Provincial Politics in Iraq

Fragmentation or New Awakening?

Michael Knights and Eamon McCarthy

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Front cover: Sunni security volunteers stand guard at the Imams Bridge linking Baghdad's Sunni-dominated Azamiyah neighborhood with the Shiite-dominated Kazimiyah neighborhoods, December 29, 2007. The route was closed shortly after hundreds of Shiites died in a stampede on the bridge while fleeing what they thought was a Sunni suicide bomber. Copyright AP Wide World Photos/Khalid Mohammed.

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The opinions expressed in this Policy Focus are those of the authors and not necessarily those of the Washington Institute for Near East Policy, its Board of Trustees, or its Board of Advisors.

Michael Knights:

Dedicated to Mark, a good friend who will always be sadly missed.

Eamon McCarthy:

Dedicated to my mother, father, and sisters, whose contributions and ideas have left an indelible mark on my thinking and who have sacrificed for my education; to friends, who have enriched my understanding by ardently challenging my views and opinions; to my work colleagues at the Olive Group, Richard, Michael, Ed, and Paddy, whose generosity has granted me much more than I could afford to pay back; and lastly, to Jess. I am grateful to you all.

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Preface

THIS PAPER EXPLAINS how subnational governance works in Iraq, and highlights the issues and options facing Iraqi decisionmakers on the issue of decentralization. This report is being released during a period of intense frustration among Iraqi citizens over the lack of local participation in governance. Overcentralization was the defining characteristic of Saddam Hussein's Iraq; its counterpart—decentralization—has been a central theme throughout the reconstruction of the country. Yet the promise of formal decentralization never fully matured between 2003 and 2008, and the frustration caused by this unfulfilled promise now threatens to severely strain the cohesion of the fledgling Iraqi democracy.

Provincial powers legislation was approved by Iraq's national assembly on February 13, 2008, and, after some debate, by the Presidency Council as well. Yet, the issue of decentralization is unlikely to be resolved by one piece of legislation. The Iraqi state is still in need of a formula that can give its diverse provinces and regions sufficient freedom to prosper within the new Iraq. Failure to achieve this could result in the country's partition into devolved states, the partial or full collapse of centralized governance, or the overcentralization of the Iraqi state under new forms of autocracy.

It should be noted that this paper does not directly deal with the three provinces controlled by the Kurdistan Regional Government (KRG). Instead, the paper focuses on the fifteen other Iraqi provinces—the so-called "governorates that are not incorporated into a region"—that were given scanty treatment in the 2005 Iraqi constitution, and have suffered from a dearth of supporting legislation and examination by the policy community.

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Note: Various supplemental annexes related to this study are available as a free downloadable PDF from the Washington Institute website (see www.washingtoninstitute.org/templateC04.php?CID=289). These include charts showing provincial budgetary allocations and provincial election results by party, and relevant excerpts from past and present Iraqi constitutions and Coalition Provisional Authority directives.

Executive Summary

FOLLOWING DECADES of authoritarianism, Iraqis want greater local input into economic and security decisionmaking. This desire will be realized in one of three ways: through a process that splits Iraq into new regions and weakens the state; through fragmentation into militia-run neighborhood microeconomies; or through a more measured program of decentralization that balances the responsibilities and authorities of federal and subnational governments.

This paper identifies the following issues and options relating to the third possibility: developing subnational government capacity; resisting extreme recentralization or extreme fragmentation along militia lines; bolstering provincial powers with detailed legislation; and "refreshing" the legitimacy of provincial councils with new elections.

Stay Engaged in Capacity Building

Subnational institutions—provincial, district, and local councils—currently do not have the technical capacity to manage government responsibilities and meet public expectations. There is a paucity of proactive leaders and individuals who are fully trained in development planning, and the linkages between the federal, provincial, and local levels are limited.

The first major issue for policymakers is how to provide ongoing support for subnational institutions as U.S. forces begin to leave Iraq in 2008. In Baghdad and central Iraq, where a strong U.S. military presence is likely to be maintained, this will not pose a serious problem. But in many areas of northern, western, and southern Iraq, there will be a necessary reduction of coalition forces. It is particularly unclear what will happen, for instance, to the embedded Provincial Reconstruction Teams (PRTs) that have no permanent bases and few institutional linkages with the provincial governments. More permanent arrangements need to be developed, similar to the coalition governorate coordinators who were tied to Iraqi provinces (rather than U.S. military units) and supported by secure facilities and military support sufficient to undertake visits throughout their areas of responsibility. Coordination with U.S. training units at Iraqi army bases would be one option, and the increased use of communications technology could be another.

Beyond maintaining PRTs, policymakers must ask the following questions: how can the international community ensure that Iraq's next round of provincial development strategies (PDSs) are more successful than the current round, less reliant on foreign assistance, and less likely to strain the federalist system by alarming the central government or disappointing the provinces? And, how can the international community broaden its participation in the PDS process?

The UN could arguably lead a reinvigorated effort through international nongovernmental organizations to maintain the coalition's current capacity-building efforts. The August 2007 adoption of UN Security Council Resolution 1770, which extended the mandate of the UN Assistance Mission for Iraq (UNAMI) by twelve months and expanded its political role in the country to "advise, support, and assist," is a step in the right direction. As the Stanley Foundation recently noted, the time may be right for the UN to step up its activities in Iraq.[1]

Supporting Provincial Security Improvements

As this paper examines in detail, the current centralized decisionmaking process on security matters could pave the way for an open-ended state of emergency and federal military primacy over provincial security. There

1. For more information, call Stanley Foundation program officer Kathy Gockel (+1 563 264 1500). Also see the discussion's background papers: *The UN and Iraq: Moving Forward?*, a Stanley Foundation policy analysis brief by James Traub of the *New York Times Magazine*; and *The United Nations in Iraq*, a Brookings Institution policy paper by Carlos Pascual commissioned by the Better World Campaign. Available online (www.stanleyfoundation.org/publications/pab/Traub_PAB_1007.pdf and www.brookings.edu/papers/2007/09iraq_pascual.aspx).

is a need to formalize the mechanism and conditions under which federal control of security is deactivated in each province, thus transferring security responsibilities to provincial and police forces. The rationale for such a system is already enshrined in the national security strategy, but the mechanism is notoriously vague and increasingly outmoded. Federal and subnational stakeholders should develop a new agreement to ensure that Iraq's state of emergency does not become an open-ended slide into authoritarianism. The security-related concepts put forth in the draft Provincial Powers Act approved by parliament on February 13, 2008, are worth developing.

A precursor to transferring security to provincial control is the strengthening of the Iraqi Police Service (IPS). Any future agreement on subnational security needs to include a division of responsibilities between the federal and subnational governments relating to the IPS. Currently, the federal Ministry of Interior pays for the IPS, yet the ministry has almost no insight into the hiring practices or other aspects of spending at the provincial level. Resolution of these issues—and the overall development of the IPS—is the means by which the provinces can demonstrate their commitment to accountable security forces, and justify their development of a mechanism to reduce Baghdad's grip on local security.

Farsighted treatment of the Concerned Local Citizens (CLC) initiative will also be vitally important for the future of security decisionmaking at the subnational level. If handled poorly, the CLC initiative could easily disappoint militiamen who were willing to disarm, and could even breathe life into militia activity in areas where armed groups had been under pressure to become unarmed citizens. In some areas, CLC schemes represent a tremendous opportunity to demobilize militiamen and support neighborhood movements that wish to break away from militias, criminals, and extremists. CLC also is proving to be an incubator for nascent political movements. Providing local citizens with an alternative to militia membership is precisely the kind of support the federal government and the provincial councils must jointly show they are capable of providing to their constituents. U.S. oversight of such groups needs to be supplemented by a broader international effort to reinforce positive political aspects of the CLC and the Sunni "awakening" (*sahwa*) phenomenon. Until the Iraqi government is willing to fund selected CLC units, the U.S. military should continue to finance this pivotal initiative itself.

The Iraqi government should furthermore be encouraged to adopt and eventually fund "off-ramp" initiatives to demobilize CLC members. Policymakers must recognize that militia membership gives Iraqis more than just a paycheck; it is theoretically a job for life, with decent benefits through the militia's ability to provide or subsidize healthcare, education, food, fuel, and even wedding ceremonies. The uncertainties of militia life—the danger and the poor reputation of some militias—need to be stressed, and some prospect of long-term employment and benefits needs to be developed.

Detailed Provincial Powers Legislation

Provincial councils have lacked legitimacy due to their inability to improve the lives of Iraqis, and the non-representational nature of the January 2005 provincial elections. Since 2003, the failure to correctly sequence this effort undermined the provincial councils, resulting in their appointment before they had any powers or budgets. The sequence should logically involve the further development of local government powers and capacities first, followed quickly by new provincial elections to refresh the legitimacy of the provincial governments.

Provincial powers legislation gathered momentum during 2007 and was approved by parliament on February 13, 2008. Arguably, however, the new law lacks detail. If the details are filled in sufficiently, the potential positive impact of such legislation is difficult to understate, particularly when one looks at the incremental damage caused by the uncertainty of a weak legal code being interpreted by risk-averse or resistant Iraqi civil servants. Legislation on provincial powers cannot be effective unless it is detailed, and this may take a couple of rounds of increasingly specific legislation, regulations, and annexes.

For instance, a strong legal code would support government transfers to the provinces, which could assist

multiyear provincial budgeting and establish greater trust between the federal and subnational levels. Legislation should also formalize a coordination mechanism between PDS needs-assessment documents, Accelerated Reconstruction Development Fund (ARDF) transfers, and ministerial planning. Federal control over subnational borrowing might be explained in greater detail to encourage provinces to make greater use of such facilities. Mechanisms for the transfer of security responsibilities between the federal and provincial governments need to be clearly explained.

Elections in the Immediate to Near Future

Now that provincial powers legislation has been passed, provincial elections should be held across the country in 2008. The legislation suggests holding elections on October 1, 2008—a date that all parties need to ensure does not change. With sustained support, the Independent Higher Electoral Commission should be able to assemble staff members in most provinces. Although new electoral legislation might provide a more reliable and sophisticated electoral system than what was used previously, Iraqi leaders could use the extant 2005 legislation to serve as the basis for early elections if need be. Using the Ministry of Trade's public distribution list to produce voter lists will be possible in many areas, particularly those suffering the greatest distortions in the January 2005 elections (the predominately Sunni provinces of Anbar and Salah al-Din, and areas where Sadrists did not compete across southern Iraq). In these areas, the number of displaced persons is relatively low and records are thus relatively accurate. The slight staggering of provincial elections would likewise prevent a security burden, reducing tension in areas of high factional discord such as the Shiite south. This measure could even allow desperately needed elections in insecure areas such as Ninawa, Diyala, and Basra, which would undoubtedly be among the last places to be ready for polling. Staggered polling could also allow closer oversight of the polling process in order to avoid the gross irregularities that occurred in some provinces in 2005.

Subnational Governance and Iraq's Future

Ongoing commitment to capacity building, conditional support for awakening initiatives, detailed provincial powers legislation, and 2008 elections should steer Iraq away from the negative scenarios that crowd its horizon. Decentralization is the middle road that can give Iraq's Arab provinces sufficient incentive and freedom to stay within a unitary set of fifteen provinces. The alternatives are unattractive: on the one hand, Iraq could return to the authoritarianism of its past; on the other, the country could fragment into a patchwork of local fiefdoms, a situation that one Iraqi described as getting rid of one dictator to be left with fifty lesser ones.[2]

2. "Many Iraqis feel now that they've been delivered into the hands of many lesser dictators. As one of my friends said: Thanks very much. You got rid of one Saddam and you left us with fifty." See Ian Black, "You Got Rid of One Saddam and You Left Us with 50," *The Guardian* (September 21, 2007).

