups, particularly the CLCs. Many CLC commanders are drawn from the ranks of the military and former security services and some are suspected of human rights violations during Saddma's reign and the past five years. They are openly opposed to current Government parties. However, cooperation between the CLCs and the ruling parties is essential if the 'political surge' is to be successful.

The entire arrangement is highly dependent on US mediation, financing and massive troop presence, none of which is sustainable over the long term. More than 70,000 Concerned Local Citizens receive US$300 a month each (or nearly US$300 million a year) from coalition forces (*New York Times December 22, 2007*). The Iraqi government has shown little inclination to assume this burden. So far less than 2,000 have been integrated into Iraqi Security Forces *(Brooking Index)*

The truce between insurgent groups, tribal chiefs and the Sadrists, on one side, and the MNFI and Government forces and militias, on the other is temporary, dictated by political expedience. The tribes are notorious for the fluidity of their alliances. The insurgents continue to view the US as an occupying force and question the legitimacy of the regime it helped establish. Their own legitimacy and identity is built around resistance to both. Their distrust of the new elites particularly the former exiles runs deep.

Without a clear prospect for a fair political process, which allows all these forces to articulate, pursue and negotiate their interests, including achieving the end of the occupation, the truce is liable to disintegrate.

4 Public Backlash

The surge has benefited from and fed into: 1) The backlash against extremist ideologies including religious politics of both Sunni and Shia varieties; 2) The backlash against Green-Zone politics – a combination of sectarianism, radical change and government failure; 3) The resurgence of local politics and community leaders; 4) The resurgence of mid-level pre-war elites and structures, particularly military and security personnel and the bureaucracy

4.1 Parties, Groups and Movements

Iraq's convoluted political scene continues to fragment as the ebb and flow of political fortunes produce new fissures and divisions. The 'National Unity Government' collapsed in the middle of 2007 with the departure of the Sunni Arab block led by the Iraqi Islamic Party (IIP), the Sadrists and Fadhila, Shia opposition groups and the secular Iraqi List of Iyad Allawi. This left a truncated Shia-Kurdish alliance comprising of the two main Kurdish Parties, the KDP and PUK, the Shia Islamic Supreme Council (ISC, formerly SCIRI) and the fragmented Da'awa party of the Prime Minister Nuri Al-Maliki. Division is growing, however, both among and within these groups.

After Al-Qaeda, the first victim of the public backlash against extremism was the **Association of Muslim Scholars** (AMS), a group of Sunni Arab clerics, which at some point represented the political arm of the insurgency. The AMS has all but imploded after failing to come up with a clear condemnation of Al-Qaeda and support for the Awakening movement. Moderate members of the association, either left, were co-opted by the government or assassinated. Others fled the country, sometimes under threat of prosecution by the Government, including the head of the organization Sheikh Hareth Al-Dhari.

The backlash on the Shia side is less dramatic but, nonetheless, perceptible. The largest Shia movement, the **Sadrists,** had to back back down from confrontation with government forces or risk losing public support in the latest confrontation in Basra. The movement declared a ceasefire in 2007 in a drastic attempt to distance itself from the carnage of 2006. These actions are threatening to splinter the movement among raising accusations to the leadership of a sellout. Allowing US forces free reign in their bastion of Sadr City and 'turning the other cheek', if not actively supporting the targeting of 'rogue' commanders and 'special groups' is a high risk strategy for a movement which lost thousands, building its credibility as a the symbol of 'Shia resistance.'

Having left the Government almost a year ago, the Sadrists today are firmly in opposition. The movement regularly demonstrates its strength through mass protests and challenges to the power of its rivals in the Islamic Supreme Council (ISC), the other main Shia group which controls government both in Baghdad and in the Southern provinces. The Sadrists remain the dominant popular movement among the Shia underclass in Iraq, but they are clearly on the defensive.

The backlash against extremism did not translate into support for the 'moderate forces', as the groups engaged in the political process like to refer to themselves. Quite the opposite, the mainstream parties are sharing in the backlash.

To most ordinary Iraqis, 'Green Zone' politicians were riding the sectarian wave if not actively whipping it up. Continued gridlock along sectarian, ethnic and party political lines reveals more to the public about these politicians' intentions than their 'national reconciliation' rhetoric. Their credibility is further eroded by failure to deliver improvements in people's daily lives.

The first to lose are the **Iraqi Islamic Party (IIP)** and their allies in the Accordance Front – a coalition of Sunni Arab parties. They are being squeezed, from one side, by their erstwhile partners in the National Unity Government (Islamic Supreme Council (ISC), the Kurds and Da'awa), who refuse to give them any real power and, from the other, by the Awakening movement, which is challenging their claim to represent Anbar and other Sunni areas at regional and national levels. The IIP is caught between government and opposition neither of whom recognizes it as its own.

The secular (heterogeneous) parties aligned in the disintegrating **Iraqi List** of former Prime Minister Iyad Allawi are not faring much better, having equally attempted to be both in government and in opposition and ended up in neither. Like the Sadrists, the IIP and the Iraqi List left the National Unity Government almost a year ago. Unlike the Sadrists, they have been seeking a face-saving way back into the Government without much success.

The ruling parties (Islamic Supreme Council, KDP, PUK and Da'awa) are attempting to capitalize on the success of the surge, depicting it as a vindication of their positions and a result of their actions. The Prime Minister, cutting a melancholic figure for most of 2006 and 2007, boldly proclaims 'saving the country from civil war'.

The ruling parties are trying to use the decline in violence to consolidate their hold on power. Rhetoric not-withstanding, they are showing less flexibility and readiness for compromise on issues of power and resource sharing. They recently (March 2008) held the Second Political National Reconciliation Conference, which was boycotted by all opposition groups both within and outside Parliament *(Al-Hayat, March 20, 2008)*.

The ruling parties' efforts to establish facts on the ground including attempts to subdue the Sadrists and prevarication on overdue Governorate elections, due in 2007, betray a lack of confidence in their own strength and ability to remain in power through an open political process.

Together with other parties led by former exiles, including the Iraqi List the ruling parties are suffering from a **backlash against the radical change agenda** espoused by these politicians

upon the fall of the regime and supported by the US and its coalition partners. Despite differences between them, these politicians, who have dominated since the days of the Governing Council, became associated with developments maligned by a large cross section of Iraq society, regardless of ethnic or sectarian affiliation. Policies like De-Baathification, the dissolution of the military and security structures, economic deregulation and liberalization, administrative decentralization, close association with the West at the expense of traditional regional and international allies, became synonymous in the minds of many Iraqis with the chaos that has engulfed the country since the fall of the regime.

