

THE STATE OF IRAQ

Marina Ottaway and
Danial Kaysi

MIDDLE EAST | FEBRUARY 2012

CARNEGIE ENDOWMENT

FOR INTERNATIONAL PEACE

WASHINGTON DC ■ MOSCOW ■ BEIJING ■ BEIRUT ■ BRUSSELS

THE STATE OF IRAQ

**Marina Ottaway and
Danial Kaysi**

MIDDLE EAST | FEBRUARY 2012

CARNEGIE ENDOWMENT

FOR INTERNATIONAL PEACE

WASHINGTON DC ■ MOSCOW ■ BEIJING ■ BEIRUT ■ BRUSSELS

© 2012 Carnegie Endowment for International Peace. All rights reserved.

The Carnegie Endowment does not take institutional positions on public policy issues; the views represented here are the authors' own and do not necessarily reflect the views of the Endowment, its staff, or its trustees.

No part of this publication may be reproduced or transmitted in any form or by any means without permission in writing from the Carnegie Endowment. Please direct inquiries to:

Carnegie Endowment for International Peace
Publications Department
1779 Massachusetts Avenue, NW
Washington, D.C. 20036
Tel. +1 202-483-7600
Fax: +1 202-483-1840
www.CarnegieEndowment.org

This publication can be downloaded at no cost
at www.CarnegieEndowment.org/pubs.

Contents

Summary	1
The Roots of Conflict	3
A Deeply Divided Country	3
Neighbors Make the Problem Worse	4
Divisions Led to a Multifaceted Pluralism	5
Not Democracy	8
The Post-Withdrawal Crisis	11
The Battle Over Provincial Rights	11
Provincial Powers and Sectarian Conflict	14
Moving Forward	17
Notes	19
About the Authors	23
Carnegie Endowment for International Peace	24

Summary

Within days of the official ceremonies marking the end of the U.S. mission in Iraq, Prime Minister Nouri al-Maliki moved to indict Vice President Tariq al-Hashemi on terrorism charges and sought to remove Deputy Prime Minister Saleh al-Mutlaq from his position, triggering a major political crisis that fully revealed Iraq as an unstable, undemocratic country governed by raw competition for power and barely affected by institutional arrangements. Large-scale violence immediately flared up again, with a series of terrorist attacks against mostly Shi'i targets reminiscent of the worst days of 2006.

But there is more to the crisis than an escalation of violence. The tenuous political agreement among parties and factions reached at the end of 2010 has collapsed. The government of national unity has stopped functioning, and provinces that want to become regions with autonomous powers comparable to Kurdistan's are putting increasing pressure on the central government. Unless a new political agreement is reached soon, Iraq may plunge into civil war or split apart.

To conservatives in the United States, particularly the architects of the war and of the ensuing state-building exercise, the crisis into which Iraq plunged after the U.S. withdrawal was final proof of the ineptitude of the Obama administration in failing to secure an agreement with Maliki that would have allowed a residual U.S. force to stay. But the lesson is more sobering: Iraq demonstrates the resilience of domestic political forces in the face of even an eight-year occupation, thus the futility of nation-building and political engineering efforts conducted from the outside. The U.S. occupation tried to superimpose on Iraq a set of political rules that did not reflect either the dominant culture or the power relations among political forces. And while cultures and power relations are not immutable, they do not change on demand to accommodate the goals of outsiders.

For the second time since the 2003 U.S. intervention brought down Saddam Hussein and his regime, Iraq is facing a real threat of political disintegration. In 2007, the United States held the country together forcibly, but the infusion of new troops could not secure a lasting agreement among Iraqis. This time, the outcome depends on whether the political factions that dominate Iraq and tear it apart find it in their interest to forge a real compromise or conclude that they would benefit more from going in separate directions.

Iraq demonstrates the resilience of domestic political forces in the face of even an eight-year occupation, thus the futility of nation-building and political engineering efforts conducted from the outside.

The Roots of Conflict

A Deeply Divided Country

Many of the problems underlying the present crisis long preceded the U.S. intervention. Iraq has always been a divided country. When it was formed following the dismantling of the Ottoman Empire, Kurds aspired to have their own country and felt wronged by being consigned to minority status in Arab Iraq. Dissatisfaction exploded periodically, first under British occupation and then in independent Iraq. A decade of fighting in the 1960s led to the establishment of a Kurdistan region in 1970. The region was devastated during the Iran-Iraq war in the 1980s, with massive killings at the hands of the Saddam Hussein regime and many Kurdish leaders forced into exile. After the 1991 Gulf War, Kurdistan de facto governed itself under the protection of an internationally enforced no-fly zone. Kurdistan, in other words, never fully integrated into Iraq. The 2005 constitution drafted under U.S. supervision codified Kurdistan's autonomy, giving legal recognition to a situation that had long existed in practice.

The problem of Arab Sunni-Shi'i sectarianism has also been a constant. Sunni-Shi'i tensions exist throughout the Arab world, and particularly in countries like Iraq, Bahrain, and Syria where, for decades, sectarian minorities have ruled by force. True, in Iraq most of the time Shi'a and Sunnis lived side by side without fighting. Some tribes had both Sunni and Shi'i members, and in the cities intermarriage was common. But sectarian identities always played a role in politics. Under Saddam Hussein, Shi'a were slowly being squeezed out of the then ruling Baath Party and responded by forming their own organizations in opposition to the regime, Dawa in the 1970s and the Supreme Council for the Islamic Revolution in Iraq (SCIRI, since 2007, the Islamic Supreme Council of Iraq or ISCI) in the 1980s. Furthermore, Shi'a rose up against Saddam Hussein in the wake of the Gulf War and their subsequent repression added another layer of bitterness to the sectarian tension.