Iraq: Provinces and Districts

Anbar
2 Abu Ghraib
13 Falluja
24 Al-Qaim
25 Kadhimiya
45 Ramadi
48 Al-Rutba
59 Ana
72 Haditha
74 Heet

Babil
19 Hashimiya
22 Hilla
31 Al-Madain
32 Al-Mahawil
33 Mahmudiya
40 Al-Musayab

Baghdad
6 Adhamiya

Basra
1 Abu al-Khasib
9 Basra
14 Fao
37 Al-Midaina
44 Al-Qurna
56 Al-Zubair
91 Shatt al-Arab

Dahuk
58 Amedi
69 Dahuk
96 Sumel
102 Zakho

Dhi Qar
10 Al-Chibayish
43 Nasariya
46 Al-Rifai
52 Al-Shatra
97 Suq al-Shoyokh

Diyala
27 Al-Khalis
39 Al-Muqdadiya
60 Baquba
64 Baladrooz
77 Khanaqin
78 Kifri

Irbil
66 Choman
71 Irbil
80 Koisnjaq
82 Makhmur
83 Mergasur
89 Shaqlawa
94 Soran

Karbala
4 Ain al-Tamur
23 Al-Hindiya
76 Karbala

Maysan
7 Amara
26 Al-Kahla
34 Al-Maimouna
36 Al-Mejar al-Kabi
57 Ali al-Gharbi
86 Qalat Saleh

Muthanna
28 Al-Khidhir
47 Al-Rumaitha
49 Al-Salman
50 Samawa

Najaf
29 Kufa
35 Al-Manathera
42 Najaf

Ninawa
5 Akre
8 Al-Baaj
17 Al-Hamdaniya
20 Hatra
38 Mosul
53 Al-Shikhan
92 Shekhan
93 Sinjar
98 Telafar
100 Tilkaif

Qadisiya
3 Afaq
12 Diwaniya
18 Hamza
51 Al-Shamiya

Salah al-Din
11 Al-Daur
15 Al-Faris
54 Al-Shirqat
62 Baiji
63 Balad
88 Samarra
99 Tikrit
101 Tooz

Sulaymaniya
65 Chamchamal
68 Darbandihkan
70 Dokan
73 Halabja
75 Kalar
84 Penjwin
85 Pshdar
87 Rania
90 Sharbazher
95 Sulaymaniya

Tamim
21 Al-Hawiga
67 Daquq
79 Kirkuk
81 Makhmur

Wasit
16 Al-Hai
30 Kut
41 Al-Namaniya
55 Al-Suwaira
61 Badra

The Politics of Decentralization

EVEN BEFORE THE FORMATION of Iraq in 1932, tension between Baghdad's centralized rule and provincial control had been apparent. In the Ottoman and British Mandate periods, there was an uneasy coexistence among the semiautonomous provinces (*vilayats*) of Baghdad, Mosul, and Basra and the various localities (*sanjaks*) such as Kirkuk and Sulaymaniya. The 1925 constitution of the Kingdom of Iraq contains a section (Part VII: Administration of the Provinces) describing the formation of municipal councils and the powers of their officials. After overthrowing the monarchy, the Arab Socialist Baath Party was likewise quick to enshrine the principle of decentralization in the postrevolutionary Iraqi constitution of 1968. Yet for all the lip service paid to decentralization, the history of modern Iraq has seen precious little devolution of real power to the provinces and municipalities. The prospect of true federalism and a diminished role for central government has always been resisted. Instead, the state has sought to centralize all decisionmaking and control of resources in the executive leadership in Baghdad.

Saddam Hussein's rule of the Baath Party witnessed the ultimate expression of these centralizing tendencies at the expense of the subnational communities. But on paper, governance appeared partially decentralized. In the Kurdish north, Baghdad retained tight control despite the 1970–1974 establishment of a Kurdish Autonomous Region. In Baghdad and the remaining fifteen provinces, a publicly elected provincial governor theoretically supervised an administrative system of district (*qadaa*) and local (*nahiya*) offices responsible for rural areas, as well as municipal councils within urban centers, in order to ensure order and efficiency of public services.

In fact, Saddam Hussein overshadowed the Kurdish region and disregarded election results, personally selecting provincial governors, provincial police chiefs, and mayors from the Baath Party or his extended family. Even then, the regional command of the Baath Party acted in parallel with the formal local government structures, as did other military and intelligence organizations. The subprovincial levels of government existed purely to execute plans developed by the Baghdad ministries with little or no consultation with local representatives or the populace. Councils were heavily supervised through the Baath Party's loyal cadre of party members, appointed elders (*mukhtars*), informers, and security agencies. Decisions could not be implemented without Baghdad's permission and this effectively culled innovation and initiation at a local level—an ingrained mentality that impoverished independent decisionmaking when local governance programs were first introduced by the coalition in 2003.

Subnational authority and fiscal responsibilities in Saddam Hussein's Iraq were governed by the Revenue of Municipalities Law 130 of 1963 and the Governorates Law 159 of 1969. Under law 130, the districts and their administrators (*qaim maqam*) could raise revenues through various charges and duties as well as levying rent income from municipal properties. Similarly, provincial governors could levy taxes. In each case, however, locally generated revenues were quickly seized and retained by federal ministries and were never spent by the subnational authorities. The Ministry of Finance (MoF) gathered all taxes through its tax directorate in each district, and other ministries gathered service charges. Under the Municipality Administration Law 165 of 1964, the Ministry of Municipalities and Public Works (MoMPW) established an office (known as *beladiya*) in each district to deliver the basic municipal services (garbage collection, road works, water, sewerage, etc). Then, as now, the MoMPW controlled the expenditure of local revenues (including taxes, transferred from the MoF) by shuffling money from well-resourced districts ("surplus municipalities") to those that could not raise enough revenues to pay for services ("deficit municipalities"). The federal government topped off further deficits not covered by these transfers. The system ensured that no district could create enough surplus

to plan and self-fund development of its infrastructure and economy.[1]

Instead, all development was directed and resourced through the federal budget and the ministries. Saddam Hussein apportioned the federal budget to the ministries, which in turn made plans for the development of new infrastructure and the maintenance of existing infrastructure across the provinces. Funding flowed down through the system of ministry directorates at the province, district, and local levels, and was disbursed directly by MoF treasurers. The system, however, had many drawbacks. Needs assessment by local branches of the ministries was minimal, resulting in the commissioning of many flashy "make work" projects that were not closely tied to actual local priorities. The system also allowed the Saddam regime and its politically appointed ministers to centrally control budget distribution across the provinces—an advantage the regime used to punish the rebellious Shiite southern provinces and favor Baghdad and the predominantly Sunni Arab provinces that it relied upon to survive. As the sanctions regime bit deep during the early and mid-1990s, the flow of monies through the federal ministries slowed to a trickle, further exacerbating the decay of government capacity to manage large-scale development.

From Occupation to Transition

Although the sanctions during the 1990s considerably eroded the effectiveness of Iraq's centralized government system, it was the collapse of the Baathist regime and the widespread looting of government buildings in 2003 that proved most significant in temporarily leveling the inequalities between national and local government. For a period of months, the federal government in Baghdad in all practical terms ceased to exist, creating an unprecedented period of local self-governance. In the chaos of the liberation, Baath Party bureaucrats at the provincial, district, and local levels melted away. They were replaced by neighborhood powerbrokers who used their leadership of the local communities in the years before and during the dying days of the regime to seize the opportunity to gain political power. These individuals, however, had no technical experience in running local government.

With all preexisting local governance structures swept away, the coalition forces took the lead in setting up local councils to act as Iraqi interlocutors and continue the administration of daily affairs in many of the major cities, governorates, and districts. With no rulebook to speak of, each coalition divisional and brigade commander took a slightly different approach to the formation of local councils. Coalition commanders suddenly brought practical governance back down to the level of individual cities and towns. Direct interaction with coalition commanders gave Iraqis access to decisionmakers with the authority and the resources to meet many immediate needs. Military engineering capacity and the Commanders Emergency Response Program—a quick turnaround grant-funding capability at brigade level—spawned a range of small economic development projects based on local needs that were jointly planned and executed with local powerbrokers. Consequently, Iraqis began to develop a taste for this kind of participation in local development.

Alongside informal military encouragement of local community decisionmaking, the Local Governance Program (LGP) run by the U.S. Agency for International Development (USAID) quickly began a more formal program to decentralize the Iraqi state. LGP had four objectives: (1) to help local governments restore essential services; (2) to improve the effectiveness of public servants responsible for administration and service delivery in their districts; (3) to strengthen access of citizens to local government and other mechanisms; and (4) to help the coalition bring Iraqis together to discuss the type of government they desired, the role of federalism, the election process, and other matters.[2]

1. "Republic of Iraq District Government Field Manual," Iraq Local Governance Program, United States Agency for International Development (Baghdad), p. 17.
2. David Brinkerhoff, "Democratic Governance in Iraq? Progress and Peril in Reforming State-Society Relations," *Public Administration and Development* (2005), 25:63.

While the centralized bureaucracy was still reeling from the fall of the regime and the collapse of law and order, USAID contractor Research Triangle Institute (RTI) executed over $13 million worth of rapid response grants, and delivered fifteen different training modules that taught practical local governance skills. RTI facilitated the formation of 445 neighborhood, 194 subdistrict, 90 district, and 16 provincial councils in just one year. A new caste of provincial, district, and local leaders were elected by these councils. Though the number of subdistricts would eventually rise to 427, the basic architecture of subnational government was effectively in place. Whereas most of these structures had existed during the Baathist period, they now represented local constituents to a greater extent than ever before.

Legislative Weakness of Subnational Government

As postwar improvisation gave way to planning, the coalition was forced to question its ultimate objectives in reversing the centralization of the Baathist state. Senior U.S. decisionmakers planned to restrict the federal government's role to certain exclusive domains—"a federal Iraq"—from 2003 onwards, implying substantially greater long-term autonomy for the Kurdistan Regional Government (KRG) and potentially for other subnational governments as well. The Transitional Administrative Law (TAL) of March 2004 stated that the interim Iraqi government would be the "federal government" of Iraq, paving the way for a similar formulation to be used in the 2005 Iraqi constitution. Significant policy decisions about the future of Iraq were swiftly made without extensive debate. Attention then moved to the mechanics of decentralization.

Although the LGP provided some form to local governance, Iraqi bureaucrats were hamstrung by the lack of formal legal authority and the funding necessary for basic administration. Baathist legislation regarding the powers of provincial and municipal councils existed in the shape of the 1969 Governorates Law 159. In the post-Saddam era, however, this legislation did not satisfy the new policy requirement to decentralize governance and was considered to be of ambiguous legality.

Coalition governorate coordinators and military commanders could appreciate firsthand the quandary facing Iraqi provincial officials who lacked not only the formal powers to govern but also the budget required to pay their staff and other running costs of the provincial councils. Even at this early stage, however, there was strong resistance to a Coalition Provisional Authority (CPA) order codifying local government powers. The Iraqi Governing Council (IGC) demonstrated the centralizing tendencies of Iraqi decisionmakers and wanted to avoid any formal move toward decentralization. Coalition lawyers sought to veto such a pronouncement on the grounds that it fell outside the remit of an occupying power. Iraqi councils existed without powers or budgets until the CPA eventually issued guidance just a month and a half before the "transfer of sovereignty" in June 2004.

