



IRAQ: WHERE THERE ARE NO SOLUTIONS THEN WHERE SHOULD WE LOOK?

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Much has changed in the last two years in territory known as the Republic of Iraq. The country has been divided into three territorial zones of influence: Shia, Sunni and Kurdish (the Kurds are a predominantly Sunni people but not Arabs). Whereas Iraq was once ethnically mixed like Bosnia and Herzegovina, as with Bosnia and Herzegovina it has suffered the fate of ethnic cleansing: some compulsory, much voluntary, as people fled oncoming military forces associated with a different of the three ethnic groups.

It is hard to identify many things that have become better in Iraq in the last two years, although a few can be listed. Documented deaths from violence have declined from a peak of some 4,000 per month in January 2014 to around 1,000 per month now, although this is no lower than the figure for August 2013. Baghdad remains divided on a sectarian basis and generally violent. The emergence of the Islamic State for Iraq and the Levant was not just alarming by virtue of its threat to create a new state premised upon a perverse form of religious practice as barbaric as it is heretical. The very concept of the Islamic State also threatened the borders of the Iraqi Republic itself that had persisted since 1920. The Islamic State purported to be a new country, traversing the national boundary between Syria and Iraq albeit in the middle of the desert. It seemed that the very territorial integrity of Iraq might collapse if the Islamic State were not eradicated.

At the end of 2016, the fate of the Islamic State now seems sealed. By virtue of an uneasy and informal agreement upon cooperation between Kurdish forces, the Syrian government in Damascus, the United States, Russia, Shia forces loyal to Baghdad and/or Tehran, and Turkey, the Islamic State is gradually but persistently being eroded. Its principal Iraqi stronghold of Mosul, Iraq's second city, is under siege. The Islamic State has proven itself militarily versatile, and ferociously resilient. Although Mosul will surely fall to anti-ISIS coalition forces simply by virtue of the strength and volume of the diverse military resources pitted against it, the city's comprehensive destruction, and a mass exodus of refugees together with phenomenal loss of civilian life, all seem highly likely. With those tragic events, the Islamic State will cease to be in Iraq and the country's territorial integrity may, at least formally, be preserved.

Nevertheless any broad assertion about Iraq's continued territorial integrity might be perceived as a little too flippant. Things are peeling away at so many edges. The Kurdish-dominated region of northeastern Iraq has been effectively run by an independent government structure since the period of US military assistance to the Kurds against the Sunni-dominated Baghdad regime of Saddam Hussein amidst expulsion of the Iraqi army from Kuwait in 1991. Although formally Kurdistan uses the Iraqi currency, there is little else to associate Iraqi Kurdistan with the rest of Iraq. The region has its own police, its own military, its own government departments, its own border guards, its own visa regulations and its own economic infrastructure. Moreover a prior informal agreement as to the borders of *de facto* Iraqi Kurdistan, known as the "Green Line", collapsed amidst the struggle against ISIS. That is because the Kurds, who in a delicate diplomatic balancing act have acquired informal financial and military support of both the USA and Russia, have the strongest domestic ground armed forces in Iraq. It was the Iraqi Kurds who made the first inroads against the territory occupied

by the Islamic State. In the process, they occupied the contested and ethnically diverse city of Kirkuk in central Iraq, strategically significant due its being the centre of Iraq's most lucrative oil fields.

The *de facto* expansion of Kurdish territory beyond prior conventional boundaries alarms all of Iraqi Shias, who dominate the central government in Baghdad and see themselves as losing both territory and oil revenues; Iraqi Sunnis, who are a preponderant group in the newly embraced Kurdish territories; and Turkey, who for a long time has feared a Kurdish autonomy or expansionist movement in that own country's southeast that periodically erupts into violence. There is also a fear that Kurdish Iraq might be entwining itself more or less discreetly with Rojava, a slice of territory in northern Syria whose representatives say that it operates autonomously under a distinctive nature of multi-ethnic communitarian government but that in numerical terms at least is dominated by Kurds. This article is not about Syria. The fate of Rojava, currently an autonomous region of Syria unrecognised by the central government in Damascus, remains undetermined. The military forces of Rojava are in constant conflict with the Islamic State in Syria, and are in the process of trying to take control of Al-Raqqah, the self-proclaimed capital city of the Islamic State in northeastern Syria: an outcome Turkey wishes to prevent. Should Rojava succeed in occupying Al-Raqqah, its destiny may prove to be very different from if it fails.