These ethnic and sectarian divisions were the organizing factor of the resistance to Saddam Hussein—the Iraqi National Congress, an umbrella opposition organization created after the Gulf War and propped up by the United States, had nothing national about it but was a conglomeration of ethnic and sectarian parties. Identity-based divisions continued to drive the election-based political process set up under the occupation and are at the root of the post-occupation crisis.

Identity-based divisions continued to drive the election-based political process set up under the occupation and are at the root of the post-occupation crisis.

Neighbors Make the Problem Worse

Iraq's neighbors are not passive spectators to Iraq's ethnic and sectarian tensions. Rather, they take advantage of those tensions to pursue their own interests.

Among Iraq's neighbors, Turkey is the country that has played the most constructive role in Iraq, seeking good relations with all sides. This is an unexpected development, because before the U.S. invasion, Turkey was a strong opponent of Kurdish autonomy, implicitly supporting Saddam Hussein. The Turks have long struggled with their own rebellious Kurdish population and feared that Iraqi Kurdistan's autonomy would both inspire their own Kurdish population and provide a safe haven for Turkish Kurd rebels. After the fall of Saddam Hussein a combination of the new Turkish foreign policy of cultivating good relations and developing strong commercial ties with all neighbors and the weakness of the central government in Iraq following the occupation unexpectedly led Turkey to accept the autonomy of the Kurdish region and to increase its investment and commercial dealings with it, while doing the same with the central government in Baghdad. Turkey also sought to remain neutral in the conflict between Sunnis and Shi'a.

Nevertheless, in the increasingly polarized atmosphere that followed the withdrawal of American troops, Maliki and other members of parliament from his State of Law coalition started accusing Turkey of backing Sunni politicians, despite evidence that Ankara still hoped to help Iraq avoid a sectarian confrontation. In a visit to Iran in January 2012, Turkish Foreign Minister Ahmet Davutoglu made a point of meeting with Moqtada al-Sadr, head of the Sadrist parliamentary group and of the Mahdi Army militia, who is an outspoken supporter of Iraqi unity.¹

Other neighbors did take sides, however. Saudi Arabia and the other members of the Gulf Cooperation Council (GCC) were not unhappy about the demise of Saddam Hussein, a challenging neighbor against whom they had fought alongside the United States in the 1991 Gulf War. But they were deeply disturbed by the crumbling of the entire regime, including the military, and by the introduction of electoral politics which they thought would favor the more numerous Shi'a. Elections results in 2005 and again in 2010 did in fact confirm that assumption: most Iraqis voted based on ethno-sectarian identification, as people normally do in transitional elections in deeply divided societies, and as a result Shi'i parties emerged in a dominant position. Convinced that a Shi'a-dominated Iraq would be open to Iranian influence or even completely dominated by it, the GCC countries shunned Iraq, resisting U.S. pressure to strengthen their ties to Baghdad, and thus leaving Iraq isolated in the region except for its relations with Iran. Suspicions, furthermore, were reciprocal. The Maliki government continued to believe that the GCC countries, especially Saudi Arabia, were ready to back a Sunni opposition to the central government.

Iran has undoubtedly tried to take advantage of the new situation. Under Saddam Hussein, some of the Shi'i opposition parties operated from Iran and

with its support; when these parties emerged as dominant political forces in liberated Iraq, Iran saw an opportunity to influence the new government. But the Shi'i parties were divided among themselves and also not inclined to be dominated by Tehran. The Dawa Party and the Supreme Council for the Islamic Revolution in Iraq (SCIRI), for instance, were rivals and split on many issues.

Moqtada al-Sadr, a potentially crucial ally because of his large following and his control of the Mahdi Army, was headstrong and unpredictable—and constituted a challenge for Iran, the United States, and Prime Minister Nouri al-Maliki alike. In 2008, Maliki went to war against Moqtada al-Sadr to regain control of Basra, and Moqtada fled to Iran. But after the elections, Moqtada resurfaced as a crucial ally of Maliki, seen by many as Iran's man but too independent to be truly trusted by anybody.

During the 2010 elections, Shi'i political parties failed to coalesce into a single alliance, complicating the situation for Tehran. Maliki, the strongest contender for the prime minister's job by virtue of his incumbency, political acumen, and thus his superior ability to manipulate the situation, was also supported by the United States, so he was no more beholden to Tehran's support than he was to Washington's. Iraq thus remained a challenging country for Iran.

Syria's policy toward Iraq has undergone many changes over time, but it has never helped smooth divisions. In the early days of the occupation, U.S. officials accused Syria of not doing enough to close its border with Iraq, thus allowing young men from all over the Arab world to enter Iraq and join al-Qaeda and other militant Sunni organizations. Relations between the Maliki government and Syria thus remained difficult, marked by mutual suspicions. As Bashar al-Assad became increasingly estranged from other Arab countries and faced mounting opposition domestically, it pulled even closer to Tehran and its relations with the Maliki government improved. When the Arab League became openly critical of the Assad regime in late 2011, threatening to impose sanctions and sending observers into the country in a feeble attempt to stop violence against civilian protesters, Maliki refused to join in the chorus of condemnation. He sought to cast himself instead as a mediator between President Assad and the opposition.²

No external actor, including the United States, has succeeded in playing a decisive role in Iraq. With the recent exception of Turkey, all have tried to manipulate the ethnic and sectarian tensions in their own different ways and have contributed to the problems of a country divided.