Designed specifically to shore up the legal authority of local officials, CPA order number 71 (Local Government Powers, April 6, 2004) arrived too late in the CPA's period of governance for the coalition to ensure its implementation, but would nonetheless be perceived as a dictate from an occupying power. It was an unpopular order among Baghdad's federal government officials and suffered from the same lack of legitimacy as previous Saddam-era legislation (see figure 1 for relevant excerpts from the order).

In essence, order 71 formalized the structure and role of the governorate councils, granting provincial councils both the funding required to maintain administrative staffs and the legal authority to contribute to the election and removal of governors, deputies, provincial police chiefs, and the directors-general of provincial ministry branch offices. The key criticism of order 71 is its failure to secure sizeable revenues for the provinces to undertake planned economic development to meet local needs (see the following chapter for a full discussion of this issue).

Following the transition to Iraqi rule in June 2004, the next key milestone in the development of local governance was the drafting of the 2005 Iraqi constitution. Article 116 of the constitution enshrined the principle of decentralization, noting: "The federal system in the Republic of Iraq is made up of a decentralized capital,

Figure 1. Excerpts from CPA Order 71*

Section 2: Governorate Councils

1. Each Governorate may form a Governorate Council, which shall be funded from national budget allocations that are separate from the budgets of the ministries and other national institutions;
2. The Governorate Councils may set priorities for the provinces…
5. The Governorate Councils are hereby authorized to select and appoint Governors and Deputy Governors.

Section 3: Governors and Deputy Governors

1. The Governor is the head civil official of a Governorate and is accountable to the Governorate Council. The Governor shall direct, coordinate and oversee actions in implementation of the Governorate Council's decisions.

Section 4: Local Councils

1. Each Governorate may, by majority vote, form subprovincial regional councils, municipal councils and other relevant local councils organized geographically, such as Qada' and Nahiya, City Councils, Beladiya Councils and Hayy Councils, as necessary to achieve greater efficiency and economies of scale in coordinating the provision of public services, and to facilitate unified and coordinated administration of cities;
2. Local councils shall, by majority vote, elect Mayors and Deputy Mayors. Mayors and Deputy Mayors selected by local councils prior to the date of this Order shall continue to hold office, unless removed in accordance with this Order. Local councils may remove Mayors and Deputy Mayors upon a two-thirds vote. Should vacancies occur in the positions of Mayor or Deputy Mayor, local councils may elect a new Mayor or Deputy Mayor through majority vote of the council.

Section 5: Mayors and Deputy Mayors

1. Mayors (in Arabic "Mudeer al-Nahia," "Qa'im Maqam," and "Ameen") are the senior administrators of local councils and are accountable to the local council. Mayors shall direct, coordinate and oversee actions in implementation of decisions of the local councils, and shall serve as the primary liaison between the local councils and the Governors.…
5. Mayors shall appoint local government officials, provided that their appointments of Directors General serving directly on the local government staff and other senior positions, as defined by the Administrator, shall be subject to the approval, by majority vote, of the local council, within two weeks following the appointment. Mayors may, for cause as defined under this Order, remove those officials whom they are authorized to appoint, subject to the concurrence, by majority vote, of the local council.
6. Mayors shall meet regularly with all Directors General within their geographic areas of responsibility to monitor, and where authorized by applicable laws and regulations to direct, the delivery of public services.

Section 6: Chiefs of Police

1. Within each Governorate, there shall be a Chief of Police, responsible for overseeing all civil law enforcement activities within the Governorate.
2. Chief of Police vacancies will be advertised nationally by the Ministry of Interior and the Governorate Council shall be notified of such vacancies. Applications for Chief of Police positions shall be sent to the Ministry of Interior, which shall identify fully qualified applicants and provide the names of those applicants to the Governorate Council in a timely manner. The Governorate Council shall, upon a majority vote within two weeks following its receipt of the names of fully qualified applicants from the Ministry of Interior, select the most suitable candidate from these nominees. Chiefs of Police shall be appointed to a 3-year term, which may be renewed.
3. Chiefs of Police may be removed by the Minister of Interior, or by the Governorate Council upon two-thirds majority vote, for cause as defined in this Order.

* See annex 1 for the full text of the order. Available online (www.cpa-iraq.org/regulations/20040406_CPAORD_71_Local_Governmental_Powers_.pdf).

regions and governorates, as well as local administrations." The constitution laid out the basic hierarchy of the federal state: the separation of powers at the federal level; the exclusive authorities of the federal government (defense, foreign affairs, and ownership of oil reserves); the legitimacy of provincial and regional governments with their own constitutions and legal frameworks; the governorates outside of regions; and the Baghdad capital territory.

Regarding the issue of provincial powers and authorities, the constitution stated little and left the matter to implementing legislation. Although parliament passed a provincial powers law in February 2008, it suffers from many of the same weaknesses as order 71. In particular, it is vague, open to interpretation, and thus reliant on new generations of implementing legislation.

Effects on Local Power Politics

Decentralization is an inherently political matter, being specifically aimed at the transference of political power from one level of government to another. In the unstable post-Saddam era, two parallel processes of decentralization have taken place. On the one hand, local powerbrokers undertook an informal devolution of power in the absence of a functioning federal government. Under this model, power initially devolved to those with muscle and then increasingly to those who displayed not only the military power to restore a measure of local security but also the organization and resources to meet local economic needs—in other words a Mafioso-type establishment.

The *tharallah* movement in southern Iraq is an example of just such a power base. It started in the chaos of liberation as a gang of criminals led by a local strongman Sayid Yousuf al-Musawi, then morphed into an organization that local people could turn to for protection and tough justice. *Tharallah* is openly recognized as a movement that undertakes political and criminal assassinations as well as Iranian-sponsored attacks on coalition forces. At the time of writing, al-Musawi is a prominent and feared member of Basra's provincial council and security committee, and head of a fully fledged political party. *Tharallah* spokesmen have told journalists that they would order the assassination of dissenting provincial council members that voted against their motions.

Advanced social services were provided by other movements such as the Organization of the Martyr Sadr (OMS) and the Supreme Council for Islamic Resistance in Iraq (SCIRI, now the Supreme Iraqi Islamic Council or ISCI). Under these informal models, power devolved to those with a proven capacity to deliver some form of service to the community, or at least to desist from inflicting some form of punishment. In Sadr City, for instance, OMS delivers many of the services typically provided by government, including neighborhood security and policing, garbage collection, fire fighting, education, hospital administration, and blood donation drives. Within key Muqtada al-Sadr enclaves such as Sadr City, a parallel legislature of tribal sheikhs interacts with an executive "branch" formed from activist clerics.[3]

At another level, the coalition sought to institute a more formal system of decentralization described in the previous section. This system sought to develop local power bases built on legitimacy and accountability, and underpinned by formal powers and authorities enshrined by law. This was easier said than done in the early years of the occupation. The LGP initially selected the membership of provincial councils after a move toward early elections was put on hold in the spring of 2003. Although scrupulous effort was put into creating balanced councils that reflected urban and rural communities, the tribes and the technocrats, and the religious parties and the secularists, the councils remained externally imposed with relatively limited caucuses of Iraqis. CPA order 71 likewise sought to provide such councils with formal powers and authority over all issues not considered to be exclusive to federal authorities, yet these councils still lacked the capacity to effectively deliver social services

3. Michael Knights, "Battle for Iraq lies in the South," *Jane's Intelligence Review* (June 1, 2005).

Figure 2. Provincial Population Estimates and Voter Turnout, February 2005

	ESTIMATED POPULATION (MILLIONS)	AREA (SQ. MI.)	# VALID BALLOTS	# INVALID BALLOTS	% VOTER TURNOUT	% OF TOTAL POPULATION
Baghdad	5.139	283	—	—	48	21
Ninawa	2.349	14,410	—	—	17	9
Dahuk	0.650	2,530	378,990	3,418	89	2
Sulaymaniya	1.100	6,573	738,682	7,749	80	4
Irbil	1.100	5,587	—	—	—	4
Tamim (Kirkuk)	0.703	3,970	—	—	—	2
Salah al-Din	1.099	9,556	—	—	29	4
Diyala	1.436	7,365	—	—	34	5
Anbar	1.261	53,476	3,775	28	2	4
Babil	1.828	2,497	—	—	71	7
Karbala	1.047	1,944	—	—	73	4
Najaf	1.021	11,129	—	—	73	4
Wasit	0.815	6,623	—	—	66	3
Qadisiya	0.779	3,148	—	—	69	3
Dhi Qar	1.537	4,981	—	—	67	6
Muthanna	0.514	19,977	—	—	61	2
Basra	1.330	7,363	71,271	7,733	—	5
Maysan	0.685	6,205	—	—	59	2

Sources: Data on area from www.statoids.com/uiq.html. Data on estimated population from http://thelancet.com. *Note:* No adjustment was made to the population estimates with respect to recent displacement or immigration. All other data gathered from the Independent Electoral Commission of Iraq (IECI).

due to the slowness of the reconstruction effort and the federal government's extremely limited financial support for the provinces.

As a result of this lack of subnational government capacity, the power shift in 2003–2005 favored informal actors—the militia-backed political parties and other local powerbrokers—at the expense of the weak governorate councils. The governorate councils had to look back to Baghdad to approve many of the local decisions that councils in other countries take for granted, such as the appointment of school principals or hospital directors, the registration of individuals for healthcare and food rations, and the licensing or inspection of new businesses, construction, and health certificates. To the extent that anyone in Iraq has provided basic government services such as those listed above, the militias have often filled these roles, both to raise revenues for their coffers and to generate local support for themselves.

As a result, local councils could not appeal to public support on the grounds of either their capacity to deliver or their representativeness of the local com-

munity. Until security improved and legislation that would boost the formal powers and executive capacity of local governance was passed, the coalition's answer to the weakness of such councils was to focus on boosting their legitimacy through democratic elections.

The Effect of Provincial Elections

Although coalition personnel periodically "refreshed" the makeup of local councils to increase representation, true legitimacy and accountability required provincial and local elections. Under the Saddam-era People's Local Councils Law 25 of 1995, local councils were theoretically elected, but in practice the electorate was denied a say in the matter because the regime selected trusted insiders.

CPA order 96 (the Election Law, June 2004) and later the Iraqi Elections Law of 2005 formally provided the rules for the local elections, which were held in January 2005.[4] The proportional representation system treated each province as a single electoral district and required parties to submit their lists of candidates, from which council members would be selected in accordance with the party's proportional share of the vote.

The system partially shielded potential candidates from intimidation by delinking them from the local constituency system that was dominated by power plays and violence. Though safer and theoretically more supportive of small independent parties, the system had its down sides. As well as loosening the ties of accountability between constituents and their representatives, it accentuated the power of political parties whose campaigns easily overshadowed those of independents. In a campaign with a bewildering assortment of lists, this proved to be a major advantage for the political parties. According to coalition provincial administrator Rory Stewart, the elections swept away the finely balanced councils of the CPA era, removing almost all the liberal moderates, rural sheikhs, women, and local sectarian minorities.[5] The election, therefore, laid the groundwork for the inexorable rise of Islamist political parties since 2003.

Patterns in voter turnout and boycotting of provincial elections also had a major impact on the factional and sectarian composition of provincial councils in Iraq from 2005 onwards (see figure 2). The Sunni boycott and violent interference with voting in Sunni areas had two key effects. First, the provincial councils elected in mixed areas (Baghdad, Diyala, Ninawa, Kirkuk, and Salah al-Din) included far too few Sunni Arabs. Kurdish parties won the majority of seats in Kirkuk and Ninawa provinces, as well as the largest single bloc in the Salah al-Din province.[6] In Diyala province, Shiite politicians took half the seats despite representing no more than a quarter of the electorate. Second, in the predominately Sunni province of Anbar, the provincial council was elected on a precariously narrow base of popular support, numbering a mere 3,775 votes (just 2 percent of the 1.26 million potential electorate). This has caused growing problems in Anbar, where local powerbrokers have increasingly rejected the legitimacy of their political representatives.