In some respects, Iraq's former dissidents and reformers are facing a similar predicament to that of most of their predecessors in Eastern Europe and the Former Soviet Union. Russian Reformers, Georgian and Azeri Nationalists, Czechoslovak, Polish and Hungarian Dissidents who came to power shortly after the fall Communism have some things in common with Iraq's leaders of today. They sought to impose change faster than their societies were willing accept. They continued to fight the state and the ghosts of the regime even after its fall. They often failed to meet the basic requirements of government and ended up losing out to a resurgence of former regime elites and bureaucratic structures under new guises (former communists parties and party bosses, the KGB). Similarities are particularly strong with Russia and those former Soviet Republics where regime change did not come as a result of a poplar revolt and where the public was indifferent to change.

The Islamic Supreme Council (ISC), the main Shia party, which has consolidated its control of both the central government and southern Governorates over the past five years, is constantly challenged by a range of actors including the Sadrists, Fadhila Party, local clerics and tribal leaders. These challenges regularly spill into open hostilities and assassinations, with the ISC more often than not on the losing end, despite its nominal control of the security services. The ISC recently attempted to emulate the Anbar Awakening model in Shia areas to mobilize the tribes in the South against the Sadrists and other rivals without much success, exposing even more weakness in the process.

The decline in the ISC popularity seems to have even reflected on the Shia clerical establishment (Hawza) which became closely associated with the group. Representatives of Iraq's Shia Spiritual Leader, Ayatollah Ali Al-Sistani are regularly targeted for assassination, which is often explained by their closeness to the ISC. The past year has seen the religious establishment take a much lower political profile, as a result. Ayatollah Al-Sistani routinely refuses to speak out on day to day political issues and disputes. Most recently he refused to comment or even receive information on the ongoing discussions about the Iraqi-US status of forces agreement (SOFA).

Faced with such a predicament the ISC seems to be pursuing a twofold strategy. On the one hand, it is seeking to strengthen the Central Government and its institutions, which it dominates

(the Ministries of Finance and Interior, for example), and on the other, it continues to support the project of a Southern federal region. Support for this idea among the Shia public is not in evidence *(ABC Polls, Bookings)*. Moreover, it is far from a given that ISC will be able to control the emerging region on the basis of free vote. This may explain the on-again-off-again nature of ISC's pursuit of the project. It may be that the ISC is pursuing those strategies as alternate, fall back positions. It may also be an indication of splintering within the group between the Hakim family who seem to be more in favor of the Southern Federal Regions than other prominent party figures. This contradictory approach, however, is further weakening the party and may foretell its disintegration.

The Patriotic Union of Kurdistan (PUK) of President Jalal Talabani, which along with the ISC dominates the federal Government is pursuing a similar strategy. It has been losing ground in Kurdistan, having ceded control over the regional government to the Kurdistan Democratic Party (KDP.) The transition of power from a KDP Prime Minister to one nominated by the PUK has just (early 2008) been delayed. The PUK has instead invested in the strengthening of the central government, expending significant political and human resources in the process. For local political considerations, the PUK is compelled to side with the Kurdistan Democratic Party (KDP) on Kurdish issues, particularly Kirkuk and oil, even if in a more nuanced way. This position has become increasingly difficult to sustain as polarization on those issues intensifies.

In this context, the **Kurdistan Democratic Party** (**KDP)** of President Masood Barazani has, perhaps, been the most consistent of all Iraqi groups, having pursued a Kurdish nationalist policy all along. If anything, the KDP seems to be escalating its nationalist rhetoric and actions as evidenced in the hardening of positions on issues of Kirkuk, the oil contracts, the PKK and the relationship with Turkey. This approach, while possibly bearing fruit in terms of strengthening the party's position within Kurdistan, is putting it in an increasingly isolated position within Iraq and contributing to an unprecedented level of Kurdish-Arab tensions.

It is difficult to gauge the true level of support for the two main Kurdish parties and their allies in Kurdistan. The nationalist rhetoric could be interpreted as a way to preempt challenges to their dominance by rivals, particularly the Kurdish Islamists. Rising disaffection with corruption, and human-rights violations, is unlikely to amount to a significant challenge to the entrenched two-party rule. After all, they have produced in Kurdistan what most Iraqis only dream off – security.

Perhaps the clearest winners of the new dynamic are the insurgents, 'brought in from the cold' as **Concerned Local Citizens**. Having earned a legitimacy in the underground, resisting the occupation, its 'puppet government' and the 'death-squads', they are now given money and weapons by their erstwhile enemies to rid Iraq of the scourge of Al-Qaeda. Without much exaggeration, they can claim that the arrangement they have with the MNFI, particularly in Anbar, as a victory.

Numbering an estimated 80,000-100,000, the CLCs are a force to be reckoned with, especially considering their background in the military and security establishment of the former regime. Their political allegiance and interests are neither clear nor coherent. The Islamic fervour of the early days is diminished as part of the backlash against Al-Qaeda extremism. Allegiance to the local clerics who have failed to provide a coherent political leadership seems to have given way to tribal fealty, but this too could prove fleeting.

Several attempts, over the past five years, to transform the tribes into a political force have faltered on the inherently fractious and parochial nature of these institutions. A tribal alliance in Anbar may hold long enough to dislodge the Iraqi Islamic Party from the Governorate's council but is unlikely to become an effective national political force.

Given their background, a yet to emerge reformed Baath Party, would present a more natural home for the former insurgents. All efforts to reincarnate the Baath party, however, have failed so far. The new groups are either too close to the discredited party leadership or too close to the new regime to represent viable political alternatives to both.

The Awakening movement is emblematic of a broader **revival of local politics and economics**. In most areas benefiting from the decline in violence, localised economic activity and reconstruction efforts are underpinned logistically and financially by the MNFI. The Government which still lacks the tools to carry out investments is providing the financial resources in some cases. Provincial Reconstruction Teams are beginning to find their footing after a rocky start.

However, without a legitimate national framework which ties these localised efforts together, coordinates among them and supplies them with resources, they are unsustainable.

The past year also witnessed the **resurgence of mid-level elites from the previous regime.** The New Iraqi Army is the best example. Officers from the dissolved army account for 70% of the new officer corps, including many high ranking officers who had to receive a special exemption from the De-Baathification laws. About 77% of the 117 battalions of the New Iraqi Army are assessed by their US trainers to be capable of planning, executing and sustaining operations independently *(Section 1227 Report)*. MNFI claims that up to 20% of current counterinsurgency operations are Iraqi army led. The recent operation in Basra (March 2008) against the Sadrists demonstrated some of this progress. The army enjoys more credibility and trust among the public. These facts do not only indicate that the Army is one of the better functioning institutions in the Iraq state today but that it is also likely to become a political player sometime in the future.