External actors all have tried to manipulate the ethnic and sectarian tensions in their own different ways and have contributed to the problems of a country divided.

Divisions Led to a Multifaceted Pluralism

The political process that unfolded after the U.S. invasion, sometimes at the instigation of the Americans, other times despite their efforts, created a highly

pluralistic political scene, with multiple centers of power but no agreement on rules to prevent pluralism from degenerating into conflict. Power is highly fragmented and likely to become even more so in the short run.

There are many forms of pluralism in Iraq. The society is pluralistic in terms of ethnicity and religion, and both ethnic and religious identities are highly politicized and becoming even more entrenched. This pluralism will certainly endure for many years to come. Once identities become politicized, they tend to remain salient.

There is also political pluralism in Iraq, with some manifestations predating the U.S. occupation, some encouraged deliberately by the United States and its allies in the name of democracy promotion, and some emerging in an increasingly heightened competition for power. The opposition to Saddam Hussein was divided, structured in a multiplicity of political parties with exclusive constituencies.

New forms of pluralism emerged during the occupation though not necessarily because of it.

The Iraqi National Congress (INC) consisted of secular and religious parties representing Kurds, Shi'i Arabs, and Sunni Arabs, but with no organization claiming to represent all Iraqis. As a result, the parties' constituencies were for the most part fixed—a supporter of the Kurdish Democratic Party would not become a supporter of Dawa, for example. The INC itself never found a base of support as an all-Iraqi organization and disappeared after the demise of Saddam Hussein, although its head, Ahmed Chalabi, managed to survive as a highly controversial political figure.

Since the occupation, the United States has encouraged the formation of new political parties, in part by providing training through nongovernmental organizations that promote democracy. These parties remain marginal, but there are hundreds of them, contributing to the fragmentation of political forces. More parties emerged from the Sunni militias—the so-called Sons of Iraq or Awakening Councils the United States encouraged in an attempt to decrease support for al-Qaeda and turn potential enemies into allies. As a result, the 2010 elections were contested by six major alliances comprising dozens of parties.

New forms of pluralism emerged during the occupation though not necessarily because of it. The constitution introduced the idea of federalism in order to accommodate the demands of the Kurds. Iraqi federalism was originally asymmetrical, with one central government for the entire country and a very strong regional government for Kurdistan, leaving other provinces to be governed directly from Baghdad. But the constitution also recognized that other parts of the country might also want more autonomy in the future, and the 2008 Law for the Creation of Regions (Law 13) established a process through which new regions could be formed.

These constitutional provisions created a great deal of anxiety in Washington and among Sunnis in Iraq. The United States, while obviously not opposed to

federalism in principle, thought the powers of the region were excessive and feared that Iraq would disintegrate into a weak confederation of regions defined along sectarian rather than purely geographic lines. Some Shi'a, particularly the followers of SCIRI, initially liked the federal idea and proposed the formation of a large Shi'i entity incorporating nine provinces. Others, including Moqtada al-Sadr, continued to favor a centralized system. Sunnis were initially strongly opposed to decentralization, particularly because the provinces with large Sunni populations did not control any of the oil fields and thus did not have autonomous sources of income. The initial fears about the disintegration of Iraq soon subsided, however. The idea of forming a Shi'i region never gained real traction, as Shi'i politicians realized that they did not need an autonomous region if they could exercise control over the entire country. Maliki in particular came to favor centralization as his grip on the government increased.

Unexpectedly, demands for the formation of new autonomous regions flared up again in 2011, this time coming from Sunni provinces. The March 2010 elections and the subsequent process of government formation left Sunnis politically marginalized. Although the Iraqiyya alliance, which cast itself as nonsectarian but gained the support of a majority of Sunnis, won the largest number of parliamentary seats, it lost the ensuing nine-month battle to form the government. The story is complicated and we have told it elsewhere (for instance, in "[Iraq: Protest, Democracy, and Autocracy](#)"³ published by the Carnegie Endowment). Suffice it to say here that Maliki manipulated the legal and political process in such a way that he was charged to form the new government although his State of Law bloc had fewer parliamentary seats than Iraqiyya; that Shi'i parties, which had entered the elections divided into rival alliances, eventually managed to coalesce; and that Kurds, whose support was crucial to the formation of any government, chose to back a government of national unity with Maliki as prime minister. But the Erbil Agreement that paved the way to the formation of a government of national unity was not fully respected by Maliki, and Iraqiyya was never allowed to occupy some of the important positions it had been promised. Under those circumstances, the idea of regional autonomy became appealing to many Sunni politicians, convinced that they could never have much influence at the center but they could at least exercise more power locally if they formed regions.

Some additional elements of political pluralism started developing as ambitious, capable individuals tried to make new institutions into real power centers. Although the Council of Representatives remains a weak institution, too divided to be an effective legislature, its speaker Osama al-Nujeifi has emerged as a powerful figure, working with some members of parliament to curb the prime minister's powers and encouraging provinces to play a larger role. Some provincial governors, including Osama's brother Atheel, the governor of Nineveh, are also emerging as powerful figures, although provinces in general remain weak.

The presence of multiple armed groups has added another element of pluralism. Monopoly over the means of coercion remains an unfulfilled goal for the Iraqi government. The rebuilding of the Iraqi security forces remains a work in progress. Recent events suggest that Maliki feels he has sufficient control to move boldly against political rivals, but there are centers of military power he does not control. The Kurdish *peshmerga* is in an ambiguous position, serving as the official defense force of the Kurdistan Regional Government but also as part of the Iraqi military. Moqtada al-Sadr's Mahdi Army, officially disbanded, could easily be revived—as Moqtada periodically threatens.