In Shiite areas, the partial boycott of Sadrist factions gave ISCI (then SCIRI) a plurality of the provincial council seats and thus the governorships of seven Iraqi provinces including Baghdad. In comparison, just two provinces fell to Sadrist politicians and one to the Fadhila (Virtue) party. The distribution of provincial council seats strongly favoured ISCI. Of those candidates with a known affiliation to a party, 143 were tied to ISCI, 22 from its allies in the various Dawa factions, 45 from the Fadhila Party, and 51 Sadrists of various shades.[7]

Compared to the share of national assembly seats agreed to by the Shiite parties following the December 2005 elections, when Sadrists were given about half as many seats as ISCI, the Sadrists were massively underrepresented in relation to their street presence. With governorship and control of provincial councils came

4. For more information, visit the Independent Electoral Commission of Iraq. Available online (www.ieciraq.org/English/Frameset_english.htm).
5. Rory Stewart, *Occupation Hazards: My Time Governing Iraq* (London: Picador, 2007), p. 422.
6. See annex 5, available online (www.washingtoninstitute.org/templateC04.php?CID=289).
7. Ibid.

strong influence over the selection of provincial directors of police. ISCI control of provincial police leadership in the Shiite south was cemented by the party's success in securing the Ministry of Interior from spring 2005.

While the Sunnis and the Sadrists eagerly snatched their opportunity to compete for political representation at the national level in the December 2005 parliamentary elections, local elections have not been held since January 2005. Consequently, gross distortions in representation have been frozen in place for over three years. Although workarounds such as auxiliary consultative councils have been developed to informally incorporate boycotting factions into provincial decisionmaking, the results gave Sunni and Sadrist factions further cause to resort to unlawful means to protest the prevailing local political order.

Governors can only be removed through a difficult process requiring a two-thirds majority of the governorate council. As a result of this factor and the lack of elections, many governors have built formidable power bases using patronage and the security decisionmaking authority vested in their positions, disconnecting them from their constituents and granting them a degree of independence from their political parties. Coalition provincial administrator Mark Etherington noted:

> What Iraqis mainly sought was the power of patronage: the key was to ensure that one's group—whether tribe, immediate family, or friends—remained in the ascendant. This was regarded as the primary task of each member of the clan. The longer a senior figure was in position the more pronounced this effect. When attempting to remove a figure, what one actually sought to dismantle was a brotherhood, built entirely around the person of the chief. Actually it was worse even than that because he too would be linked upward to some guardian angel in the Ministry of Interior whose job would be to protect him and to block attempts to move him.[8]

Governors have furthermore grown adept at drawing the coalition into factional struggles in their official capacity as the chief executive of the province, with ISCI governors proving particularly effective at using coalition forces to put down Sadrist uprisings across the center and south of Iraq.

What Would New Elections Bring?

An obvious answer to the above issues is to hold provincial elections to "refresh" the system with more balanced participation and greater popular accountability. Instead, such elections have been repeatedly postponed. From a practical perspective, numerous preliminary steps need to be achieved before polls can take place. These include the development of:

- **The Independent Higher Electoral Commission (IHEC).** The UN Assistance Mission for Iraq (UNAMI) and other agencies supported the April 2007 formation of the IHEC and its ongoing operations. The expansion of IHEC capacity into the provinces, districts, and local levels has been slow, however, with just nine of nineteen chief electoral offices (Baghdad plus eighteen provinces) having supplied IHEC with candidate lists for their directorships.

- **Voter registration lists.** IHEC plans to use the Ministry of Trade's Public Distribution System list (normally used for delivery of food packages) to produce voter lists, although internally displaced persons and refugees leaving Iraq have complicated this option.

- **Legislation.** The last provincial elections were held before the ratification of Iraq's constitution, which did not detail arrangements in such local elections, making it legally advisable for new legislation to be drafted. Currently, the only extant legislation governing provincial elections is the 2005 Elections Law. New legislation would need to address issues such as which electoral system to use (single member districts or proportional representation lists) and whether to alter any electoral boundaries.

- **Monetary and security arrangements.** Iraq's federal government did not allot either finances or

8. Mark Etherington, *Revolt on the Tigris: The Al-Sadr Uprising and the Governing of Iraq* (London: Hurst and Co., 2005), p. 83.

security resources to support new provincial elections in 2007 or 2008. There is an argument that securing elections would be an unwelcome distraction as U.S. forces begin to draw down in Iraq, although this argument is undermined by the fact that reported violent incidents have now dropped below the level seen during the January 2005 elections, while the Iraqi security forces are now much more capable.

Alongside the practical issues pertaining to the timing of new elections, there are also political considerations. The advantage of holding provincial elections sooner rather than later mainly relates to the need to "refresh" the accountability of local governance and break up entrenched systems of patronage. This is a powerful incentive. In some areas, notably in Sunni Arab communities, new elections could further support sectarian and ethnic reconciliation by providing the Sunnis with a fairer share of council seats, and could also reduce communal tension as the real powerbrokers—the unelected faction leaders—enter the formal system of governance. Some would argue that new elections might also provide greater opportunities for nonviolent power transfer instead of the coercive bargaining and creation of parallel official and unofficial power sets that currently exist. A final incentive would be the maintenance of a system of alternating national and provincial elections that would be separated by one or more years, which has the benefit of reducing the "winner takes all" nature of elections and leaves the losing parties with new elections to look forward to in relatively short order.

There are counterarguments that suggest elections should be postponed until 2009 or beyond, albeit these are more often presented by Iraqi factions that do not wish to see the current provincial power balance altered or subjected to uncertainty. Some Iraqi and U.S. decisionmakers feel that provincial elections would result in an unwelcome shuffling of provincial leadership, councils, and technocrats. This could disrupt hard-won administrative capacity at a critical stage in the fight for local security and economic reconstruction. Electoral reform is a vital determinant of the representativeness of future provincial governance and it is arguable that this process should not be rushed. In southern Iraq, where Sadrist and ISCI fighters regularly clash, elections might actually exacerbate such strains.

Other arguments for delay are less compelling. It is unlikely, for instance, that a postponement of elections by a few months or a year would result in a greater number of moderates emerging. Nor should elections be delayed in an attempt to influence factional competitions across Iraq. In the important case of Shiite Iraq, the balance of power is simply too fluid to predict whether further postponement of provincial elections would create a more favorable set of electoral results. Both ISCI and Sadrist factions are busy building their long-term political power bases, extending their political party bureaucracies and youth-recruitment programs, shoring up their footholds within the security forces, and acting to strengthen their religious credentials. Neither the parties themselves nor any outsider has an accurate means of judging their relative popular support. Under such conditions, early provincial elections may provide a vital pointer concerning the internal power balance inside Iraq—potentially the first such true plebiscite contested by all factions. This would be of immense value in formulating future policy.

"Soft Partition": The Politics of Forming Regions

Alongside elections, the formation of provincial or regional governments is a development that could seismically shift the local power balance in Iraq. The regional provisions written into Iraq's 2005 constitution were plainly included to legitimize the KRG's existence, yet ISCI used those same provisions to raise the issue of devolved government in the Shiite parts of Iraq. In essence, the constitution states that any province or set of provinces can hold a referendum to form a regional government if such a vote is requested by one-third of the council members of each regional governorate or by a petition of one-tenth of the voters in each of the governorates.[9]

9. See annex 3 for relevant excerpts from the constitution. Available online (www.washingtoninstitute.org/templateC04.php?CID=289).

Article 117 of the constitution identifies a region's ability to develop its own constitution and to maintain the following authorities:

> First: The regional authorities shall have the right to exercise executive, legislative, and judicial authority in accordance with this constitution, except for those powers stipulated in the exclusive powers of the federal government.
>
> Second: In case of a contradiction between regional and national legislation in respect to a matter outside the exclusive powers of the federal government, the regional authority shall have the right to amend the application of the national legislation within that region.
>
> Third: Regions and governorates shall be allocated an equitable share of the national revenues sufficient to discharge its responsibilities and duties, but having regard to its resources, needs, and the percentage of its population.
>
> Fourth: The regions and governorates shall establish offices in the embassies and diplomatic missions, in order to follow up cultural, social, and developmental affairs.
>
> Fifth: The Regional Government shall be responsible for all the administrative requirements of the region, particularly the establishment and organization of the internal security forces for the region such as police, security forces and guards of the region.[10]

The Iraqi parliament passed legislation in October 2006 allowing the formation of such regions, with a provision that no such new bodies (beyond the KRG) could be formed before April 2008.[11] This rare combination of constitutional authorization and implementing legislation has led some U.S. politicians and think-tank experts to believe that the formation of regions is an alternate route to effective governance in Iraq.[12] In theory, this arrangement would allow the country to split into more "natural" units that stand a better chance of developing the internal cohesion needed to improve local security and economic development.

The example of the KRG looms large in such thinking and seems to offer a model of the sort of devolved regional governance that might be possible (and even preferable) elsewhere in Iraq. Operating against a backdrop of constitutional principles concerning equitable distribution of oil revenues to the regions and provinces, it is possible to imagine homogenous sectarian or ethnic regions, each with constitutions and institutions suited to their character and expectations, loosely affiliated with a minimalist federal government.

Upon closer inspection, however, resorting to extreme federalism is not a panacea to the problem of federal government underperformance in Iraq. Starting from scratch and creating a new layer of regional institutions would be far slower than strengthening existing institutions at the federal and provincial levels. The KRG's institutions have been developing for over a decade and a half and are still incomplete. In fact, the creation of an additional level of governance in the Kurdish region continues to complicate provincial governance as well as relations with Baghdad. The development of new regions would set back development of federal and provincial agencies in non-Kurdish Iraq, and would drain skilled administrators out of these bodies just as they are developing capacity. Formation of new regions is a long-term political issue for Iraq and particularly for its Shiite south and center, but the mechanism is no shortcut to improved governance.

Case Study: Prospects of a Shiite "Super Region"

If a new region were formed in Iraq, it would likely be in the Shiite south. Although some southern politicians and businessmen favor a smaller oil-rich southern confederation comprising Maysan, Dhi Qar, and Basra

10. Republic of Iraq Constitution (translated from the Arabic by the Associated Press), Section 5, "Powers of the Region", Chapter 1, "Regions," Article 117.
11. Iraq's Investment Law as of October 2006.
12. The partition idea surfaced in a May 1, 2006, *New York Times* editorial written by Senator Joseph Biden and Council on Foreign Relations expert Leslie Gelb. The federalism plan gained strength with the September 2007 passage of an amendment to the Senate version of House Resolution 1585, a 2008 defense authorization bill. The amendment passed 75 to 23, showing substantial bipartisan support. Also see Anthony Cordesman, *Pandora's Box: Iraqi Federalism, Separatism, "Hard" Partitioning, and U.S. Policy* (Washington D.C.: Center for Strategic and International Studies, 2007), and Edward Joseph and Michael O'Hanlon, "The Case for Soft Partition," *USA Today*, October 3, 2007.

governorates, the main proposition is a nine-province Shiite "super region" that excludes Baghdad (i.e., the nine city districts including Sadr City). ISCI, arguably the largest Shiite political party, was the primary driving force behind implementing legislation passed in October 2006 that established procedures for the formation of new Iraqi regions. Opponents of the idea suggest that ISCI has been ordered by Tehran to develop an Iranian-style theocracy in southern Iraq, effectively splitting off a good deal of the country's population and oil.