4.2 Bureaucratic Awakening

The most remarkable ‘awakening’ taking place in Iraq today is that of the bureaucracy. A resurgent bureaucracy is seeking to coordinate localised improvements and fill the gap between the vibrant local and dormant national levels of government.

Benefiting in part from the reduction in violence and the relaxation of De-Baathification, this awakening is also an act of defiance by the once efficient machinery of government against political gridlock and incompetence at the top.

The collapse of the regime, destruction of most files and data banks and the decimation of the middle levels of the bureaucracy under the impact of De-Baathification, emigration, attrition and cronyism, all but eliminated the Iraqi government's ability to translate political programmes, declarations and intentions into concrete policies and actions. This is best demonstrated in the repeated failure to implement the investment budget.

The paralysis in the Green Zone, where most Ministers work and reside, is allowing technocrats of lower levels to reclaim control of the system. One of the main areas of progress is that of policy implementation and follow-up.

4.2.1 Policy Planning and Implementation

This problem with policy planning and implementation has deep historical roots which were only exacerbated by the invasion and its aftermath. In the 1960s and 1970s Iraq built its own version of the socialist central planning system. Each line ministry represented a vertical ‘stove pipe’, living and operating in near perfect isolation from other ministries. Bureaucrats’ only lines of communications were through their respective ministry’s chain of command.

Coordination and planning of ‘routine’ investments was carried out by the Ministry of Planning (MoPDC today) which concentrated in its hands most policy making, data processing and analytical tools. Major projects requiring cross-departmental coordination, such as the post 1991 war reconstruction, were left to the Revolutionary Command Council (RCC). The RCC was the only institution with oversight of the entire system including the secret budget.

This inefficient (if functional) system, suited best to the needs of war economy, gradually corroded over the 80s and 90s until it was dealt a mortal blow with the invasion of 2003. First, it was decapitated by the removal of the RCC. Then, it was dismembered by the introduction of political and ethnic quotas in the allocation of Ministerial portfolios. The quota system further deepened the isolation of the ministries from each other, turning each of them into its own separate fiefdom, belonging to one or the other party. Not even the Prime Minister let alone the Minister of Planning could ‘instruct’ a new Minister to follow a certain policy, particularly if it requires sharing of power and resources with other Ministries. This situation is further

complicated by the greater powers given to the Governorates and regions without a clear coordinating role at the centre.

The dual **fuel and electricity shortage** is a demonstration of this breakdown. The ministries of oil and electricity (MoO and MoE) have a history of animosity and were only capable of working with each other under RCC duress. Today their lack of cooperation is credited, to some extent, with the persistent shortage of both fuel and power. The MoE refuses to tailor its plans for power generation expansion to coincide with the existing gas and fuel supply network. Instead, the Minister is seeking authority to produce his own natural gas. MoE is also refusing to dedicate the necessary power to support existing or future refineries. Likewise, the MoO is focused on increasing exports and production of refined products for consumption and refuses to take MoE needs into account in its investment plans. It will never voluntarily cede the prerogative of producing and transporting natural gas to another Ministry. To make matters worse, whatever energy and fuel are produced (or imported) are prevented from being efficiently shared by competing regions and Governorates. Refusal by the Governorates to share power is often credited with unnecessary outages affecting all users. Border Regions and Governorates often commandeer fuel shipments transiting their territory.

Neither the line Ministries nor the Ministry of Finance (MoF) inherited policy planning and coordination capabilities from the previous regime. Economic and planning functions at the line Ministries were, in reality, accounting and engineering functions. Ministries received detailed instruction from MoPDC which they duly carried out. The MoF was the Government's cashier, releasing funds and ensuring proper accounting but had no analytical or policy planning capabilities.

Within this context, it is no wonder that the budget, now mostly controlled by the MoF, is closer to a cash distribution formula than to a monetary embodiment of a coherent economic policy. The National Development Strategy, meant to serve as the basis for the investment budget is compiled with diminishing rigour by MoPDC and is only taken seriously by foreign donors, if at all. The power to approve donor financing (through the Iraq Strategic Review Board (ISRB)) is one of few residual competencies of MoPDC. Its' role has thus been reduced to 'donor coordination', a function it is less and less capable of carrying out due to its declining domestic policy coordination role.

Ministries used only to carrying out clearly detailed instructions are simply not equipped to budget and spend multi-billion investment allocations. Without proper costing, commercial or even technical justification, the projects underpinning allocations, for example, to MoE and MoO over the past three years, were simply declarations by the government of its intent to alleviate fuel and electricity shortages. The situation is even more challenging at the Governorate level,

which never had any spending let alone policy planning functions. The doubling of their investment budgets is driven primarily by politics as explained elsewhere in this paper.

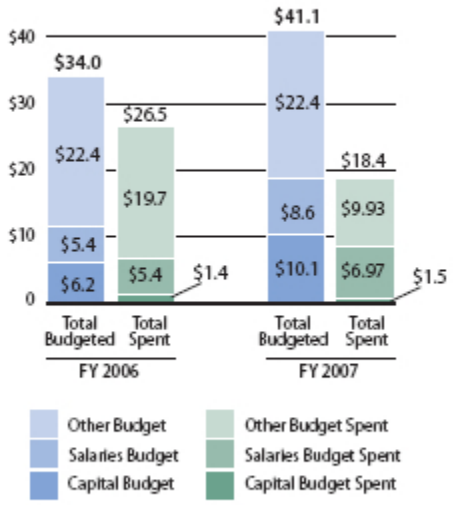
Faced with an extremely low level of investment budget execution, estimated at 22% in 2006, the past year saw concerted efforts by various actors to address this problem.

Figure 2.37

BUDGET EXPENDITURE COMPARISON FOR 2006 AND 2007

$ Billions

Source: Treasury, Response to SIGIR Data Call (1/4/2008)



Notes:
1. Numbers are affected by rounding.
2. 2007 expenditure data is reported for the period January through September 2007.

Source SIGIR, January 2008

Spearheaded by a number of mid and high level technocrats, efforts are under way to improve budget execution at various institutions, including the Council of Ministers Secretariat (CoMSec), the National Security Council (NSC), the Prime Minister's Advisory Council (PMAC), Supreme Economic Council (SEC), Parliament and the Provinces.

In all these cases, efforts are aimed at building cross-departmental, multidisciplinary and in some cases inter-regional policy planning, coordination and review functions, either at the national programme level or around concrete reform and investment projects. Typically, these efforts involve Director General level officials from all the relevant ministries and entities. They are usually authorised to draw necessary resources from the private sector and civil society as well as international donors. Sometimes, they are also authorised to circumvent or expedite spending procedures and decision.