Finally, the United States has been one of the centers of power in Iraq and thus one of the elements of this complex pluralism. The United States never controlled Iraq completely. Even at the height of the military surge in 2007, with over 140,000 troops in the country, Washington could not get Iraqi politicians to listen to its recommendations about which political agreements needed to be reached and which legislation needed to be enacted. It controlled security, however, and thus was a center of power. It is unclear now to what

extent the United States is still part of the pluralistic Iraqi scene. Washington claims that there is no direct correlation between troop withdrawal and loss of influence, but the post-withdrawal crisis suggests otherwise.

This highly complex and multifaceted pluralistic landscape is constantly shifting. Maliki is determined to decrease this pluralism by enhancing his own power, as the events of January 2012 amply demonstrate. In response to the Kurds' sheltering of Tariq al-Hashemi after the

vice president was accused of backing a terrorist cell, Maliki has threatened to withhold funds from the Kurdistan Regional Government and to sack Babakir Zebari, the Kurdish chief of staff of the Iraqi Army. Some of the new power centers could disappear as a result of these and other political struggles. Nevertheless, the degree of pluralism will remain high. It will not take the form of institutional pluralism accepted by all and protected by the constitution but will emerge from social divisions and struggles for power, and thus be a source of conflict rather than stability.

Washington claims that there is no direct correlation between troop withdrawal and loss of influence, but the post-withdrawal crisis suggests otherwise.

Not Democracy

Pluralism and democracy are not synonymous. Democracy requires pluralism but also rules about how power is going to be allocated, as well as acceptance of the principle that the power of the winners is not absolute but limited by the rights of everybody else. It requires respect of individual civil and political rights and, in deeply divided countries, of some form of group rights as well. Iraq today lacks most of what is needed to transform pluralism into democracy.

The rules by which Iraq is supposed to be governed are often neither respected nor, in many cases, clear. The constitution, thrown together in just

weeks according to experts who participated in the process, is a poorly drafted, ambiguous document constantly requiring interpretation. The Federal Supreme Court doing the interpreting has shown itself repeatedly to be influenced by politics—its decisions always support Maliki’s position.

The absence of truly independent institutions plays into the hands of the prime minister, who has become increasingly, or at least more openly, authoritarian. Maliki was chosen as prime minister in 2006 because he was perceived to be weak and thus a compromise candidate all parties could accept. As late as 2007, when Americans were sending more troops to Iraq to quell the violence that was spiraling out of control, there was concern in Washington that Maliki might not be a forceful enough figure to provide strong political leadership in a difficult period. That worry has long since subsided, replaced by doubts about his democratic commitment. His defenders, including American officials who worked closely with him in Baghdad, admit that he tends to take things into his own hands without respect for rules and due process, but that he does so based on a genuine conviction that he has the responsibility to step in and act when everybody else is bickering—a well-intentioned “the buck stops here” attitude. Needless to say, his detractors have a less charitable explanation, seeing him as another Arab dictator-in-the-making.

Be that as it may, his actions clearly show that he is ready to bend the constitution when it suits him, to use the de-Baathification process against political rivals, and to renege on the political compromise that led to the formation of a government of national unity. Whether he does any of that out of personal ambition or truly believes that his actions are in the country’s best interests does not matter. Maliki’s actions are a threat to democracy no matter their motivation.

Maliki is not the only Iraqi politician whose commitment to democracy is doubtful at best. Moqtada al-Sadr, whose organization straddles the line between a party and a militia and who periodically indulges in the threat of unleashing the Mahdi Army, is no democrat either. Nor is Ayad Allawi, the head of the Iraqiyya coalition. The parties that control Kurdistan are controlled by political dynasties. The list of undemocratic leaders goes on and on, but the prime minister’s lapses are particularly troubling because they undermine the political system directly.

The spirit of compromise remains scant. The battle to form a new government after the 2010 elections lasted for nine months, from March to December, and in a sense it has not ended yet. The government was not fully formed when it was hastily announced on December 22 to meet a deadline, and Maliki personally continued to occupy the security ministries in an acting capacity for many months. He eventually turned over those ministries to other members of the State of Law coalition but still only in an acting capacity. The ministries of defense, interior, and state security remain without a permanent leader.

**Maliki’s actions are a threat to democracy
no matter their motivation.**

Reaching agreement on a set of political rules and institutions is always difficult in a transition, particularly when the old regime has been overthrown or collapsed quickly, as was the case in Iraq. It is even more challenging and complicated when no party or organization can claim the right to inherit power because it brought down the old regime. In Iraq, everything went against the possibility of a swift agreement. Saddam Hussein was defeated by the U.S. invasion, not by the domestic Iraqi efforts. The U.S.-supported Iraqi National Congress was a weak and divided organization, and its leader Ahmed Chalabi, on whom the United States had counted to smooth the transition, proved to have no support or credibility inside Iraq and was quickly sidelined. Thus, no one could claim the mantle of leadership and competition was fierce.