The debate over regions is likely to be a significant political issue in the Shiite south in 2008, although it is unlikely that ISCI will attempt to force through such a referendum until considerable constituency building has taken place. A determined attempt at regional formation would be divisive within the Shiite community, acting as a further irritant between Shiite factions at a time of great factional tension in central and southern Iraq. To preserve both Shiite and Iraqi national unity, Grand Ayatollah Ali al-Sistani might at some point be forced to publicly undermine the idea of a southern region, which he is thought to oppose. Other Shiite factions could likewise be expected to play the nationalist card and criticize ISCI as an Iranian stooge threatening the territorial integrity of Iraq.

Muqtada al-Sadr's movement would be at the forefront of opposing the formation of a Shiite region. The Sadr movement has advocated delaying the debate on new regions until after the occupation (or when coalition forces have become an insignificant presence), hinting that it might use force to influence the issue. Underlining the perceived differences between decentralization and extreme federalism, the Sadrist-dominated Maysan provincial council noted:

> This talk about decentralization should not be understood as a license to establish a federation, as this is a different issue. The first should mean giving more authorities to the local government, which is what is applied in many European and other advanced countries. [The] implementation of a federation under these unstable conditions, characterized by security tension and religious and national sensitivities, may precipitate the issue of dividing Iraq in the mentality of the Iraqi citizens, who are still ignorant of the form of the state of Iraq. . . . .[T]hat is because most of the Iraqi people do not look at written paragraphs, whether it was the Iraqi constitution or calming slogans, instead they live it in the form of a pessimist reality, at least for now. Thus, the solution is to widen the authority of local governments and not to draw borders for new regions.[13]

In addition to nationalist considerations, Sadrist politicians recognize that Muqtada al-Sadr's largest power base, Baghdad's Sadr City district, would be excluded from any Shiite region. This would carve away a large measure of the movement's support base and leave Sadrist supporters outnumbered in the new region.

Across Iraq, there is reservation among Iraqi Arabs—Shiite as well as Sunni—about rushing into devolution during such troubled times. Thus, while ISCI was able to drive through legislation, it will probably find that it will take years to build sufficient trust and cooperation to make a regional confederation work. ISCI and other advocates of a southern region face practical and political obstacles to the formation of such units in the near term. Indeed, the process of coordinating the formation of a nine-province region is daunting. As one observer noted:

> The most ambivalent point in the constitution concerns the mechanisms for forming regions of more than one governorate in cases where several competing visions prevail: some in Basra may want to join with neighboring Dhi Qar and Maysan; again others may be eyeing a larger federal unit. This is resolved in the detailed legislation, which stipulates that in the case of several competing initiatives (these can be made either by one tenth of the electorate or one third of the governorate council members), a pre-referendum poll will be held in each governorate to decide which regional vision will be put to the vote in a referendum. In order to succeed, a federal initiative must win this stage in every governorate

13. Maysan Provincial Development Strategy, Maysan PDS Committee, p. 18.

Figure 3. Factional Views on Iraq's Composition

Question: Which of the following structures do you believe Iraq should have in the future?

	ALL	SUNNI ARAB	SHIITE ARAB
One unified Iraq with a central government in Baghad	62%	97%	56%
A group of regional states with their own regional governments with a federal government in Baghad	28%	3%	42%
A country divided into separate independent states	9%	—	2%
Refused / Don't know	1%	—	—

Source: April 2007 ABC/BBC National Governance Poll, question 13. Available online (http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/10_09_07_iraqpoll.pdf).

> concerned and then receive an absolute majority in the subsequent referendum—again in each of the governorates targeted in the regional initiative. In practice this means that forming big regions will be quite difficult, and that smaller regions will have a greater chance for success. True, there are certain factors that play into the hands of those with grand designs: failed federalization attempts can be given another chance once every year . . . and there is no demand for territorial contiguity, meaning that larger regions may repeatedly try to squeeze unyielding governorates into accepting a federal formula. But on the other hand, once formed, a region may not combine with other regions (this amendment was introduced during the parliamentary debate of the law), and due to the requirement for unanimity in all governorates concerned by a federal initiative, it is highly likely that one or more permanent 'gaps' will be established in some of the large-scale regional visions that are tentatively being floated today. [14]

Even without political opposition from Ayatollah Sistani or rival groups, support does not currently exist for such an initiative across the nine provinces. The April 2007 National Governance Poll in Iraq underlined the continuing strength of Iraqi nationalism as compared to regionalism. As figure 3 shows, an overall majority of Shiite Arabs still react to federalism with uncertainty.

Moreover, support for such a venture would not be evenly spread, complicating any effort to win the requisite support to rally and later win majorities in individual provinces. This uneven spread would make it difficult for ISCI to be sure that an attempt to form such a large region would succeed in all the intended provinces. As regions cannot be legally combined (as the law currently stands), a partial victory in such a referendum could result in a patchwork of noncontiguous provinces joining together in a hodgepodge region that satisfies no one.

Political Dynamics at the Subnational Level

Iraq's post-Saddam political system operates at three main levels:

- **Federal government.** Federal government officials have sought to stave off decentralization to the subnational level since 2003, and instead have lobbied for a decentralization of the ministries and used every loophole and weakness in CPA order 71 and related orders to limit the powers of regional, provincial, district, and local officials.

- **Subnational governments.** Provincial governors and councils were supposed to have been empowered in post-Saddam Iraq. The carefully balanced councils selected by the coalition failed to demonstrate capacity to deliver governance and social

14. Reidar Visser, Introduction, in Reidar Visser and Gareth Stansfield, eds., *An Iraq of Its Regions: Cornerstones of a Federal Democracy?* (New York: Columbia University Press, 2007), p. 2.

goods to their constituents. Their elected successors have been undermined by underperformance and the nonrepresentativeness of the January 2005 provincial elections.

- **Nongovernmental actors.** Political parties with social welfare networks and militias filled the vacuum left by Saddam-era governance. They have developed powerful counter institutions to those of the federal and subnational governments in many areas, or run the subnational governments directly. In many areas, they (rather than the federal government or provincial councils) are the de facto authority. Like the federal government, these political parties and militias are unwilling to relinquish the economic or security-related prerogatives that they have cultivated.

At present, therefore, power has largely remained at the federal and nongovernmental levels because the twin visions of extreme centralization and extreme decentralization hold back the development of subnational governance. Iraq needs mechanisms that support the development of more robust and credible subnational government structures.

It is evident that the formation of new regions is not the best option for building mid-level governance between the federal government and informal nongovernmental actors. Regional development is a complex and problematic means of improving governance; the process is uncertain and time consuming, and it may spur factional competition and add a new layer of dysfunctional local governance into the mix. The experience of the KRG—over a decade in the making and one civil war later—is hardly encouraging.

Instead, a better option would be to build on the existing structures of the governorates, districts, and subdistricts. The following chapters will identify the issues and options related to this alternative strategy: developing subnational government capacity, resisting recentralization or extreme fragmentation along militia lines, bolstering provincial powers with new detailed legislation, and "refreshing" the legitimacy of provincial councils with new elections.

Fiscal Independence and Iraq's Provinces

RESOURCE CONTROL IS A MEASURE of power in any country around the world, but it is particularly so in the unstable, patronage-based political culture of Iraq. Alongside formal powers, fiscal independence is an important—arguably the most important—measure of decentralization. In theory, it allows decentralization to devolve fully without recourse by redistributing assets within a largely unitary system. In practice, fiscal independence involves giving subnational government the ability to raise revenues and disburse expenditure. According to the 2005 Iraqi National Development Strategy (NDS), this entails four components:

- expenditure assignment
- revenue assignment
- intergovernmental transfers
- subnational borrowing[1]

This chapter will review the steps taken to bring Iraq's provinces—and to a lesser extent its districts and subdistricts—closer to fiscal independence.

Initial Steps toward Fiscal Decentralization

CPA order 71 saw the gradual beginning of the "deconcentration" of fiscal responsibilities from the federal ministries to the subnational level.[2] The order was "designed to improve the delivery of public services to the Iraqi people and make the Iraqi government more responsive to their needs."[3] In contrast to early CPA-backed councils, the new provincial councils were to be funded from national budget allocations separate from any ministries and other national institutions, providing for salaries, offices, and other resources. Under the order, the provincial council gained the following limited authority:

> The Governorate Councils may set priorities for the provinces; amend, by two-thirds vote, a specific local project described in an annual ministry budget plan, provided that no such amendment shall increase the spending limits set forth in the ministry plans, or interfere with the efficient and uniform execution of national objectives as implemented by specific programs; monitor and recommend improvements in the delivery of public services; represent the concerns of constituents; independently generate and collect revenues by imposing taxes and fees; organize the operations of the provincial administration; initiate and implement provincial projects alone or in partnership with international and nongovernmental organizations; and conduct other activities, consistent with applicable laws.[4]

Governorate councils also gained the ability to approve or veto the ministerial appointments for directors-general and local ministerial officials, and to establish subcommittees and convene meetings of, or request reports and testimony from, the director general. The latter subcommittees gave district administrators the ability to directly feed local needs in to ministry branches in their areas. These powers represented the humble beginnings—and arguably no more—of needs-driven local economic development.

CPA order 95, the Financial Management and Public Debt Law, laid more groundwork for greater fiscal independence at the subnational level. The order identified governorates as "spending units" on par with federal ministries and responsible for the formation of annual budgets and monthly financial reporting to the Ministry of Finance (MoF). It also granted gover-

1. "National Development Strategy 2005–2007," June 30, 2005, Republic of Iraq, Iraqi Strategic Review Board, Ministry of Planning and Development Cooperation, p. 34.
2. Deconcentration is the shifting of power to local branches of the state such as regional administrators or local technical line ministry agents.
3. David Brinkerhoff, "Democratic Governance in Iraq? Progress and Peril in Reforming State-Society Relations," *Public Administration and Development*, no. 5 (2005), p. 48.
4. CPA/ORD/6 APR 04/71, "Local Government Power," Section 2, "Governorate Councils," Paragraph (2).

norates the ability to "raise funds through borrowings, and issue loan guarantees subject to the debt limit set in the annual budget law, and to the specific debt limit set for each entity under the apportionment approved by the Council of Ministers on a recommendation of the minister of finance."[5] Like order 71, the Financial Management and Public Debt Law did not define any spending beyond the province, prohibiting further decentralization of revenue generation, spending, or borrowing to the district and local levels. This indicates the general caution of Iraqi officials and leaders regarding decentralization as well as the tendency of the various levels of governance to seek to retain as much power as possible.

Federal resistance to fiscal decentralization has been evident ever since orders 71 and 95 were passed. Such resistance was aided by the demobilization of CPA governorate coordinators following the transition to Iraqi self-rule and also by the weakness of the legal code supporting greater subnational fiscal independence. In addition to the relative lack of detail in CPA orders 71 and 95, the statutes were almost immediately undermined by the transition to Iraqi self-rule in June 2004. The status of CPA orders became debatable pending the passage of a new constitution and subsequent Iraqi legislation. Instead, the 2005 Iraqi constitution focused on the broad principle of equitable regional distribution of the national budget based on population size and the need to redress regional inequities. The constitution left the details of subnational financial administration, budget execution, and project preparation to subsequent legislation. More than two years later, such legislation has still not been passed.