The Supreme Economic Council (SEC) and the National Security Council (NSC) have worked on the International Compact with Iraq (ICI) and the National Security Strategy, both examples of medium term planning at the national programme level. Both have established inter-ministerial policy entities. The Policy Planning Unit (PPU) at the SEC is meant to coordinate, monitor and review of policies enshrined in the International Compact with Iraq. The PPU is also meant to provide a single point of contact to International Development Partners thus streamlining coordination of donor assistance. The Joint Planning Centre at the NSC is focused on policy planning and analysis but has no monitoring or review functions. Both entities are comprised of Director General level officials from all ministries and government agencies concerned, divided into thematic working groups to address particular issues or projects e.g. Energy, Human Development, etc.

The Prime Minister's Advisory Council (PMAC) is working in the same vein at the level of discreet projects such as the US$500 million water and agricultural development project. The project involves cross- departmental and interdisciplinary cooperation from the design stage through to implementation and monitoring. They are also working on resolving problems of coordination between the Ministries of Oil and Electricity

The PMAC is also cleaning up the legislation from dozens of Revolutionary Command Council Orders and other Saddam era laws. Interdisciplinary teams are preparing documentation and legislation which is then used by Parliament to sunset some of these Orders and laws.

Other examples of relatively successful project level coordination include the roll-out of the Social Safety Net, spearheaded by the Ministry of Labour and Social Affairs and involving a number of ministries and departments.

The Public Expenditure and Institutions Assessment (PEIA) completed recently by World Bank depicts another example of cross departmental cooperation, aimed at improving efficiency of public finances. These efforts are spearheaded by MOF and involve the Central Bank, Trade Bank, Ministry of Planning (MoPDC) and the Supreme Board of Audit. The PEIA draft indicates that Iraq’s public finances are not far below the average for the region.

In a related effort, the MoPDC has been assisting the Governorates in the development of Provincial Development Strategies to provide a rationale for the ever growing provincial investment budget allocations.

The Council of Ministers Secretariat (CoMSec) is playing a similar cross departmental coordination role, focusing on the seemingly trivial but critical issue of follow-up of decisions adopted by the Council of Ministers.

It is too early to assess the effectiveness of all these efforts. The Government claims that investment budget execution more than doubled in 2007 to reach 40% (Preliminary figures by the US Department of the Treasury indicate a much lower success rate with execution standing at 10% by September of 2007, *SIGIR*) .

So far these structures have been more efficient in the areas of reporting and analysis and less so in the areas of coordination and review. These are, however, relatively new functions for the officials involved and it should be expected that they will take time to evolve.

The development of Iraqi policy planning and coordination functions and improvement in budget execution is already changing the dynamic of the relationship with foreign donors. There is a growing impatience among Iraqi officials with the donors', hitherto, central role in reconstruction effort. The disconnect is exacerbated by the donors' lack of awareness of many initiatives and their continued dependence on mechanisms built around the Ministry of Planning. High turnover and declining quality of personnel of donor personnel often means that Iraqi officials see little value from the interaction with them.

The bureaucratic awakening offers unmistakeable signs of a machinery of government adjusting to a new reality as it springs back into action. Directors General and experts working in interdepartmental and interdisciplinary teams outside their Ministerial hierarchies are taking a leap of faith in their quest to bypass old and new political and procedural bottlenecks. The success of their efforts will depend on the authority and resources made available to them which in turn determines the ability of these teams to make a difference.

As these efforts proliferate, the need will increase for coordination among them in order to avoid overlap and maintain the integrity of the budget process.

The main challenge to such efforts remains the lack of clarity in the allocation of powers and resources across government and between the centre and the regions. As the declining fortunes of the Ministry of Planning reveal, policy planning bodies are only worth as much as the enforceability of their policies.

Like the security achievements of the military surge, the bureaucratic awakening is fragile and fleeting. After decades of abuse and years of chaos this may well be the last chance to fix Iraq's machinery of government. Without clear political direction and the resolution of underlying political differences this surge will ultimately run its course.

5 Defunct Political Process

The surge was meant to create the enabling environment for political dialog and compromise, which in turn would provide the foundation for lasting peace. Yet, the political process seems to

be heading in the opposite direction with the **deepening of political fissures and the emergence of new cross cutting fault-lines**.

Having all but abandoned the notion of a 'national unity government', there is a deepening schism between government and opposition, both within and outside parliament.

The ruling parties are acting more assertively, seeking to capitalize on the improved security environment and consolidate their control of government. Parties engaged in the political process in and outside government have a growing sense of unease about new and emerging actors and are seeking to establish facts on the ground to consolidate their 'first mover advantage'. All Iraqi actors are growing in experience and confidence and are less susceptible to external influence.

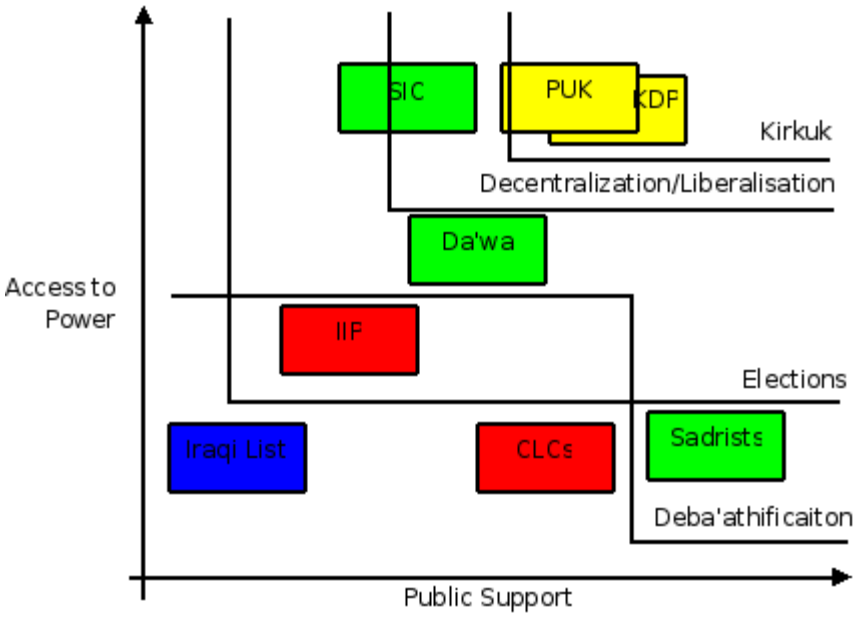
These developments are reducing the scope for compromise even when the improved security environment is opening new opportunities for dialog. Yet, compromise is needed on fundamental issues related to the future of Iraq including: 1) the degree of decentralization, 2) the relative roles of the state and the private sector, 3) the role of religion and the religious establishment, 4) the mechanisms of transitional justice and 5) relationship with the surrounding region and the wider world.