Against this difficult background, the U.S.-led Coalition Provisional Authority made the mistake of imposing an extremely short constitution-making process. While there is no guarantee that a longer process would have led the parties to compromise or the population to understand the new system and develop a sense of allegiance to it, the brevity of the process essentially ensured that none of this would happen. Like many decisions made by the United States in the early period of the occupation, the imposition of such a short process was not well thought out. Facing growing resistance, the Coalition Provisional Authority quickly switched from a pre-invasion plan that did not include Iraqis in the governing of their country for two years after the invasion to a decision to return sovereignty to Iraq in June 2004. The American-dictated plan called for the establishment of a transitional government handpicked by the occupation authorities, the election of a transitional assembly in January 2005, followed by the formation of a new cabinet, the drafting of the constitution by August, its submission to a referendum in October, and new elections under the new constitution in December. There was no time for discussion and reconciliation in this plan.

From the beginning the constitution did not represent an agreement among political forces and, like all constitutions not backed by a political pact, it was extremely fragile. The autonomy granted to Kurdistan remained a contested issue, as was the possibility that other provinces could become autonomous—indeed, many Iraqis felt that the Kurds, organized, determined, and assisted in the process by strong legal advice, had succeeded in imposing their views on the rest of the country. The conflict over the formation of new regions shows that Iraq accepted a federal constitution without agreeing to a federal form of government.

Among the most controversial issues related to federalism is whether the central government or the regions have the right to exploit oil and other natural resources, and how the revenue thus generated should be shared. The constitution states clearly that the central government controls the old oil fields and their revenue, but it is silent about who is in charge of new fields. This led to a controversy between the government of Kurdistan, which started signing

new oil exploration and exploitation contracts, and the federal government, which did not recognize Kurdistan's right to do so. Rather than being settled, the controversy is spreading, because some of the provinces now agitating to become regions with powers equal to those of Kurdistan sit on top of vast, still unexploited gas reserves and would like to control them directly.

The Post-Withdrawal Crisis

The combination of deep internal ethnic and sectarian divisions, meddling neighbors, and multifaceted pluralism without democratic rules is the source of the continuing instability in Iraq, leading to the flare-up that accompanied the final withdrawal of U.S. troops. Superficially, that crisis looks like a repetition of the conflict that delayed for months the formation of the government during 2010: a split between a largely Shi'i alliance centered around Nouri al-Maliki and his State of Law coalition and an overwhelmingly Sunni bloc centered around Iraqiyya and its leader Ayad Allawi, with the Kurdish parties and the Kurdistan Regional Government sitting uneasily in the middle, uncertain whether to take sides or mediate.

In 2010, the Kurds after much hesitation acted as peace-makers, negotiating the Erbil Agreement that led to the formation of a national unity government. At the beginning of 2012, the agreement was in tatters. Iraqiyya members were boycotting the meetings of the parliament and the cabinet; the Kurds were once again calling for an all-party conference to find a solution, while uneasily harboring indicted vice president Tariq al-Hashemi in their midst. Maliki continued to threaten, and inch toward, the replacement of the government of national unity with a majoritarian government led by the State of Law coalition.

Despite the similarities to 2010, there is a new twist to the situation prevailing in 2012. In the year since the government was formed, Maliki has pursued a vigorous policy of centralization of power, both in Baghdad and in his own hands, creating a strong backlash in favor of federalism at the provincial level.

The Battle Over Provincial Rights

For a few years, the issue of federalism appeared to have been forgotten. Kurds had largely gotten what they wanted from the constitution and set about clarifying the issue of whether the regions or the federal government controlled mineral rights by creating facts on the ground. Although the constitution was extremely unclear concerning who controlled newly discovered oil and gas, Kurdish officials simply started signing contracts with foreign oil companies. Initially, only relatively small companies would take the risk of entering into

The combination of deep internal ethnic and sectarian divisions, meddling neighbors, and multifaceted pluralism without democratic rules is the source of the continuing instability in Iraq, leading to the flare-up that accompanied the final withdrawal of U.S. troops.

arrangements of uncertain legal standing, but in December 2011 Exxon Mobil signed a contract with the Kurdistan Regional Government.

The issue of whether other autonomous regions would be formed, however, appeared to lose its saliency as the Supreme Council for the Islamic Revolution in Iraq lost interest in the idea of creating a mega-Shi'i region.

Nevertheless, the problem of the division of power between the central and provincial governments continued to cause aggravation under the surface. The passage by the Council of Representatives of the 2008 Provincial Powers Act (Law 21), which supposedly clarified the issues and increased the authority of the provinces (or governorates), did not help because the problem was essentially political rather than legal. Thus the Council of Ministers interpreted the

The problem of the division of power between the central and provincial governments continued to cause aggravation under the surface.

law to state that provincial governments had no right to legislate, insisting that only the federal government had legislative power. In reality, like the constitution the law was ambiguous: Article 2 states that “the governorate [provincial] council is the highest legislative (*tashri'iya*) and supervisory (*raqabiya*) authority,” but also describes the Iraqi system as one of “administrative decentralization.”

The confusion may well depend on a conflict between the idea of a decentralized system of administration that Washington was pushing and the Iraqi tradition of everything happening in the capital.

While the 2008 provincial law may or may not have increased the powers of provincial governments, there is no doubt that the provincial elections of 2009, held at the insistence of the United States government that saw them as a means of enhancing the legitimacy of the political system by bringing it “closer to the people,” produced some new and more assertive leaders at the provincial level. This did not become evident immediately, however. Initially the provincial elections, in which Maliki's new State of Law coalition performed well, were hailed as a sign that the days of sectarianism were over, because Maliki claimed State of Law was a nonsectarian organization. Within a year, it was clear not only that State of Law was Shi'a dominated but it was also a tool through which Maliki was centralizing power in his own hands.