As a result, the provinces experienced serious ongoing frustration throughout the first years of Iraqi self-rule. The MoF and Ministry of Municipalities and Public Works continued to dominate district and local service delivery while federal ministries could still effectively ignore the demands of provincial councils due to the lack of a formal needs-assessment framework. Federal resistance to decentralization was particularly frustrating for subnational officials who received intensive training in fiscal management and budget execution under the Local Governance Program (LGP) and who were already undertaking needs-based development in conjunction with coalition forces (through mechanisms such as the Commander's Emergency Response Program and other microfinancing funds) as well as international nongovernmental organizations.

In the face of strong local expectations, the federal government's focus on a culture of authoritarianism and centralization has driven the provinces to begin deconstructing national economic networks by hoarding goods. A notable example has been provincial hoarding of electricity; governorates have kept more than their budgeted share of electricity and thereby denied it to critical areas such as Baghdad. For instance, on January 24, 2008, Babil province governor Salim al-Muslimawi gave the Ministry of Electricity a week to ensure the province received its due share of electricity or the province would cut its power plants from the grid. The governor told reporters: "We have sent many messages to the central government but they have not responded. . . . This is why we have given them this period before we cut any connections."[6] The U.S. government's Special Inspector-General for Iraq Reconstruction (SIGIR) report in October 2007 explains Babil's dilemma: in 2007, fourteen electricity-generating provinces were drawing more than their budgeted share of the national grid by denying power to energy-poor provinces such as Babil.[7]

Federal underperformance and Baghdad's unwillingness to decentralize economic development have increased neighborhood susceptibility to militia influence and provincial willingness to accept investment from any source, including the Iranian government. Militias, whether recognized openly (such as the Jaish al-Mahdi) or parading as security forces and local branches

5. CPA/ORD/2 JUNE 04/95, "Financial Management Law and Public Debt Law," Section 10, "Borrowings and Guarantees," Paragraph (2).
6. Salim al-Muslimawi, the governor of Babil province, quoted in *Badr Newspaper*, as quoted in *United Press International*, January 24, 2008. Availible online (www.upi.com/International_Security/Energy/Briefing/2008/01/24/iraq_power_outage_prompts_babil_threat/5364/print_view/).
7. Special Inspector General for Iraq Reconstruction, *Quarterly Report to the United States Congress* (October 30, 2007), p. 118.

of government ministries, control many elements of life at the local level. In some places such as Sadr City, they have become the principal delivery mechanisms for municipal services, providing street cleaners and other local services. They often control the distribution of fuel, foodstuffs, and public works contracts. Markets, enterprises, hospitals, and universities pay for their protection and increasingly follow their religious rules. Militias and their political parties seek to create miniature political states at the local level and actively subvert the extension of federal government authority. Iranian influence is again a factor, with Iran backing its proxies by offering free medical treatment in Iran as well as investment capital or electricity and fuel imports to friendly provincial and district councils.

The Provincial Development Strategy Mechanism

The beginning of a more formal era of fiscal decentralization commenced with the June 2005 release of the 2005–2007 NDS by the Iraqi Ministry of Planning and Cooperative Development (MoPCD). The strategy, codeveloped with the UN, sought to accelerate development in Iraq's provinces by decentralizing budget execution to the subnational level in parallel with federal budget execution through the ministries.

The first mechanisms used to support this effort were Accelerated Reconstruction and Development Fund (ARDF) transfers, which amounted to $2.1 billion in the 2006 Iraqi budget. Under the ARDF mechanism, provincial councils developed project lists with an Iraqi Provincial Reconstruction and Development Committee (PRDC) and a Coalition Provincial Reconstruction Team (PRT)—the belated replacement to the valuable role undertaken by the CPA governorate coordinators and their civilian and military staffs. Project lists were thereafter sent either to international donors or to the Iraqi Higher Economic Committee, a senior-level MoPCD and MoF budget-execution task force that approved or rejected individual projects. Although almost none of the 2006 ARDF was transferred to the provinces during that year due to the resistance and lack of capacity in the federal ministries, the provinces finally had a mechanism to provide capital investment transfers from the federal budget.

Although the ARDF program initially sought to provide funds for relatively simple single-year projects (with ministries undertaking more complex multiyear projects), LGP-trained PRDCs quickly demonstrated their willingness and ability to plan and undertake long-term projects. Even when federal funding was transferred too late to be spent in 2006, the activation of PRDCs brought about a change in their administrative capacity and aggressiveness that year, demonstrated by increased capacity in leveraging available funds from the coalition and international donors. The next step was to create a mechanism to encourage the identification of local priorities at the governorate, district, and local levels, and thereafter to establish a decentralized planning framework that would tie local needs assessments into the federal budget, NDS objectives, and the ministry's sector plans. The Provincial Development Strategy (PDS) mechanism was developed to fill this gap.

The PDS is a planning tool that has been adopted to a varying degree by Baghdad and fifteen of Iraq's eighteen provinces, with two of the remaining three—Anbar and Diyala, but not Dahuk—likely to submit a PDS in 2008. Its suggested format includes: an introduction containing provincial objectives, goals, and overall strategies; an overview of the province, highlighting demographics, living conditions, and strategic assets; a sector-by-sector needs assessment designed to support ministerial plans; and a relatively detailed development strategy. Many aspects of the PDS, however, are not uniform. The provinces that completed their PDS first tend to cover 2007–2009, while the others cover 2008–2009. Some take a longer view, running 2007–2012 or 2008–2012 in the manner of a five-year plan. Some contain only a high-level strategic framework, while others contain detailed sequential development strategies. A few—Baghdad, Basra, and Dhi Qar—contain phased budgeting information, including preemptive annual requests for programmed ARDF transfers. Baghdad, for instance,

8. Baghdad Provincial Strategic Plan, 2008–2012 (courtesy English translation; Arabic text governs), Baghdad Provincial Council (2007).

Figure 4. Per Capita Budgetary Allocations by Province, 2006–2008

PROVINCE	POPULATION*	2006 PER CAPITA ARDF BUDGET ALLOCATION	2007 PER CAPITA ARDF BUDGET ALLOCATION	DRAFT 2008 PER CAPITA ARDF BUDGET ALLOCATION**
Baghdad	6,726,432	$88.91	$103.08	$84.89
KRG (Irbil, Sulaymaniya, Dahuk)	3,673,740	$17.15	$38.73	$86.80
Ninawa	2,748,022	$87.34	$82.24	$83.65
Basrah	2,600,000	$78.85	$75	$76.06
Dhi Qar	1,850,000	$106.49	$74.59	$74.82
Babil	1,500,000	$88	$74.67	$87.34
Diyala	1,135,000	$103.96	$96	$95.83
Anbar	1,023,000	$84.42	$104.59	$115.98
Tamim (Kirkuk)	1,149,000	$107.30	$78.33	$79.60
Salah al-Din	904,000	$109.51	$102.88	$103.91
Najaf	1,081,203	$86.96	$81.41	$84.59
Wasit	1,032,838	$85.19	$80.43	$83.76
Qadisiya	937,261	$93.89	$68.29	$92.31
Maysan	900,000	Not known	Not known	$87.89
Karbala	738,570	$100.19	$96.14	$100.40
Muthanna	594,350	$92.55	$87.54	$91.50
TOTAL	**24,907,055**	**Average $81.64**	**Average $76.87**	**Average $89.33**

* Population figures drawn from PDS documents, except in the cases of Anbar, Diyala, Salah al-Din and Dahuk, which are drawn from Independent Electoral Commission of Iraq figures.
** Draft figures for the 2008 ARDF allocation were released on October 23, 2007. Available online (www.iraqupdates.com/p_articles.php?refid=WH-S-29-10-2007&article=23139).

provides a budget request for each of the financial years 2008–2012. [8]

As a result, the PDS mechanism is a work in progress. Although still uneven, the technical capacity for budget planning and execution at the subnational level is far better than the federal ministries would admit. The degree to which local needs can be assessed is constrained by lack of trained staff in many provinces, districts, and localities. Whereas most of the PDSs appear to have been created with input from all parts of the provincial government, ministry branches, civil society, the media, and other constituents, very few of them make reference to local decisionmakers. To some extent, local needs will automatically be considered because provincial-level contributors originate in those same localities, but even so, the views of such local constituencies remain underrepresented in PDS needs assessments.

The PDS process must also show that it can achieve results in drawing the federal government's attention to apparent distortions in the level of ARDF transfers allocated to individual provinces. Existing PDS documents bear witness to the resentment felt across Iraq that each province receives too small a share of ARDF transfers and of the federal budget as a whole. At first, provinces tried to convince the government to provide greater funding by linking their demands to the wider NDS goal, as well as to the Iraqi constitution's promise

to distribute revenue on an equitable per capita basis, taking into account the special needs of provinces systematically underprivileged by Saddam Hussein's regime. Oil-rich provinces such as Basra and Kirkuk likewise make the case in their PDS that they produce the vast majority of Iraq's revenue, yet they receive no added revenue for this and, in fact, are disadvantaged compared to other provinces because they bear the added costs—environmental and infrastructural—of hosting the country's oil industry.

The issue of per capita distribution of revenues is particularly pressing. No consistent calculation has been applied to the allocation of funds since the beginning of ARDF transfers in 2006. Figure 4 shows per capita distribution of funds in 2006–2008 in provinces that provided figures.

Although the ranking and spread of allocations to provinces has changed considerably each year, trends are apparent. In 2007, ARDF funds were obviously targeted to support security campaigns in Iraq's unstable provinces, mirroring trends in coalition development support. In the 2008 budget, the Iraqi government will attempt a more technically correct per capita distribution of funds according to Gen. David Petraeus, who said that the budget "distributes revenue very, very equitably, and very much in line with the draft oil revenue distribution law."[9] The draft 2008 ARDF figures released by the Iraqi government seem to support this view, with the Kurdish provinces receiving a far more equitable share of revenues and with most provinces receiving close to the national per capita average.

The ARDF in Context

Also notable is the slow growth rate of the ARDF as a percentage of Iraq's budget. In 2006, the first year that the ARDF was used, the budget allocated $1.98 billion to direct transfers to the provinces, a total of 5.8 percent of the $33.9 billion 2006 budget. In 2007, the ARDF totaled $2.3 billion or 5.5 percent of the $41.1 billion budget. Draft figures for 2008 suggest that Iraq will allocate approximately $3.3 billion to the ARDF, which is 6.8 percent of the estimated $48.4 billion budget. This minor increase may be a reflection of the relatively poor (albeit improving) rates of obligation and disbursement of funds at the provincial level.[10] Even taken as a percentage of capital investment, the ARDF remains a minority: 24 percent of capital investment for both 2007 and 2008. Furthermore, as U.S. economic assistance concentrates on Iraq's security sector and draws down in other sectors, development assistance will increasingly rely on Iraqi federal government transfers, making the ARDF an increasingly significant source of income for the provinces as well as being the form of development most visible to members of the Iraqi public.

Real Fiscal Independence?

If the four metrics outlined at the opening of this chapter are used as criteria, fiscal independence is not yet a reality in provincial Iraq. Although the provinces have gained a degree of freedom to control certain projects, federal ministries undertake the majority of expenditure. The central government is not committed to transferring a certain percentage of its national budget to the provinces, but only ensures that each province receives a roughly equitable per capita share. Iraq's provinces have yet to utilize subnational borrowing, which is controlled by the MoF and the federal cabinet of ministers.

These stark facts, in conjunction with the statistics that show only a slowly increasing share of funding being transferred to the provinces, underline the ongoing centrality of federal ministries and the lack of alternative sources of funding. Currently, it is too early to tell if the local needs assessments contained in the PDS will have significant impact on ministerial plans, or whether Iraq's provinces will come away from the PDS process disillusioned and desperate for increased federal transfers or alternative sources of revenue.

