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OPTIONS FOR A RECONSTRUCTED IRAQ

The Legacy of the Sykes-Picot Agreement

The Sykes Picot Agreement did not delineate the current borders that are being challenged by ISIS and by continuing violence in the region, but it provided the basis and departure point for a long process of international negotiations to reach final status in the Levant. During this years-long process, parameters kept changing, with Mosul and Erbil initially falling within the French sphere, the rest within the British. The two controversial issues throughout the process were the status of Mosul and the status of the Kurdistan region. The Treaty of Sevres envisioned an autonomous region for the Kurds (under French/British control). However, the final settlement gave Mosul to Britain (in exchange for oil concessions to the French and against the wishes of Turkey) . Most significant to future developments, the Kurds were denied the autonomy that they craved and believed they had been promised at Sevres: a Turkish-Allied settlement was imposed, resulting in the inclusion of Kurdish regions in Iraq, Turkey, and Syria. Other areas of what is now Iraq were not in dispute, either by the Powers or by the Iraqis themselves.

There is a common refrain that Iraq is an “artificial” state. This allegation is perpetuated by many Western scholars, and it is espoused by the Kurds. But is Iraq artificial, or is there some basis of historical reality underpinning the modern state? We know that the name “Iraq” exists at least since the early years of Islam. The Ottoman Walis of Baghdad in the 19th century had authority in southern areas and frequently marched disciplinary expeditions as far south of Basra. The Walis of Baghdad also called upon the Kurdish Baban tribes to assist in military expeditions. In other words, the notion of “Iraq”, in which Baghdad is the pre-eminent city, is not a new and artificial construct devised by colonialism but an existing entity, wherever we think the actual borders ought to be. With the exception of the inclusion of the Kurdish region in Iraq (and for that matter in Turkey and Syria), the borders are no more arbitrary than the drawing of borders after WW1 and WW2 in the Near East, the Balkans, and even in Europe.

But given the disarray in which Iraq finds itself today, it is pertinent to ask whether Iraq should retain its current borders and political organization, or whether the borders have become unworkable. Are the borders arbitrary? Do they reflect the will of the people? Do these borders cause problems of stability and security—because of their arbitrariness and/or because they did not reflect the will of the people at the time? Are these borders viable today? The decisions made at Sevres and later in Lausanne, and the settlement of Mosul, did not involve the people of the area, although a League of Nations sounded the dignitaries of Mosul when recommending its attachment to Iraq instead of Turkey. The British took over the Basra, Baghdad, and Mosul provinces which already constituted administrative entities in the Ottoman period. Of all the inhabitants of Iraq at the end of the Great War, only the Kurds objected and were forcibly yoked to the new state. The violence that Iraq is witnessing today is

not an issue of borders, but rather an issue of governance: bad governance for over forty years, and exceptionally bad governance since 2003.

Iraq after 2003: Identity Politics

Years before the war of 2003, Iraqi opposition groups were raising the issue of the structure of the state in two crucial ways. After 1991, the Iraqi Kurds achieved de facto independence, and their price for joining the Iraqi Arab (largely Shi'a) opposition to Saddam Hussein was endorsement of a Kurdish federated region in post Hussein Iraq, with the recognition of the right of the Kurds to self-determination. Moreover, the historic order of the state was challenged by the Shi'a, who deemed themselves an oppressed majority in a state governed for hundreds of years by a Sunni minority. The Shi'a religious parties, targeted for persecution by Saddam Hussein, insisted on reversing the order. Thus a strategic alliance was crafted between the Kurds and the Shi'a religious parties, in which a federated region for the Kurds was exchanged for Shi'a hegemony in the Arab regions of Iraq. And, ever fearful of the re-emergence of a Saddam-like dictatorship, decentralization of the state throughout Iraq was proposed. After 1992, a "federal" Iraq took on totemic status in the literature and rhetoric of the Iraqi opposition, although no one was clear on the difference between federation and confederation, and what federation and decentralization entailed in practice. The confusion and ambiguity regarding the parameters and implications of federation, decentralization, and ethnic/sectarian politics carried over into the constitution, with serious consequences for the functioning of the state.