Both insiders and outsiders share a high degree of **distrust in the political process** as a platform for the negotiation and resolution of these issues.

The political process, launched with the formation of the Governing Council in July 2003, on the basis of a sectarian and ethnic allocation formula (Muhasasa,) remains hostage to that principle despite the succession of elections which have taken place since. With deep mistrust and a historical 'tradition' of winner-takes-all, **ethnic and sectarian quotas have emerged as the main framework for power and resource sharing**.

This framework, however, is more often a cause for gridlock than consensus, especially when the issues in question cut across ethnic and sectarian lines. Thus, Iraqi political leaders remain deadlocked on almost every issue, even when dialog, within the framework of nascent democratic institutions, seems to point to compromise.

Most opposition Ministers left the National Unity Government of Nuri Al-Maliki in the Spring and Summer of 2007 protesting the failure of the ruling parties to share power. Attempts at reconstituting the government along 'professional' lines have faltered against the sectarian allocation principles at the heart of the process. In the interim the Iraqi government is run literally by a handful of politicians who have all but monopolized decision making over the past five years.



Simplified illustration of tension between position of power and public support for the various groups and the cross cutting divisions and alignments on selected issues

It is misleading to interpret the passage of key legislation, such as the Amnesty Law as a sign of compromise. Rather than addressing the key political questions the passed laws either paper over them or reflect the position of the ruling parties.

This is not to say that compromise is impossible but that the search is hampered by the mechanisms and personalities which dominated the political process over the past five years.

The recent passage of the **budget, amnesty and provincial powers laws** is a case in point. The three laws were passed as a package. Some, including Sheikh Khalid Al-Atiya, the respected First Deputy Speaker of Parliament, say that this was done in violation of the Constitution and Council of Representatives Procedures. The laws had to be passed in a package not because all those who voted agreed with each law, but because each of those who voted only agreed with one of the three laws (or even just parts thereof).

The most discussed issue on the budget was not how accurately it reflected agreed upon policies and priorities but rather the amount allocated to Kurdistan. At the end, an important component of this issue, the allocation to the Kurdish Peshmarga (regional guards), was left to the Prime Minister to decide in consultation with the Kurdistan Regional Government.

There was little discussion about the relevance of an Amnesty Law which excludes most charges related to the insurgency (e.g. terrorism, murder). The Kurdistan Regional Government who's members of parliament voted for the law has declared that it is not applicable to the region. The

Sadrists supported the Governorates' Powers Law, only because it opened the way for provincial elections, which they hope to win.

The laws were passed despite a boycott by all opposition Members of Parliament except the Sadrists with the Speaker casting the tie-breaking vote. The Presidency Council then vetoed the Governorates' Powers Law. This amounted to a beach of trust for the Sadrists who made the passage of the whole package possible by breaking rank with other opposition groups in the hope of getting the regional elections expedited. Later the Presidency was forced to rescind its veto.

The ruling parties continue to pursue decentralization as a way of preempting challenges by existing and new opposition groups, establishing hard to reverse facts on the ground in the process.

The law on the Formation of Regions which comes into effect shortly – May 2008 – will make it easy and irreversible to form a Federal Region. If new regions adopt a similar attitude to Federalism as the Kurds the state could be hollowed out.

Investment allocations to the Governorates have been doubled again in the 2008 budget and the largely unspent 2007 allocations rolled over. More than 30% of the budget is now allocated directly to the regions and Governorates, a process, that will be hard to reverse and that could leave the central government without sufficient resources to carry out its obligations. These measures have been taken in the face of vehement opposition by nationalist opposition parties both within and outside the political process.

5.1 Hydrocarbon Legislation

Nowhere is the gridlock caused by the sectarian political process more evident than in the **hydrocarbon law discussion**. The discussion encompasses many of the fundamental issues determining the shape of the future Iraqi state, from the sharing of power and resources between the center and the regions to the role of the private sector and the protection of minorities.

The discussion is closely correlated with the issue of 'disputed territories', relations with neighbors and the wider world. Oil has a symbiotic relation with the modern Iraqi state. It played a determining role in Iraqi economy, politics and shaped the relationship between state and society. Petroleum nationalization carried out piecemeal in the 60s and 70s of the last century is, for many, an integral part of Iraqi national identity.

The negotiations held, formally, between teams representing the Ministry of Oil (MoO) and the Kurdistan Regional Government (KRG) over almost two years have become a proxy to competing conceptions of Iraq's past and future.

The MoO sought to establish continuity with the national industry model, giving the state a pivotal role in regulating and managing the sector through the Ministry and the Iraq National Oil Company (INOC). It sought to improve efficiency and prevent abuse by augmenting the system with market and public accountability mechanisms including transparency and power-sharing with the regions. In particular the MoO sought to break with the excessive centralization of the industry by reconstituting INOC, abolished by Saddam in 1987, as an operationally and commercially independent enterprise.

The Kurdistan Regional Government had radically different vision. It sought to abolish the existing system altogether, blaming it, not only for inefficiency and abuse but also, for the tragedies that befell the Kurds at the hands of successive, oil financed, regimes. What little role they envisaged the state as playing, in the areas of policy and regulation, was largely delegated to the regions. Decentralization and liberalization were promoted, not only as means to harness market forces for the rapid development of the sector but also, to prevent corruption and abuse.

Despite the gulf that separates those two positions, the parties came close to a compromise which combined a high degree of decentralization and liberalization with effective policy making, coordination and regulation at the national level.

Emphasizing the constitutional principle of undivided public ownership of oil, the compromise involved a trade-off, constraining regional powers with national coordination. A separate law establishing a transparent mechanism for revenue sharing was meant to assure the Kurds and other regions of their fair share of revenues, while allowing for the maximization of revenues through a more coherent management structure.

Most of the public discussions on the hydrocarbon legislation, especially outside Iraq, focused on the role of private sector and the possible use of Production Sharing Agreements as the basis for model contracts. This misses the main point of the negotiations – the distribution of powers between the Federal center and the region.

The compromises encoded in the draft adopted by the Council of Ministers in February 2007 were fragile and vague. The law included many contradictory provisions and papered over unresolved differences. At the end it collapsed under the impact of a series of events including:

1) a review by the Experts (Shura) Committee of parliament which spelled out the compromise in a clear language and deleted the reference to ethnic quotas in the formation of the Federal Oil and Gas Council – the highest national policy making body

2) The introduction of an annex by the Ministry of Oil allocating all producing fields to INOC

3) The introduction of a draft revenue sharing (Financial Resources) law which gave the Ministry of Finance nominal control over the oil account.