9. "General Petraeus Says More Political Progress in Iraq Coming," Bloomberg.com (December 23, 2007). Available online (www.bloomberg.com/apps/news?pid=20601116&sid=aKv4LHdT56XI&refer=africa).
10. As of the end of September 2007, provincial capital budget execution results were reported by the U.S. government as: FY2006: $1.98m apportioned, 96 percent obligated, 78 percent disbursed. FY2007: $2.305m apportioned, 60 percent obligated, 11 percent disbursed. For more information, see annex 9, available online (www.washingtoninstitute.org/templateC04.php?CID=289).

The formation of regions may appear to offer a vehicle for greater economic autonomy for certain provinces, but such an action is not the ideal solution as the previous chapter illustrated. As the Kurdish provinces have learned, aggressive economic and development activity at the subnational level can be perceived as a serious threat to the national integrity of the federal government, which still holds the lion's share of oil revenues and diplomatic cards. Unsanctioned privatization and foreign direct investment are dissolving factors to Iraq's national unity, and encourage constituent parts of the country to clash with the federal government by working outside the constitutional framework. Likewise, the opening of Iraqi markets to unconstrained foreign investment may not serve Iraq's national interests in the long run.

The first round of PDSs has been a learning process that has exposed many weaknesses that must be rectified to minimize potential disappointment at the subnational level. Although a lack of security has slowed provincial ability to take on fiscal responsibilities, particularly in areas such as Diyala, it cannot be blamed for general underperformance. Partnership, coordination, and participation are impressive by the low standards of Iraqi governance since 2003, but none of these prerequisites are yet practiced to a sufficient extent. Within subnational government, there is still a paucity of fully trained individuals in integrated development planning processes. Linkages between the provincial level and the federal and local levels are limited, and the leadership at the provincial level has often failed to lead the PDS process forward and forge the necessary links.

As in so many fields of Iraqi governance, the lack of a clear postcoalition legislative framework complicates the task of cooperation between the federal and subnational authorities, leaving many interactions subject to contending interpretations of Saddam-era and coalition rulings. A stronger legal code would inarguably support the creation of both a programmatic supporting mechanism between provincial budgets and ARDF transfers and a prescribed role for subnational needs assessments in ministerial planning.

Following these observations, the PDS process, improved budget execution, and other aspects of provincial governance remain dangerously reliant on coalition support. Extensive PRT support is evident in the development of PDS documents and it is highly doubtful that they could have been completed without constant mentoring and pressure from the coalition. Evidence of this mentoring is visible in many programs: the U.S. Agency for International Development is installing an automated provincial budget-execution monitoring system; various U.S. agencies are supporting the creation of Provincial Procurement Assistance Teams in twelve provinces; the execution of PDS plans is mandating multiyear commitments to capacity development throughout all the levels of subnational government. Without the coalition, such programs would not survive.

It is imperative, therefore, that the coalition remains committed to capacity building, especially as U.S. forces draw down in Iraq in 2008. In Baghdad and central Iraq, where U.S. force levels are likely to be maintained, this is not such a problem. But in many areas of northern, western, and southern Iraq, where coalition forces are targeted to reduce, complications could occur. It is particularly unclear what will happen, for instance, to the embedded PRTs in brigades that are withdrawn from Iraq. Such forces have no permanent bases and few institutional linkages with the Iraqi provincial governments. The key question should be: how can the international community ensure that Iraq's next round of provincial development strategies are more successful than the current round, less reliant on foreign assistance, and less likely to strain the federalist system by alarming the federal government or disappointing the provinces?

Security at the Subnational Level

DURING SADDAM HUSSEIN'S RULE of Iraq, provincial security was centrally directed by a web of institutions that responded to his personal command. Perhaps more than any other feature of the Baathist state, security was a highly centralized endeavor.

At the provincial level, security responsibilities were spread among a number of individuals. Provincial governors, provincial heads of the Baath Party, directors of local intelligence services, provincial police chiefs, and senior Iraqi army and Republican Guard officers all shared something in common: they were handpicked by Saddam Hussein. They looked back to Baghdad for orders and sought to ingratiate themselves with the center. Even with this level of assurance, Saddam Hussein would dispatch his trustees to take regional command during times of emergency such as the period following Operation Desert Fox in late 1998 and early 1999. Saddam Hussein realized that no matter how centralized the system, a country of Iraq's size was too much for any one leader to control directly.

The Baathist system of security was completely smashed in 2003, resulting in the removal of all governors, and all intelligence, police, and military security apparatus; the "monopoly of force" that had largely existed throughout the Baathist era was lost in the blink of an eye. Many repressed areas "self-liberated" by overthrowing government forces, and systematic looting broke out for many days. Out of the chaos came a multitude of local war bands, ranging from well-organized "emergency brigades" under local leaders to criminal gangs led by former prisoners. Hundreds of thousands of armed and unemployed former soldiers were released into circulation. Coalition forces quickly came to accept such forces, particularly in the Shiite areas, as a fact of life.

From the outset, Iraqi factions sought to legitimize their possession of weapons with "weapons chits" issued by coalition officers, and with coalition-approved mandates to undertake policing operations in their areas. Where possible, many Iraqis sought to rejoin government forces that could offer a steady paycheck and, ideally, deploy close to their families. These Iraqis "double dipped" by drawing stipends from both the coalition-backed Iraqi forces and the militias. In the first months of the occupation, security quickly became a process that involved not only the coalition but also the political parties and warlords that had penetrated the local system. At the time, Iraqis were interested in joining the security forces but only if it was on their own terms, as they hedged their bets to remain under militia protection as well.

Decentralized Security

The rise of the militias was not the only factor pushing security decisionmaking down to the local level during 2003. A degree of security decisionmaking was also formally delegated to the provincial level as a deliberate element of the coalition's blanket policy of decentralization. CPA order 71 decentralized control of the Iraqi Police Service (IPS), which had previously been centrally controlled from Baghdad. Order 71 made provincial directors of police (PDoP) "responsible for overseeing all civil law enforcement activities within the Governorate." As it became recognized that neighborhood-level counterinsurgency would rely heavily on the IPS, the provincial chiefs of police attained a level of prominence never before seen in Iraq.

Elected by the provincial council from a pool of candidates forwarded by the Ministry of Interior (MoI), the PDoP were very difficult to remove from office. In fact, there were only two legal ways for that to occur: by a dictate of the minister of the interior, who historically has rarely removed senior police officers against the wishes of the provincial council; or by a two-thirds majority in the provincial council. Even then, the PDoP was able to remain in place if the prime minister invoked "national security concerns" using the powers granted to the premier in CPA order 100.[1] Protected

1. See annex 2 for the text of the order, available online (www.washingtoninstitute.org/templateC04.php?CID=289).

by complicated power-sharing deals that placed such individuals in charge of local IPS forces, the PDoP have generally been closely tied to the governor and to the dominant political party in each province.

PDoP have also tended to use their powers—i.e., the practically unsupervised ability to spend the provincial budget allocation from the MoI—to placate local factions. The security committee of each provincial council became a point where government and nongovernment (e.g., militia) security providers met. This group represented an important constituency for PDoP and would lobby them for valued government jobs in the IPS, which quickly led to widespread unauthorized hiring. Provincial police chiefs, who draw their budget from local financial ministries and are completely free of oversight, have systematically ignored ministry funding for certain authorized hiring. Under these conditions, IPS patrol, police intelligence, and tactical support units (SWAT-type teams) have become honeycombed with militia and criminal presence.

Likewise, the Facilities Protection Service (FPS), which is associated with individual Iraqi ministries, has also recruited according to the militia affiliation of the minister or local director general. This has resulted in the formation of government-paid armed militias loyal to local warlords and operating from the provincial, district, and local branch offices of the ministries. For example, the Oil Protection Force in Basra was packed with Fadhila Party members under the tenure of provincial governor and politician Muhammad al-Waili.

Consequently, the minister of interior and his deputy minister for IPS affairs and security (responsible for liaising with the provinces) have generally exhibited limited control over provincial police due to weaknesses in leadership, organization, and oversight. Aside from the unpalatable option of withholding funding from provinces—an option that was tried in 2007 and was partially responsible for a failure to spend a third of the ministry's budget—the MoI has few levers over provincial authorities. The indirect pay system administered through the Ministry of Finance and PDoP was a key factor. In addition to weakening ministry influence, the system also represents centralization's worst features, namely the creation of funding and allocations at a federal ministry with no consultation with local decisionmakers. Efforts to reform the MoI are slowly seeking to involve the ministry in provincial needs assessment and also to reform the indirect pay system.[2]

Federal Security Strategy

Since 2003, the Iraqi government has sought to gradually reclaim the monopoly on the use of force from both the coalition and the local militias. With chronic insecurity, the government has been unable to pursue a conventional disarmament, demobilization, and reintegration (DDR) campaign. Instead, Baghdad has been forced to painstakingly reestablish its prerogatives as the main provider of security in the country.

The first step was to establish the principle that national defense was the exclusive authority of the federal government, enshrined in article 107 of the 2005 Iraqi constitution. The charter grants the federal government exclusive authority for: "Formulating and executing national security policy, including creating and managing armed forces to secure the protection, and to guarantee the security of Iraq's borders and to defend Iraq." The prime minister has exclusive authority to declare states of emergency (article 58) and is the commander-in-chief of the armed forces (article 75). Article 9 of the charter sets the objective of restoring the government's monopoly on the use of force and issues a statement of intent regarding demilitarization, noting: "The formation of military militias outside the framework of the armed forces is prohibited."[3]

At the same time, however, the 2005 constitution also reflects Iraqi caution—particularly Kurdish caution—regarding the security role of the state. In addition to requiring the Iraqi National Intelligence Service to report to the Council of Ministers, the constitution warns against the use of the military against the populace. Article 9 states, "The Iraqi Armed Forces shall

2. General James L. Jones, USMC (Ret.) Chairman, "The Report of the Independent Commission on the Security Forces of Iraq," pp. 36–37.
3. Republic of Iraq Constitution, Section One "Fundamental Principles," Article 9 B.

defend Iraq and shall not be used as an instrument of oppression against the Iraqi people, shall not interfere in the political affairs, and shall have no role in the transfer of authority." The constitution also makes an exception to the principle of the federal government's monopoly on the use of force. In articles 111 and 117, the charter lays out the powers of regions, "primarily the establishment and organization of the internal security forces for the region such as police, security forces, and guards of the region."[4] Though clearly drafted to meet the needs of the *peshmerga*—the Kurdish militias in the Kurdistan Regional Government (KRG)—the statute may have broader application if other regions are formed when the law applying to regions becomes active in April 2008.

Against this constitutional backdrop, the Iraqi government's National Security Strategy was developed by the Iraqi Joint Planning Center, which incorporates representatives of members of the Deputy Ministerial Committee on National Security (DMCNS) and directors general from the main ministries. Its mission is to reduce foreign military involvement in Iraq's domestic security and to reduce the Iraqi army's role in internal security as soon as possible. The process, which is not always followed in sequence, is as follows:

- **Implement partnerships.** This entails the twinning of coalition and Iraqi headquarters and/or training teams. This process is largely complete.

- **"Iraqi army lead" status.** Receiving level-two readiness or "Iraqi army lead" status during a Coalition Transition Readiness Assessment means that an Iraqi unit controls its own areas of responsibility. All ten Iraqi army divisions in the Objective Counterinsurgency Force are currently rated to have achieved this status and are now under the operational control of the Iraqi ground forces command of Iraq's Ministry of Defense (MoD).