The next skirmish concerning the power of the central government took place in early 2010. In January, the Council of Representatives approved and the Presidency Council signed two laws transferring some powers from the Ministry of Municipalities and the Ministry of Labor to the provinces, increasing the sphere of control of the provincial governments. In July of the same year, however, the Maliki government turned to the Iraqi Supreme Court to assess the constitutionality of these laws. Dutifully, the court sided with Maliki and struck down both laws, effectively ending the transfer of authority to the provinces through legislation.

Maliki sought to curb the powers of the provinces by other means as well. Provincial officials have frequently complained that the Maliki government

was slow to distribute funds owed to them and constantly tried to limit the scope of their authority. In Sunni-majority provinces in particular, security forces under the direct authority of the prime minister's office have repeatedly acted without coordinating with local officials, at times even raiding homes of provincial council members.

The prime minister also sought to discredit provincial authorities in the eyes of their own citizens. When citizens angered by the lack of services took to the streets across the country in several "Days of Rage" beginning in late January 2011, Maliki sought to deflect blame onto the provincial governments. His accusations that incompetent provincial officials were responsible for the dismal levels of services backfired, however. Not only did provincial officials respond in kind—they could not provide services because the government was withholding money from them—but they also started agitating to wrest more power from the central government.

A prime mover behind the new assertiveness of the provincial authorities was Parliament Speaker Osama al-Nujeifi, a Sunni member of *Iraqiyya* and once a staunch centrist, who was becoming concerned over the increasing concentration of power in Maliki's hands and also seeking to enhance his own role. At the end of March, in a constitutionally dubious move, Nujeifi hosted in the parliament building a conference of leaders and members of the provincial councils, exhorting them to resist the central government's encroachment over provincial prerogatives and advising them to seek a clarification of the division of powers between the various levels of government mandated by the constitution.

Within two months, political and tribal leaders in at least five provinces from the central and southern areas of Iraq were openly seeking greater power, threatening to start the process to transform their provinces into regions enjoying the same degree of autonomy as Kurdistan. In mid-May, for example, senior Salahuddin Province officials visited Masoud Barzani, the president of the Kurdistan region, to discuss the prospects of transforming the Sunni-majority province into a region—and received Barzani's blessing.

Salahuddin was not the first province to seriously discuss becoming a region. Already in 2010, the provincial council of Shi'a-majority Basra Province sent the prime minister a request to hold a referendum on becoming a region. Wasit Province did the same in mid-2011. Both requests were duly signed by one-third of the provincial council's members, as required by the 2008 Law for the Creation of Regions (Law 13). According to Law 13, such a request must be presented either by one-third of the provincial council's members or by one-tenth of the province's electorate; the prime minister is then required to task the Independent High Electoral Commission within fifteen days to begin preparing for a referendum in the requesting province(s), with the referendum to be held three months later. The law is quite clear on these points and specifies that the process can be initiated either by one province individually or several

provinces jointly. It is a simple process that allows any combination of governorates to begin proceedings.

However, Maliki unlawfully ignored the requests of both Basra and Wasit provinces. He was able to do so because the two provinces were largely controlled by politicians from the State of Law alliance and other Shi'i parties. While dissatisfied with the limited role Maliki allowed the provinces to play, these politicians in the end allowed themselves to be silenced by the prime minister.

Provincial Powers and Sectarian Conflict

Maliki's stubbornness in maintaining a highly centralized system at a time when the government was clearly unable to cope with Iraq's problems is difficult to understand unless it is seen in the context of his quest for greater power and his concern that decentralization could undermine national unity. From the point of view of improving conditions for Iraqi citizens, and as a result helping the government increase its legitimacy and maximizing chances that those currently in government would be reelected, greater decentralization would have been the rational choice, since Baghdad was clearly unable to deliver services effectively. But the issue that concerned Maliki was different, namely the possibility that decentralization would be the undoing of the country.

Though demands for greater power for the provinces were not limited originally to Sunni areas, soon the issue of decentralization became a symbol of Sunni resistance. In mid-June, for example, Speaker Nujeifi caused a stir first by hinting that Sunnis in Iraq might ask for separation; he then tried to temper his statement, indicating in an interview with BBC News that Sunnis in Iraq felt they were being treated like second-class citizens and warned that if the marginalization of whole provinces (Sunni as well as some Shi'i provinces) continued, there would be calls for the creation of more federal regions, although "geographical, nonsectarian" ones. He further stated that sectarian-based separation was dangerous and unacceptable.⁴

Far from heeding the warning and taking steps to allay Sunni concerns while there was still time, the government instead launched a new, countrywide round of de-Baathification, reopening a highly contentious political issue that had less to do with the lurking danger of a revival of the old regime and more with present politics. During the 2010 elections and even afterward, de-Baathification was used by the Maliki government as a means of disqualifying opponents, and the courts did little to stop the abuse. The Maliki government even sought to disqualify some elected members of the Council of Representatives on the grounds that they had close ties to the Baath Party.

On October 24 and 25, 2011, over 600 individuals were arrested across the country. Most were accused of being part of a Baathist plot aiming to topple the current political system and of having been high-ranking members (*bu'tha* and *firqa*) of the Baath Party and former intelligence officials. Some 140 administrators and educators at the University of Tikrit in the Salahuddin

governorate were expelled from their positions on de-Baathification charges in the same period—Tikrit, it will be recalled, was Saddam Hussein's birthplace and became a center of resistance to the U.S. occupation. Prime Minister Maliki claimed that those arrested in October were involved in the planning of a coup to be carried out after the U.S. troops left Iraq. Anonymous Iraqi officials told the press that Libyan leader Mahmoud Jibril informed Maliki of the details of a plot Muammar Qaddafi had been backing—an improbable accusation given the fact that Qaddafi, finally captured and killed on October 20, had been on the run for weeks.