4) A parallel development, which was not directly related to the hydrocarbon law discussion but, undoubtedly, affected the political context was the lack of progress and eventual lapsing of article 140 of the Constitution pertaining to the ‘normalization’ of the situation of Kirkuk and the 'disputed territories'.(see below)

None of the above developments alone represents a clear break with achieved agreements and compromises but together they seem to have intensified the Kurd’s mistrust in the intentions of the national government.

5) The Kurds then adopted their own Oil and Gas Act and

6) Signed 15 contracts with independent international oil companies including 12 in a period of one month. Some contracts were signed for blocks on 'disputed territories', outside the current boundaries of the Kurdistan Region. One contract, given to the Kurdistan Region’s own oil company, was for a currently producing field, already under development by the Federal Ministry of Oil.

The right to negotiate and sign contracts, pending review by the Federal Oil and Gas Council is contained in the draft oil legislation. The contracts, however, violate the spirit of the negotiations and also possibly the letter of the pending law since they were awarded through a process that was neither competitive nor transparent and in the absence of an agreed national sector development strategy. Although the KRG claims that the contracts comply with the region's own law and their own interpretation of the constitution, they are clearly in violation of currently prevailing Iraqi laws, having entirely bypassed the national government.

Since then (November 2007) no serious efforts have taken place to resume negotiations. Each side seems determined to proceed according to their own script, establishing facts on the ground in the process. The Ministry of Oil has declared the Kurdish contracts null and void and is 'blacklisting' companies who signed them (including OMV of Austria and the Korean National Oil Company). It is proceeding with its own negotiations with five oil majors (Including Exxon, Shell, BP, Total and Chevron) for two-year Technical Service Contracts on currently producing fields. This could boost output by up to 0.5 million bpd. In February 2008 the MoO completed a short-list of companies for a bidding round which could be held as early as mid 2008 for longer term exploration and development contracts. The outline of the model contracts is still a work in progress. It is expected to be a risk-sharing though not a production sharing contract since the latter has been all but vetoed by public backlash. The KRG are negotiating further contracts.

The story of the hydrocarbon law demonstrates many of the shortcomings of the emerging political system. A small circle of unelected officials debated a law that touches upon many of the key issues affecting the future of Iraq. Any compromises forged by the technical teams were upturned by the 'political leaders.' A similar dynamic affected the proceedings of the Constitutional Review Committee, which managed to agree on substantive changes to the constitution, addressing some of its greatest shortcomings, only to be buried by the very same 'leaders'.

The Kurdish position on the degree of decentralization reveals the depth of their mistrust of the new political system and the checks and balances it is supposed to have placed on the power of the Federal Government. The Kurds explicitly state that government control over the oil industry or over the oil account is unacceptable to them. They are even reluctant to allow the national Parliament to 'open' the agreed law or review contracts. They are pushing for a greater role for the private sector to provide an insurance against leaving large parts of the industry in the hands of government (or government owned entities,) which they do not trust.

The difficulty in passing the hydrocarbon law and the tenacity with which the Minister of Oil, Dr. Hussain Al-Shahristani, is pursuing his state-centric position is also indicative of the changing political environment.

Al-Shahristani, an independent member of the United Iraqi Alliance, is at odds with many of his colleagues in Government. He is relying instead on support in Parliament, the Shia religious establishment and the broader public. He is openly challenging some of the more radical interpretations of Federalism as depicted in the constitutions and is seeking to assert a grater role for the state in economic life than was envisioned in the early days of the new regime. He is not shying away from open conflict with the Kurds, who have been an indispensable power broker for most of the past five years.

The Ministry benefited from the ongoing campaign by Iraqi oil experts seeking to rationalize the draft law and strengthen the governments capacity to coordinate and regulate the sector. The campaign has the added credibility of including the main drafters of the first version of the law in addition to the most senior Iraqi oil experts.

The Iraqi oil experts' championing for a greater state role is another indication of the backlash against what is widely seen as excessive decentralization, liberalization and general weakening of the state since the invasion. This backlash cuts across political parties and ethnic groups, perhaps with the exception of the Kurds. This is feeding into tensions between them and the rest.

Persistent US pressure to pass the hydrocarbon law has failed to compel the parties to compromise, revealing the limits of US influence in Iraq today.

5.2 Potential Conflict over Kirkuk

The Special Representative of the UN Secretary General to Iraq, Stefan De Mistura recently called Kirkuk a 'ticking bomb'. This uncharacteristically blunt assessment is a reflection of the gravity of the simmering tensions around the future of Kirkuk and more generally the potential for conflict on all issues related to the boundaries of self determination for Iraq's Kurds.

For most of the past five years the two Kurdish parties enjoyed a privileged position on the Iraqi political scene. They were better organized and resourced than most other parties. They had more government experience from managing the Kurdistan Region since 1991. As opposed to most Arab parties, they had a real constituency providing them with a strategic depth and a sense of accountability.

Despite fighting a bloody conflict for most of the 1990s, the two Kurdish parties have maintained a more or less united position on most issues, both inside the region and in Iraq. They also enjoyed good relationship with the US, which had to rely on their support especially after Turkey refused to allow the use of its territory for the invasion in 2003.

Their armed forces, the Peshmarga, are by far the best equipped and most disciplined of all military formation operating in Iraq to this date, so much so that they provide close protection to most senior Iraqi officials. Kurds also hold key positions within the army and form the core of key military units.

This has allowed the Kurdish parties, despite their minority status to play the role of the power-broker, shaping many of the policies of the past five years.

The approach of the two Kurdish parties despite the differences between them (described above) is two fold. On the one hand, they are working to expand the boundaries of Kurdish self determination, politically, economically and geographically, stopping just shy of outright independence. On the other, they are seeking to maintain sufficient influence over the rest of Iraq, to ensure that it does not become a threat to the Kurdish people again. This approach is born out of bitter historical experience as well as the political reality which makes an independent Kurdistan impossible, at the moment.

For most of the past five years, the two Kurdish parties succeeded in convincing their key political partners in government that a relatively weak central state formed out of semi-independent regions is a win-win solution for everyone. Former exile parties, which associated the Iraqi state with tyranny, shared this view, at least in theory. This vision was reflected in the political mechanisms developed since the invasion, which placed a heavy emphasis on ethnic and sectarian quotas and gave party leaders more power than government officials. It is also reflected

in the Constitution, which vests significant powers in the regions at the expense of the federal government.