It is the crafting of politics on the basis of identity rather than equal and common citizenship, and more particularly the establishment of ascendant and subordinate communities based on sect, that has caused the "dislocation" of the state. The identity politics embraced so vigorously by all factions after 2003 encouraged and exploited a toxic mix of mutual anger, grievances, and fears, to achieve political ends. There was a great deal at stake: power, control of massive resources, financial rewards, patronage, and regional alliances.. Since 2003 Iraq has witnessed thirteen years of violence with a clear sectarian/ethnic complexion, with atrocities committed by all against all. The battle lines were most sharply drawn in the rise of Al-Qaeda in Iraq in 2005-2008, and later the more systematic entrenchment of Daesh in 2013. The fallout from these wars fought along sectarian agendas has generated a vortex of societal tensions and anger, especially in central Iraqi provinces with mixed populations. Meanwhile, the state has remained dysfunctional, corrupt, and impotent either to stem the violence or to knit the country together.

After thirteen years of instability, violence and deepening distrust, is it time to rethink the external and internal borders of the state, and to question the viability of Iraq as a state? Is it time for partition along ethnic and sectarian lines? For US officials who despair of ending violence in Iraq, the solution is clear: if you can't fix it, break it. Thus they recommend the division of Iraq into a 3-part confederation, with loosely associated Kurdish, Shi'a, and Sunni regions, de jure under one flag but with de facto independence. It is useful to note here that,

prior to 2003, several possible scenarios for a federated Iraq were posited: a 5, 7, or 18 region federation. The proposal for a 3-way federation of Kurdish, Shi'a, and Sunni regions, proposed at the time by the Kurds, was the only scenario that was summarily rejected by the Arabs of Iraq, both Shi'a and Sunnis, decrying it as a plot to dismember the country. Whereas the Kurds are explicit: we are not Iraqis, we do not want to be part of Iraq-- the Sunnis and Shi'as of Iraq both claim Iraq as theirs—its history, its name, its flag, its seat at the UN. The problem is the competition for Iraq, which has been aggravated by the attempt of the Shi'a sectarian parties to appropriate Iraq exclusively amid the anger of the Sunnis at losing Iraq.

Until recently, Sunnis rejected the very notion of federation, seeing it as a betrayal of their patriotism. The Shi'a opposed it because they wanted supremacy over all Iraq, not just the Shi'a regions—the reversal of a historic injustice, not separation, was after all the agenda of the Shi'a religious parties from the start. Now, attitudes have shifted. The state has failed to be inclusive and to broker national reconciliation among the different religions, sects, and ethnicities. It has failed in establishing rule of law, and failed also in delivering services and gaining legitimacy with the people. In reality, the failure of the state is nothing but the failure of the political actors who populate and control state institutions. And the blame must lie squarely with the political class that has failed to govern responsibly.

The demand for federalism has increased in the past few years, though not always consistently. Sunni leaders, particularly those centered in the city of Mosul, driven by sectarian grievances, and likely also driven by personal ambitions and the pull of regional allies, are leading the call for a Sunni confederated region similar to the Kurdish region. The situation in Anbar, the “purest” Sunni province and primarily tribal, is less clear, with discordant voices for and against a Sunni federated region. Meanwhile, politicians in Basra, which is overwhelmingly Shi'a, are also calling for a federated region—but only for Basra, not for a Shi'a south. In other words, they want to go it alone because of the province's oil wealth, which they do not wish to share with the rest of Iraq.

Is a Sectarian/Ethnic Confederation the Answer?

If the partition of Iraq, or a separation into a Sunni, Shi'a and Kurdish confederation, would solve Iraq's problems, including defeating Islamic extremism, it would be a welcome remedy. But an examination of geography, demographics, and politics makes such a proposition dangerous and ineffective.