The future of the governmental structures of Rojava after the end of the Syrian war therefore remains open, and no confident predictions can be made by anyone about when the Syrian civil war will end. But the context of the conflict in Syria for the final constitutional settlement in Iraq is important: the future of Iraq is inextricably linked to events in the country's neighbour. Several commentators have perceived a desire on the part of the Kurds to create an independent state of their own, carved out from both the territorial possessions they currently hold in Iraq (including Kirkuk) and Rojava.

For all its complexities and habitual daily violence, Iraq is a more straightforward problem to solve than Syria because the only conventional hot warfare currently taking place on Iraqi territory is against the Islamic State and all the indications now suggest that the Islamic State is going to be destroyed. Therefore Iraq may soon find peace of a kind. But what kind? A US-led military coalition occupied Iraq from 2003 until 2010, but now approximately the same coalition finds itself redrawn into the current conflict against the Islamic State, the recapture of Mosul, and a general mandate to maintain public security and combat radicalism. The two principal questions for the international community are therefore the following. Firstly, can and should Iraq survive within its historical borders since 1920, or should those boundaries somehow be redrawn to reflect the population separation entailed by over a decade of civil conflict? Secondly, can the Iraqi state (however its borders might be drawn) survive without indefinite foreign military occupation?

The United Nations, through the organ of the Security Council, needs to take positions upon these issues, and needs to decide how and to what extent to engage with Iraq's problems to achieve the international community goals. The UN Security Council has already issued resolutions confirming its commitment to the territorial integrity of Iraq: see e.g. 2061 (2012), 2107 (2013), 2169 (2014), 2233 (2015) and 2299 (2016), to name just a few. The question is therefore whether the Security Council should maintain this position, or accede to fragmentation of the country.

In my view it should not countenance fragmentation in any form. Disintegration of a country as large and complex as Iraq harbours so many dangers that it cannot seriously be countenanced. Quite aside from the perils of the precedent set thereby both for other parts of the region and for other parts of the world, any intimation of the acceptability of territorial dissolution on the part of the international community would precipitate the most extraordinarily pernicious competition for the seizure of territory, as the country's three principal ethnic groups decide to use military means to formalise the sovereign boundaries thereafter to be drawn. The consequent bloodshed might well be akin to that found in the midst of the work of the Radcliffe Commission that sought to draw a

dividing line between India and Pakistan; or the massacres that took place in the foreshadow of the Dayton negotiations to conclude the war in Bosnia and Herzegovina and divided that country into Muslim/Croat and Serb spheres of influence. Moreover the unequal concentration of natural resources across Iraqi territory might transform what are currently intra-sovereign legal and political disputes over distribution of natural resource revenues into military exchanges between newly neighbouring states. Turkey would surely be appalled by the prospect of formal unity between Kurdish Iraq and Rojava, and might intervene militarily to prevent it. Dissolution of Iraq would be an unmitigated catastrophe. The United Nations must do everything it possibly can to prevent this from happening, once the battle against ISIS is finally successfully concluded.

If territorial partition is inconceivable, then what are the alternatives? Unitary government manifestly simply does not work. Iraq has not had a unitary government since 1991; the unitary government it had before then was totalitarian, and prior to the repressive era of Saddam Hussein the country was beset by perennial military coups. The prospects for Iraq embracing a unitary government structure now are even more remote, given the ever-greater partition between Sunnis and Shia in the light of civil war. Hence the solution must be federalisation. But haven't we been here before? Iraq's 2005 Constitution was essentially federal. Yet it did not work. Are we therefore left with no options at all, and Iraq is destined to remain a perpetual abyss of inter-ethnic conflict?