The Kurdish parties' main ally in this pursuit was the Islamic Supreme Council, and by extension the United Iraqi Alliance (the largest coalition of Shia parties). This partnership is showing signs of strain on both practical and political grounds. As Parliament and government proceed to interpret and implement the Constitution, it is becoming clear the Kurdish parties had greater degree of decentralization in mind than everyone else. Federal officials, attending to the day to day business of government, are often confronted with the difficulty of managing a state with such a high degree of decentralization. The oil law and budget discussions described above are cases in point. The Governorates' powers law, adopted without much Kurdish input, since it does not apply to them, rolls back many of the decentralizing provision of the Constitution. It garnered heterogeneous support in parliament across sectarian lines demonstrating the emerging tilt towards consolidating state power.

Politically, the United Iraqi Alliance, including the Islamic Supreme Council (ISC) is less committed to the cause of strengthening the regions than their Kurdish allies, particularly since they have much less confidence in their ability to dominate them. Many UIA officials have invested in - and aspire to keep - national political office and would like to see more power and resources at the center.

Although nominally only in control of the three Kurdish Governorates (Erbil, Duhok and Suleimania) the Kurdistan Regional Government has been effectively in control over a larger area which includes swaths of four other Governorates (Diala, Salahuddin, Taameem and Nineveh). They have been dominating the security structures and Governorate councils in most of these provinces. Kurdish control over these territories is overt and was part of the justification for their claim of 17% of the budget instead of the 13% understood to be the share of the Iraqi population living in the three KRG provinces.

Perhaps the main case where the win-win narrative falters is Kirkuk and the other 'disputed territories' in Nineveh, Salahuddin and Diala, where Kurdish gains are increasingly seen as a loss by all the other actors and vise versa. Disagreement on this issue, though barely articulated, is fueling all other disputes. It is increasingly becoming a harbinger of violent conflict.

approximate map of the disputed territories- between the red and green lines
source: geology.com

Many Kurds deported forcibly from Kirkuk under Saddam's policy of Arabisation have been allowed to return. There is little evidence of forcible removal of non-Kurdish residents from the disputed areas but the Kurds do not hide their desire to see a transfer of those who were brought in by Saddam back to where they came from.

Article 140 of the constitution was essentially meant to formalize Kurdish control over the 'disputed territories', first through a process of 'normalization' – population transfer and compensation - and then through referenda to determine which parts of the disputed Governorates will be included in the Kurdistan Region.

Without officially reneging on the agreed upon formula, the government allowed article 140 to lapse at the end of 2007, largely through inaction. The status of the article is unclear, though most including the Kurdish parties are working under the assumption that it has been extended for six months.

The issue is so explosive and the differences among erstwhile allies so deep that there has not been a real discussion on it since the drafting of the Transitional Administrative Law (TAL) under Paul Bremer in 2004. Article 140 of the constitution is almost a verbatim copy of article 58 in the TAL.

Arab-Kurdish confrontations over other less explosive issues have been more overt, acting as both proxies for Kirkuk and being exacerbated by it. There were several occasions over the past 18 moths where Iraq's fractious Arab political class, including Shia and Sunni parties in government and opposition united against the Kurdish parties. The issues ranged from the relatively harmless ban on the Iraqi flag, imposed by the Kurdistan Regional Government in September 2006, to the dispute over the allocation to the Kurdistan Regional Government in the

2008 budget and the oil contracts. Almost all parties objected to the allocation of 17% to the KRG although the same percentage was awarded to the region in the previous two budgets. The subdued reaction by most Arab politicians to the Turkish incursion in pursuit of the PKK is the clearest indication yet of the rising tension.

Together these tensions are creating a new schism which is contributing to government paralysis and threatening Iraq's territorial integrity. If neglected they may very well escalate into a new conflict.

6 Scenarios

6.1 Putin without Putin

The first scenario involves a continued rolling back of some of the excesses of the past five years in every respect – religious extremism, reformist zeal, state failure. This process would be coupled with a change in the political leadership. New power structures would be drawn from the former regimes' institutional but not party elites – Concerned Local Citizens commanders, military and security services personnel, mid-level technocrats.

This is similar to the emergence of Putin in Russia at the end of the chaotic Yeltsin era, which brought some of the KGB and other Soviet era structures back to power but not the Communist party. This dynamic would be fed by a similar public yearning for order after a prolonged period of chaos and uncertainty.

This option will necessarily involve the scaling back of some of the achievements of the past five years along with the excesses but is likely to be the least destabilizing in the medium term.

The largest Shia group, the Sadrists, could accept this development as long as no prominent Baathists are involved in the 'restoration'. The other dominant political groups, including the Kurdish parties and other former exiles, are less likely to accept it.

The holding of elections on schedule and according to new legislation could facilitate a less violent transition. The nature of the political structure that would emerge to lead these constituencies and their relation to the Ba'ath party will determine the degree of resistance (and violence) engendered by this scenario.

The Kurdish leadership will be the hardest to reconcile with the resurgence of the state under structures associated with the former regime. This may further intensify tensions around Iraqi Kurdistan. Indeed the greatest threat associated with this scenario is a violent conflict a la Chechnya. 'Standing-up' to the Kurds may become a rallying cry for Iraqi Arab nationalists and the battle-ground on which they demonstrate their credentials just like Putin used Chechnya to consolidate his grip on power.

6.2 Indefinite Surge

Another scenario would see prolonged, substantial US presence to protect the current political leaders, allowing them to hold on to power and resist change. Elections may be postponed or subverted. The ruling parties would continue to dominate government, ignoring and at increasingly suppressing descent while maintaining the appearance of a political process. The recent operation in Basra, could be a harbinger of this scenario.

The main avenue for the current leaders to diffuse challenges by emerging actors is to accelerate the decentralization of government and liberalization of the oil sector – in essence removing the target for any power claims. Substantial moves have been undertaken in this direction, such as the law on the formation of the regions, the accelerated increase in provincial budgetary allocations and the Kurdistan oil contracts.

This scenario will maintain the motivation for parts of the insurgency, especially as they see US forces propping up a regime they do not accept. It could be less violent than before since, parts of the insurgency would be co-opted in the process and the momentum from the 2006 civil-war would have been broken.

Without a legitimate and viable central state, the resurgent bureaucracy would likely give up. It will be a race against time whether an entirely new machinery of government, emerges at both national and regional level before total state collapse.

The constrained legitimacy of the emerging regime would continue to pose a threat to Iraq's territorial integrity. Encroachments on Iraqi territory by Turkey and Iran already reveal how vulnerable the Iraqi state has become.

This scenario will require a 'permanent surge' – an extensive and prolonged MNFI commitment to protect unpopular leaders from domestic challenges, prevent conflicts between regions and protect an increasingly fragile Iraq from external threats.

While the most peaceful in the short term, as long as significant US presence is maintained, this scenario is likely to be volatile and fragile in the medium and long term.