The Shi'a and Sunni areas of Iraq are not internally homogeneous or harmonious. In the Shi'a areas there are two distinct cultures and centers of power. The holy cities of Najaf and Kerbala that dominate the mid-Euphrates are associated with the religious establishment and enjoy an urban culture and outlook. The provinces of the deep south, including Basra, have the oil fields and therefore the wealth of Iraq. They are heavily tribal outside the major cities. Resources in the Shi'a heartland are unevenly distributed and there are disputes among all the provinces south of Baghdad over the borders of the provinces, oil field ownership, water resources, and revenue allocations. Rival Shi'a militias compete for power in the southern areas and routinely

engage in reciprocal violence that the central and provincial governments are unable to control.

The so-called Sunni provinces are a confused medley. Only Anbar can claim to be purely Sunni. Nenawa (Mosul Province) is a patchwork of Sunni Arabs, Shi'a and Sunni Turkoman, Christians of several denominations, Yezidis, Shabak, and Kurds. The Kurdish government claims (and now controls) substantial areas of Nenawa; the Christians and Yezidis now demand their own provinces, and the Turkoman also want a province of their own. If the claims of the Kurdish and other groups are satisfied, it's unclear what will be left of Nenawa as an integral province. Salaheddin province, despite having a majority Sunni Arab population, includes significant Shi'a towns which will violently resist absorption into a Sunni region, as current conflict in liberated areas demonstrates. Dyala is the most divided of all, with every conceivable religion, sect, and ethnicity living cheek by jowl. Adding to the tension, in the past 13 years, politicians in Mosul and Anbar have each claimed supremacy as representatives of the will of the Sunni population.

The central provinces are a demographic nightmare. Baghdad, Diyala, and Salaheddin are provinces with such intricately mixed populations that it is hard to disentangle "pure" Shi'a or Sunni areas. Villages of various ethnicities and sects exist side by side, and in the larger towns and cities whole neighborhoods are inextricably mixed. To complicate the picture further, the Kurdish government has, since 2014, expanded into areas of Diyala, Nenawa, and Salaheddin provinces, not to mention Kirkuk. The areas that have come under recent Kurdish control are hotly contested by Arab and Turkoman populations.

The Kurds aspire to, and deserve, a state of their own, and many Arab Iraqis view Kurdish independence favorably. At present, although the Iraqi constitution describes the Kurdish areas as a "federated" region, in fact the constitution gives powers more commensurate with confederated status, and the Kurdish government has pushed the boundaries of its authority ever further. The problem now is not the independence of the Kurdish region but of its boundaries. The Kurdish aspirational "map" claims areas of Nenawa, Dyala, Wassit, and Salaheddin provinces. Since 2014 Kurds forces, keen to press their advantage and create facts on the ground, have moved into areas they claim as theirs to fill this map, and fighting has repeatedly erupted between Kurdish and Arab forces, both Sunnis and Shi'a. While full Kurdish independence is inevitable in the foreseeable future, the separation will be fraught with conflict over what areas will constitute a new Kurdistan state.

We must also keep in mind that Iraq balances along regional faultlines and rivalries, and because events in Iraq reverberate in the neighborhood, all neighbors have a stake in Iraq's future. One of Iraq's problems since 2003 has been the persistent meddling of its many neighbors and their undue influence over the political process. Should a confederation be attempted, Iraq's neighbors will not remain indifferent or neutral. Extremist groups like Daesh will also be emboldened. All outsiders will intervene to secure their interests and assert their power directly or through proxies, and the three confederated regions will not remain independent. It is probable that Sunni areas will irretrievably fall under the control of extremist

groups, while Shi'a areas will become Iranian satellites. This in turn will add fuel to future conflict, with certain repercussions in the region.