Salahuddin Province was the first to react. In the final days of October its provincial council declared that two-thirds of its members had voted to establish Salahuddin “as an administrative and economic region in a united Iraq.” The move was clearly unconstitutional—provinces can demand to be changed into regions but cannot unilaterally declare themselves such. The Salahuddin council soon admitted this was the case and forwarded to the prime minister's office its request that the Iraqi High Electoral Commission organize a referendum in the province as required by the law.

With the move by Salahuddin Province, the major cleavages and conflicts in Iraq have become focused around the issue of regionalization: sectarian and ethnic cleavages, the rivalry between Iraqiyya and State of Law, the struggle between a prime minister seeking more power and other political actors carving out their spheres of influence, even the unresolved issues concerning the border of Kurdistan and the fate of Kirkuk are part of a debate with the potential to tear the country apart. The issues do not overlap perfectly, leading to complex and unexpected responses by various actors.

Sectarian cleavages are evident in the fact that the provinces pushing hardest to become regions are the Sunni-majority ones. Salahuddin is at the forefront, but Anbar and Diyala have also joined in the call. At the same time, and greatly complicating matters, some districts with minority populations in Sunni-dominated provinces oppose regionalization. In Salahuddin, for example, the local administrations of Balad and Dujayl, towns that include sizeable Shi'i populations, declared that, should Salahuddin become a region, they would join Baghdad province instead.⁵ And Shi'i leaders elsewhere in the country have sided with Balad and Dujayl, claiming Salahuddin Province is too large and should be broken up. While there are no laws or constitutional provisions addressing the break-up of provinces and the formation of new ones, the issue will remain politically important.

Sectarian and ethnic identities are also influencing the position of Kurdistan on this issue. The Kurdistan Regional Government supports the formation of other regions in principle—if it had the chance to form a region, others should be given that opportunity as well. In practice, however, Kurdistan's authorities have reservations, arguing that new regions should not be formed until their boundaries have been clearly delineated. President Jalal Talabani went as far

as introducing in parliament a draft law to that effect.⁶ Kurdistan's concern is understandable. Parts of its own borders are undefined, and the formation of other regions could push the Kurds into a confrontation with newly empowered neighbors and would further complicate the difficult issue of whether Kirkuk should become part of Kurdistan.

But the effect of a requirement that all boundary issues need to be solved before new regions are formed would be the indefinite postponement of regionalization: any attempt to delineate regions would trigger years of controversies and recriminations.

The growing interest in regionalization has transformed even some of Maliki's supporters into advocates of stronger provincial powers, in part as a move to counter the increasing centralization of power in Maliki's hands. This centralization of power has caused protest and even defections in Maliki's own State of Law alliance, particularly in the provinces. At the beginning of December, nine members of the 28-member Karbala council resigned from State of Law, charging that the central government was attempting to centralize all decisionmaking prerogatives. And ISCI's Jalaludin al-Saghir has denounced the government for failing to effectively implement the 2008 provincial law.

Support for regionalization, however, is a totally different matter outside the provinces. Many argued that, properly implemented, the 2008 Provincial Powers Act would greatly increase the powers of the provinces, solving the problem of overcentralization without creating new regions. Many political leaders have admitted that provinces have a constitutional right to transform themselves into regions but question whether the time is right. Iraqiyya's leader Ayad Allawi, ISCI leader Ammar al-Hakim, State Minister for Provincial Affairs Torhan Mufti, and Moqtada al-Sadr have all argued that the issue should be postponed until a later date. Even Speaker Osama al-Nujeifi is beginning to show some ambivalence toward regionalization. At a second conference of members of provincial councils he organized in parliament in mid-December, he suggested that five ministries be disbanded, with their powers transferred directly to existing provinces, not new regions. The conference also showed that even at the provincial level enthusiasm for regionalization was ebbing; only councilmen from the five majority-Sunni provinces accepted the invitation. The absence of representatives of the Shi'a-majority provinces pointed to Maliki's success in portraying Nujeifi's initiative as one with a sectarian or even foreign agenda and thus convincing Shi'i provinces to tone down their demands.

Maliki, despite occasional conciliatory remarks, clearly does not intend to give up any of his own or the central government's power. He rejected Salahuddin Province's bid for regionalization on the grounds that it was driven by sectarianism and that its aim was to provide a safe haven for Baathists from which they could destabilize the country and attempt a return to power.

In the case of Salahuddin Province, as in many other instances, Maliki demonstrated complete disregard for both the spirit and the letter of the

constitution and the law. The constitution clearly recognizes the right of provinces to become regions, and Law 13 of 2008 requires that the prime minister transfer the request of a province to the Iraqi High Electoral Commission so it can organize a referendum. Instead, Maliki ignored the law and the deadline it imposed for him to act. Furthermore, other State of Law representatives set forth new interpretations of Law 13, a device that has been used by Maliki successfully in the past.

Moving Forward

After eight years of occupation, 4,500 American dead and 33,000 wounded, and a still unknown number of Iraqi casualties, the United States has little to show for its investment in Iraq. The country is undemocratic and unstable, violence is flaring up again, and the possibility that the country will split up is real once again. The political system the United States superimposed on Iraq is clearly not working.