6.3 Somalia

The worst case scenario would see the 'surges', both military and bureaucratic, run their course without achieving their objectives.

Neither the current leaders nor the opposition groups challenging them emerge as clear winners. Al-Qaeda is revived as unresolved political, sectarian and ethnic conflicts are reignited. Violence creeps back-up completing the collapse of the machinery of government and the exodus of the

technocrats and middle classes. Recent up-tick in violence may be an ominous sign of movement in this direction.

The US is eventually forced to withdraw or return to the pre-surge mode of operation, leaving a Somalia like vacuum behind. Iraq's neighbors would feel compelled to intervene preemptively to prevent violence from spilling over, carving out buffer zones and entire regions in the process.

Eventually, the international community is forced to intervene to address a growing threat to international peace and security and a spiraling humanitarian catastrophe. The US is again at the forefront as the only nation capable of leading such an intervention and as the party responsible for bringing Iraq to this state.

7 Conclusion and Recommendations

None of these three scenarios would count as ‘victory’ for the US, in the sense that none would leave behind a fully fledged democracy in Iraq. The second scenario is only possible if the US is prepared to commit forces at the same level of the ‘surge’ over a long period.

The Somali scenario is not only dire for the Iraqi people but could have dangerous repercussions for the rest of the Middle East, the United States and indeed the world. This kind of stateless ‘black hole’ breeds a kind of predatory political economy in which violence, sectarianism and crime feed on each other and spread.

That leaves the Putin scenario. Any US or international strategy should focus on the best way to ensure that this scenario does not lead to a Chechnya like conflict in Iraqi Kurdistan and to moderate likely authritarian trends.

This will require action in four directions:

7.1 A UN Resolution for Kirkuk

Diffusing the brewing crisis over Kirkuk and the disputed territories will require more than the Iraqi political class has to offer at the moment. The United Nations efforts need to be bolstered by a separate UNSCR under Chapter VII. The resolution should not be limited to the disputed geographic boundaries but to the whole package of issues related to extent of Iraqi Kurdistan's self determination. This will allow for the mobilization of necessary international resources and attention on this set of issues, without neglecting Iraq's other needs.

A UNSCR resolution under Chapter VII is justified by the international nature of the problem, involving in addition to Iraq, Iran, Syria and Turkey and by the real threat of contagion it represents.

It should be possible to persuade the Kurdish leadership of the need of a separate UN mandate, both as the only realistic way for non-violent progress on this issue, and as a way to legally internationalize their cause.

The Iraqi government should also be able to recognize the need for separate, dedicated international attention to the issue, as it is the weakest party in this conflict.

Another benefit of a separate resolution on Kirkuk is that it offers a path for transition form previous Iraq resolutions. It would allow the rest of Iraq to emerge from the Chapter VII framework while keeping the most acute issues under international responsibility.

7.2 A Transparent and Accountable Revenue Sharing Mechanism

Resolving the conflict over the oil legislation is a key to unlocking Iraq's development potential. It can help build trust among Iraqis and provide a blueprint for Federalism in other areas. Addressing the issue of oil has a complementary relation to efforts aimed at diffusing tensions over Kirkuk. Iraq's oil, however, merits being addressed in its own right as the country's main source of income.

One approach for breaking the deadlock on the oil issue would be the establishment of an efficient, transparent and accountable revenue sharing mechanism:

a) Iraq has just declared its commitment to the Extractive Industries Transparency Initiative (EITI), the KRG commitment to this framework is enshrined in the region's Petroleum Act. EITI could serve as the foundation for building trust on the revenues generated by the various parties and the way they are managed.

b) The next step would be to renew the Development Fund for Iraq's (DFI) arrangement to capture all of Iraq's oil revenues with a fully empowered international oversight mechanism. The DFI arrangement contained in UNSCR 1483 expires at the end of 2008. Iraq has expressed interest in renewal which could be arranged with the help of International Financial Institutions.

c) Third is a revenue sharing law, which establishes a robust and transparent mechanism, that does not hollow out the budgetary process. Such law would combine a formula mechanism that assures the regions of their fair share without rendering meaningless the budgetary process and robbing the federal government of the ability to set economic policy vested in it by the Constitution.

These are realistic measures that are in reach of the parties involved, and would be much easier to achieve than current efforts to move on the entire hydrocarbon package simultaneously.

Once a modicum of confidence on the management of revenues is established it may become easier to exchange concessions on the issue of sector management and the role of the private sector.

7.3 Free, Fair and Timely Elections

Emerging forces including the Concerned Local Citizens, the bulk of the Sadrists observing the ceasefire and the awakening bureaucracy need to be introduced into the political process in a meaningful and non-violent way.

This necessitates the holding of local elections before the end of this year and national elections in 2009. The elections need to take place under new legislation that dispenses with the closed lists, which favor the political parties and their unaccountable bosses. Better assurances against abuse need to be put in place, including a more robust Electoral Commission, civil society and international monitoring.

The nature of the political structures which would eventually emerge to lead the new constituencies, their relationship to the Baath party and to other centers of power will determine the both how peaceful the transition, and how authoritarian the emerging regime will be. The experience of the surge provides valuable lessons in promoting moderation within all groups and isolating the extremists. The nuanced approach adopted by General Petraeus towards the insurgents and the Sadrists alike needs to be maintained and expanded.

7.4 New Legitimate Multilateral Framework

The US role in Iraq needs to transition into a more legitimate and multilateral framework

This is not only necessary to remove the stigma of the occupation from the US forces and the new Iraq, but also offers a path towards disengagement. As a Prince Turki Al-Faisal of Saudi Arabia once said, the 'the withdrawal should not be as illegitimate as the invasion.'

This transition can not be achieved through the Iraq-US treaty being negotiated between two outgoing governments. A treaty of this nature, regardless of its merits, will inevitably lack the legitimacy it is meant to confer. It may even further discredit the current government, which few inside and outside Iraq believe capable of negotiating with the US on equal footing.

The UNSCR resolution on Kirkuk proposed above could form the best mechanism for transitioning US role in Iraq from the status of occupying forces it acquired with the invasion. The mandate will authorize US operation throughout Iraq in order to prevent a conflict over Kerkuk which has the potential of engulfing the entire region. Such a mandate would have more legitimacy and appeal to bring more international partners on board.

The experience of Eastern Europe and the former Soviet Union does not only afford sobering insights into the limits of change in countries emerging from tyranny and the possibility of restoration of, at least part of, the old power structures. It also offers hope that over time, old elites will gradually fade from the system, opening the way for new leaders who take their countries into the next stage of development. For this to take place, however, two conditions are essential: peace and a functioning mechanism for the succession of power. These are the greatest challenges facing Iraq today.