Not necessarily. Federalism is a sophisticated and subtle creature that can take many forms. The most successful kinds are often the least obvious. Legal theoreticians generally start discussions of federalism with constitutional structure. But in fact it is most important not to start with that subject. That was the mistake made by the international community in post-war Bosnia. A constitution was drafted too quickly, and then the three parties to the conflict debated endlessly its implementation and revision. Debates over the direction of constitutional reform became an instrument of continuing the parties' conflict by other means. Constitutions, and constitutional reform, should in truth be very low-priority objectives in a multilateral state-building context. Instead one needs to start with the things that matter to the people who are likely, gradually, to reinvigorate economic relations between previously conflicting parties and thereby slowly rebuild inter-communal trust. The United Nations' formidable capacity-building structure needs to be focused upon those goals.

The shopping list of UN activities in Iraq once ISIS is defeated should be the following. Firstly, it should create mechanisms that ease free movement of people, goods and services. A country with multiple armed forces, and multiple checkpoints each occupied by troops from a single ethnic group, deters freedom of movement because people from one group fear mistreatment by the security personnel associated with other groups. Hence one thing that can be done gradually to increase mutual confidence after the scars of war is to secure inter-ethnic security patrols, each consisting of a pair (or more) of guards from different groups. Secondly, the United Nations can serve as an umbrella under which existing parallel government institutions can engage in dialogue with each other. Even where a country suffers from some sort of *de facto* internal partition, local government officials from different groups often find they share similar sorts of problem. When the United Nations places them together, under whatever pretext, they may find that they can cooperate. Things can be built up from there.

Elections are important. But one should never start with countrywide general elections. They sow division. Rather the international community can and should supervise local elections, which are usually far less ethnically contentious (by reason of the ethnic cleansing that has already taken place) and yet that can be undertaken using common methods in each territory within the internally divided country. For areas of particular controversy, either because there is an indissoluble competition for strategic territory (as in Kirkuk), the United Nations might take a more muscular role, concentrating peacekeepers and also international officials overseeing every aspect of institutional capacity-building. In such grievously contested territories, where necessary UN missions may even

themselves impose equitable distributions of political power and natural resource revenues in circumstances where local people are unable to agree.

An exit strategy for sophisticated, yet robust, international intervention of this nature is a particular challenge. Yet one might reflect that nothing can be much worse than the thirteen years of international intervention in Iraq so far and the parlous state the country remains in notwithstanding. If another 13 years of intervention were used to achieve comparatively wise results, that might be the least bad result.

There are those who say that the foregoing represents a departure from the principles of sovereignty: the international community has been trying to give the Iraqis their government structures back, after an over-extended period of occupation. But the situation in Iraq today belies assertions that the country is ready for that. The reality is that the international community is in large part responsible for the political chaos that infects contemporary Iraq. It is far from certain that, left to their own devices, Iraqis can resolve for themselves all the agonies and challenges that international intervention has created for their country. Whatever one thinks of Saddam Hussein and the decision to remove him from power, the fact is that Iraq remains profoundly frail in its politics and in its institutional structure. It also suffers from the fact that a number of Great Powers have vested interests in directing its political future in one manner or another. If the international community does not act in tandem, through the medium of its vehicle of consensus, the United Nations, then there exists a very real prospect that Iraq degenerates into another proxy conflict, of the kind we have seen in Syria, potentially with no end.

This is not to say that the institutions of the United Nations are impeccably placed to meet this challenge. In many cases they are not. They are beset with inefficiencies and institutional overlap, on occasion leading to absurd institutional competition. But they are all we have. And they can improve, given wise stewardship. Indeed they must improve. The future of Iraqis depends upon it. Having intervened so decisively in their recent history, the international community is beholden now to see the Iraqi people through to a brighter future, and to do so with humility, good conscience, efficiency and justice. That is my vision for the role of the United Nations in Iraq over the coming term of the Secretary General-elect.

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