There is growing realization in Iraq that this is the case. Several Iraqi leaders have started floating the idea that the political system must be redesigned after the pullout. Both Allawi and Maliki have stated over the past few months that the constitution has been problematic and based on a sectarian rather than national understanding, and both have called for its amendment. The head of Iraqiyya's bloc in parliament, Salman al-Jumeily, has also called for rewriting the constitution, arguing that it has been a source of persistent conflicts. None of the advocates of constitutional reform has provided any details and, given the state of the country, it is easy to predict that there is no agreement about what is needed, because Iraq is truly divided and the lines of conflict are real.

Whether Iraqis can design a political structure they can all live with or whether the country eventually divides, there is a long struggle ahead before Iraq stabilizes into some form of political order. The process that should have started eight years ago when Saddam Hussein was overthrown is just now beginning with the U.S. withdrawal. The rapidity with which the American order came unraveled testifies to the fact that it was always an artificially imposed solution. Iraqis may not be more successful at finding their own solutions, but it is time they tried.

Notes

- 1 See Abdülhamit Bilici, “Davutoğlu suggests Shiite Crescent risk may be turned into opportunity,” *Today’s Zaman*, January 6, 2012, www.todayszaman.com/news-267854-davutoglu-suggests-shiite-crescent-risk-may-be-turned-into-opportunity.html.
- 2 See “Iraq says ready to mediate with Syrian opposition,” Reuters, December 3, 2011, www.reuters.com/article/2011/12/03/us-iraq-syria-maliki-idUSTRE7B20P420111203.
- 3 Marina Ottaway and Danial Anas Kaysi, “Iraq: Protest, Democracy, and Autocracy,” Commentary, Carnegie Endowment for International Peace, March 28, 2011.
- 4 BBC Arabic News interview with Iraqi Parliament Speaker Osama Nujeifi, October 12, 2011, www.bbc.co.uk/arabic/multimedia/2011/10/111012_iraq_liqa_nujaifi.shtml.
- 5 “Baghdad governor: ‘Al-Dujail and Balad want to separate from Salahuddin whether it becomes a region or not,’” Al-Sumaria News, November 23, 2011 (Arabic).
- 6 “Talibani’s proposal to re-delimit provincial boundaries causes a new crisis,” *Addustour*, November 1, 2011.

About the Authors

MARINA OTTAWAY is a Senior Associate in the Carnegie Endowment's Middle East Program. She works on issues of political transformation in the Middle East and Gulf security. A long-time analyst of the formation and transformation of political systems, she has also written on political reconstruction in Iraq, the Balkans, and African countries. Her extensive research experience is reflected in her publications, which include nine authored books and six edited ones. Her most recent publications include *Getting to Pluralism*, co-authored with Amr Hamzawy and *Yemen on the Brink*, co-edited with Christopher Boucek. She is also the author of *Iraq: Elections 2010*, an online guide to Iraqi politics.

DANIAL KAYSI was deputy editor of the *Arab Reform Bulletin* and was previously a junior fellow for the Middle East Program at the Carnegie Endowment for International Peace. He holds a B.S. from George Mason University's Institute for Conflict Analysis and Resolution and is currently completing his M.A. in International Relations at Yale University's Jackson Institute for Global Affairs.

Carnegie Endowment for International Peace

The **Carnegie Endowment for International Peace** is a private, nonprofit organization dedicated to advancing cooperation between nations and promoting active international engagement by the United States. Founded in 1910, its work is nonpartisan and dedicated to achieving practical results.

As it celebrates its Centennial, the Carnegie Endowment is pioneering the first global think tank, with flourishing offices now in Washington, Moscow, Beijing, Beirut, and Brussels. These five locations include the centers of world governance and the places whose political evolution and international policies will most determine the near-term possibilities for international peace and economic advance.

The **Carnegie Middle East Program** combines in-depth local knowledge with incisive comparative analysis to examine economic, sociopolitical, and strategic interests in the Arab world. Through detailed country studies and the exploration of key cross-cutting themes, the Carnegie Middle East Program, in coordination with the Carnegie Middle East Center, provides analysis and recommendations in both English and Arabic that are deeply informed by knowledge and views from the region. The Carnegie Middle East Program has special expertise in political reform and Islamist participation in pluralistic politics throughout the region.

CARNEGIE ENDOWMENT

FOR INTERNATIONAL PEACE

WASHINGTON DC

CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE

1779 Massachusetts Avenue, NW
Washington, D.C. 20036
United States
P +1 202 483 7600 F +1 202 483 1840
CarnegieEndowment.org | info@CarnegieEndowment.org

MOSCOW

CARNEGIE MOSCOW CENTER

Tverskaya, 16/2
125009 Moscow
Russia
P +7 495 935 8904 F +7 495 935 8906
Carnegie.ru | info@Carnegie.ru

BEIJING

CARNEGIE-TSINGHUA CENTER FOR GLOBAL POLICY

No. 1 East Zhongguancun Street, Building 1
Tsinghua University Science Park
Innovation Tower, Room B1202C
Haidian District, Beijing 100084
China
P +86 10 8215 0178 F +86 10 6270 3536
CarnegieTsinghua.org

BEIRUT

CARNEGIE MIDDLE EAST CENTER

Emir Bechir Street, Lazarieh Tower
Bldg. No. 2026 1210, 5th flr.
P.O. Box 11-1061
Downtown Beirut
Lebanon
P +961 1 99 12 91 F +961 1 99 15 91
Carnegie-MEC.org | info@Carnegie-MEC.org

BRUSSELS

CARNEGIE EUROPE

Rue du Congrès 15
1000 Brussels
Belgium
P +32 2735 5650 F +32 2736 6222
CarnegieEurope.eu | brussels@ceip.org