Regrettably, a confederation that creates separate Sunni and Shi'a regions will not work for internal as well as geopolitical reasons. It is impossible to draw clean borders that ensure fair representation of the inhabitants of those regions. By comparison, the Sykes Picot divisions will be seen as a stroke of genius. A 3-way confederation can only be created at the cost of civil war, bloodshed, ethnic cleansing and human displacement on a scale not yet seen in Iraq or the region, and affecting millions of people. The cost in human misery, economic collapse and social dislocation will be catastrophic. The borders of these prospective confederations will be contested for generations and could lead to renewed wars. Meanwhile, the government at the center of such a confederated state will, by definition, be left too weak and irrelevant to handle the fallout.

A More Viable Solution

In addition to designating three Kurdish provinces as a federated region, the Iraqi constitution allows the formation of new regions, and equally stipulates a high degree of devolution of powers from the center to the provinces. A Provinces Law passed in 2008, and amended in 2013, spells out the extensive powers that accrue to the provinces. Yet the law is only minimally implemented and devolution has not occurred for a number of reasons.

The first is the absence of a tradition of decentralization in Iraq and the whole Middle East. We are accustomed to highly centralized states in which a handful of people wield extraordinary power over the whole and all decisions are made by a centralized bureaucracy. Moreover, there is no political will in Baghdad to break this historic structure in favor of decentralization. Why should politicians in Baghdad divest themselves of power, and thereby limit their access to the spoils of power through corruption and patronage? Iraq's near-total dependence on oil also presents challenges to devolution, with problems of equitable revenue-sharing. The non-implementation of the Provinces Law has been the source of discontent everywhere in Iraq, and lack of responsibility or confusion of authority has created provincial governments that cannot be held properly accountable to their constituents.

Despite these challenges, far-reaching devolution to the 15 provinces within their current borders is a more viable remedy for Iraq's instability and volatility than a Sunni-Shi'a confederation. (It will of course require a settlement with the Kurds in several provinces). Whether we call this devolution or federalism is immaterial: the point is to give the current provinces wide-ranging powers and responsibility for delivering services and running their own affairs with minimal interference from the central government. Such autonomy is important for all provinces, but particularly in the majority Sunni areas that feel they have less representation and less clout in the national government. Devolution can become a path to national reconciliation: it can reduce grievances over the heavy hand of the central government, eventually strengthen unity of purpose within the provinces, and make the provinces more accountable to their constituents.

But this alone is not enough. The federal—or central—government has to be strengthened in the critical competencies of national interest. Foremost among these is the responsibility for peace-keeping and maintaining the rule of law. To this end, it should have exclusive use of force, or at the very least far superior force to other actors, such as the provinces or non-state groups. Associated with this is responsibility for overall security of the state, including the federal government's capacity in intelligence gathering, combatting terrorism, legislating and enforcing security-related laws, and control of borders. The federal agencies must retain the power to craft and impose strategies for national development, including development of natural resources, and a strategy for equitable revenue distribution that takes into account the devastation caused by ISIS in areas of conflict. And ultimately, the central government must have the authority and credibility to arbitrate between competing claims arising between provinces, whether over territory or resources. In short, it is not enough to devolve power to the provinces. This must go hand in hand with building the competence and efficacy of the central government. The present constitution may be an inadequate framework to achieve these outcomes, and a long-overdue revision may be required.

All of this is a tall order and a daunting undertaking, but it is better than the alternatives, and yet at present Iraqis cannot effect change on their own. To achieve a state of stability and relative security, Iraq needs agents of change. Popular demonstrations sweeping the country since 2012, the statements of the Marji'ya in Najaf, the very success of Daesh, are domestic agents of change, but they have not been sufficient. The international community, meaning the US and the Europeans, must play a major role: it must give serious thought to what will work in Iraq in the long term, and stop seeing Daesh as the only challenge they need to attend to. It must systematically and emphatically build the capacities of the central and provincial governments, and put pressure on the central government to undertake seriously the process of devolution that is affirmed in the constitution. To say that Iraq needs clear-sighted and determined assistance is not to absolve the Iraqi political class and the Iraqi people of responsibility for their country, but after national disasters stretching over decades, the system in Iraq is too damaged to be fixed by Iraqis alone.