- **Provincial Iraqi Control.** Nine of Iraq's eighteen provinces have been formally returned to Provincial Iraqi Control (PIC) status at the time of writing. As of December 18, 2007, these were Basra, Dhi Qar, Dahuk, Irbil, Karbala, Maysan, Muthanna, Najaf, and Sulaymaniya. The other nine provinces are expected to receive PIC status by July 2008. The actual effect of PIC is difficult to ascertain as it has few uniform results across the provinces, but it principally allows coalition forces to move into "operational overwatch," whereupon they only intervene when called upon by the provincial governor. In essence, PIC should also mark the transition to "police primacy"—locally controlled police rather than the federally controlled armed forces take the lead on security—but various factors tend to prevent this in practice. Accession to PIC status is purportedly based on a combination of metrics related to threat levels, Iraqi security force readiness, local governance, and coalition ability to support the provincial government if necessary. In some areas, PIC status has been granted prematurely to allow coalition forces to withdraw to "operational overwatch" regardless of local security conditions.

- **Iraqi security self-reliance.** Considered to occur when all Iraqi provinces are either "Iraqi army lead" or PIC. This could occur as soon as the summer of 2008.[5]

Centralizing Tendencies

The vagaries of the PIC process and the weakness of the locally controlled IPS have encouraged the federal government to extend the period of Iraqi army leadership over local domestic security, violating the spirit of article 9 of the constitution, which restricts the Iraqi army to focusing on external threats.[6] The Iraqi army's development as a relatively reliable tool of the federal government has been driven by a range of factors including the close U.S. mentoring of the MoD—compared to the MoI—and the traditional strength of the

4. Ibid. Section 5, "Powers of the Regions," Chapter One: Regions, Article 117, Paragraph (5).
5. Gen. James L. Jones, USMC (Ret.) Chairman, "The Report of the Independent Commission on the Security Forces of Iraq," pp. 36-37.
6. Republic of Iraq Constitution, Section 1, "Fundamental Principles," Article 9.

army as a respected national institution. With higher levels of cross-sectarian employment and less attachment to particular areas of operation due to the regular movement of forces within corps sectors, the Iraqi army has proven considerably more responsive to federal government needs than the IPS.

With the baseline ten-division (102 battalions) Objective Counterinsurgency Force now built, the Iraqi army will continue growing strongly in 2008. The Iraqi army is set to expand from its December 2007 force level of 123 battalions to 154 battalions by July 2008. According to expert D. J. Elliott, "this will have increased the Iraqi army field forces by 30 percent in divisions, 40 percent in brigades, 50 percent in battalions, and 150 percent in [special operations forces]. In addition, the existing Iraqi army combat unit manning will have increased to 120 percent from the presurge level of approximately 65 percent." Eventually, the Iraqi army is slated to field 162 battalions and seven or eight Iraqi Special Operations Forces (ISOF) battalions. The Iraqi Ground Forces Command (IGFC) will support these formations with U.S. logistical assistance, as well as 33,000 extra Iraqi army support troops in 2008, an increase of 250 percent on the current 14,000.[7]

Considering the Iraqi army's direct chain of command to the national executive and its superior track record compared to IPS forces, it is not surprising that the federal government is unwilling to move toward "police primacy" in Iraq's provinces. On the one hand, Iraq's political culture of centralization remains a strong influence, and the federal government's tendency will be to retain as much authority as possible. On the other hand, the IPS is simply incapable of taking charge in all but the most benign areas in Iraq (of which there are few) while the Iraqi army is both increasingly capable and respected national institution.

The al-Maliki government's solution to the issue of achieving PIC status without handing off the local police primacy has been the development of the Joint Operations Command (JOC) model, the successor to the Joint Coordination Centers (JCC) and Police Joint Coordination Centers (PJCC) used since 2004. These predecessors linked the National Joint Coordination Center—the prime minister's situation room—to the JCC attended by the governor, chairman of the provincial security committee, PDoP, army commander, coalition commander, and representatives from the local authorities (health, municipality, etc.). The model was designed during Prime Minister Iyad Allawi's 2004 government to provide civilian leadership and oversight in the case of an emergency, allowing the request for military intervention and the temporary transfer of command from provincial police to army primacy during an emergency.

Under the new model, the commander of the JOC—typically an Iraqi army lieutenant general—is chosen by the prime minister and maintains full-time operational control of all Iraqi security forces, including the PDoP and IPS, in the JOC area of operations. The JOC is permanently active, effectively maintaining a state of emergency and Iraqi army primacy at all times. The chain of command runs from the National Operations Center through the commander of the Iraqi armed forces at the MoD Joint Forces Command to the IGFC, and finally to each JOC established in Iraqi provinces. In many instances, al-Maliki has short-circuited this process to pass orders directly to the JOC.

JOCs have thus far been established in Basra, Karbala, Baquba (Diyala), Samarra (Salah al-Din), and Baghdad. The capital includes further subordinate commands at the Rusafa and Karkh area commands, each having five subordinate security districts. It is notable that these JOCs have been developed in the same locations as IGFC sectors (the Saddam-era and future army corps sectors), and it is likely that other JOCs will be established to overlay the current IGFC Ramadi and Mosul sectors, completing the array of future JOCs.

In addition to the extension of federal government control via the JOC mechanism, Prime Minister al-Maliki has also sought to increase his reach into the

7. All information sourced from D.J. Elliot, the unparalleled Iraqi order of battle expert at the *Long War Journal*. Available online (www.longwarjournal.com).

provinces through the development of the Office of the Commander-in-Chief and the Counterterrorism Bureau, which are both directly commanded by the prime minister. The strength of these offices is the increasingly powerful Iraqi Special Operations Forces (ISOF). From two battalions in November 2006, ISOF had grown to four battalions by November 2007 and aims for six by July 2008 and, eventually, eight total. This will expand the ISOF's reach from Baghdad to Basra out into provinces such as Ninawa, Anbar, and Diyala. As a part of the Iraqi Counterterrorism Command, the ISOF are often commanded directly by Prime Minister al-Maliki and have undertaken a range of sensitive actions on behalf of the federal government that local forces could not have been relied upon to complete.

In addition to the ISOF, federal decisionmakers can also call upon four parallel intelligence organizations run from the federal level: the Iraqi National Intelligence Service (INIS); the National Information and Investigation Agency (NIIA); the Director-General of Intelligence and Security (DGIS) within the MoD; and an unnamed intelligence organization run by the minister of state for national security affairs, Shirwan al-Waili. This intelligence organization, which is run by an al-Maliki loyalist, has become a powerful quasi-official entity that serves the prime minister directly. Little by little, al-Maliki's government has begun to fall back on Saddam-era habits to ensure its longevity and the success of its grip on security in the provinces.

Concerned Local Citizens

Against the backdrop of these centralizing tendencies, the emergence of the Concerned Local Citizens (CLC) initiative is a very significant development. In some areas, particularly western Iraq, the CLC phenomenon has transformed the security situation in very positive ways. In areas with a more complex sectarian or ethnic weave, its long-term implications are harder to gauge.

The CLC initiative is based on the desire of common Iraqis to assure themselves a higher level of neighborhood security. Some of today's most powerful militias originated in local self-protection groups that emerged during and immediately after the fall of Saddam Hussein's regime, only later becoming actual political parties. Since 2003, there have been numerous attempts to harness and legitimize the power of armed local citizens within a government-regulated framework. In general, such groups have clamored for any initiative that could grant them greater legitimacy; being portrayed as a militia has been consistently a pejorative descriptor in post-Saddam Hussein Iraq and armed locals have generally been willing to accept a considerable degree of federal oversight if it bestowed weapons permits, formal powers of arrest and detention, or government salaries.

Locally armed civilian militias are a traditional form of security force in Iraq as the Baath Party made extensive use of them during security crises. Since 2003, these groups in the Sunni Arab center and north were sporadically used, most notably the Fallujah Protection Army that the U.S. military briefly sponsored between the two battles for the city in 2004. In the Shiite south, the concept of semilegitimate citizen militias saw widespread use from the dying days of Saddam's regime, ranging from the "Emergency Brigades" raised by local warlords to the cross-factional Citizen's Support Groups (CSGs) endorsed by the Shiite clergy in summer 2003 to protect the holy shrines in Najaf and Karbala. Such CSGs were sometimes quite bureaucratic affairs. The Nasariya CSG, formed in the summer of 2003, included a headquarters in which each of the nine key component militias sent nine of their personnel to serve. The CSG enjoyed the right to arrest citizens and acted as an intelligence-gathering tool for coalition and Iraqi security forces.[8]

Common features of armed citizen "neighborhood watch" programs since 2003 have included an oath or pledge of conduct (including rules of arrest and detention powers when acting as police auxiliaries), issuance of identification (weapons permits and/or pieces of uniform), and government stipends (but not gener-

8. Rory Stewart, *Occupation Hazards: My Time Governing Iraq* (London: Picador, 2007), p. 278.

ally provision of arms). Most armed citizen schemes are open to the possibility of eventually reintegrating a portion of their members into the regular armed forces. Another common feature of such schemes has been the problematic relationship between them and the coalition or federal authorities. Armed civilian schemes tend to be perceived as a form of amnesty or even accommodation of insurgent factions, particularly in the Sunni Arab areas where militias never achieved the semilegitimate status they attained in Kurdish and Shiite areas. In many places, the federal government has sought to reestablish its monopoly of force by integrating potential militants directly into the security forces and by drawing a firm line on the prohibition of civilians carrying weapons in public. Armed civilian schemes could offer a loophole that might allow militias to avoid government sanction.

With these concerns in mind, many observers were surprised by the rapid proliferation of CLC schemes, which grew out of the "awakening" (*sahwa*) model of local factional engagement launched in Anbar province in 2006 and later extended to twelve of Iraq's eighteen provinces in 2007. Around 300 CLC movements officially claim to be active at the time of writing, with approximately 72,000 volunteers—either paid (60,000) or unpaid (12,000)—although these figures may include some "ghost" participants (fictive individuals used to claim a salary).[9] Although the CLC initiative has primarily taken root in Sunni Arab areas (resulting in at least 60 percent of the volunteers being Sunni Arabs), the model is spreading to Shiite areas and there are a number of mixed-sect CLC schemes. In 2008, the Iraqi government has requested $123 million in the draft 2008 budget to pay CLC volunteers who were funded directly by U.S.-granted Commander's Emergency Response Program (CERP) funds in 2007. The Iraqi budget will pay for between 25,000 and 31,000 volunteers maintained at the typical monthly rates of between $300 and $400 per fighter.[10]

Figure 5. Distribution of CLC Members, January 2008

Integrated into the ISF	1,738
Vetted by the Iraqi government and awaiting assignment	2,000
Somewhere in the vetting pipeline	8,000
Iraqi government has committed to employing as Baghdad police	12,000
Expressing interest in joining the ISF	21,000

Source: January, 2008, Iraq Index, The Brookings Institution. Available online (www.brookings.edu/saban/~/media/Files/Centers/Saban/Iraq%20Index/index20080131.pdf).

As the budget request suggests, the Iraqi government was initially deeply hesitant about the future of the CLC initiative and keen to limit its size. The scheme was always conceived by the coalition as a temporary expedient measure to stabilize the worst parts of Sunni Iraq. Incorporation of CLC fighters into government security forces started quickly in the Sunni provinces where the initiative began (see figure 5, which primarily refers to Anbar and Sunni western Baghdad).

In the face of Iraqi government reluctance to absorb the majority of former Sunni insurgents into the government security apparatus, the coalition has also developed alternative "off-ramp" initiatives to demobilize CLC members, such as a U.S.-funded Civilian Job Corps that will be launched in January 2008, in the hope that the Iraqi government will adopt and fund the scheme by the end of the year.

To prevent a repeat of the unfortunate dispersal of security forces personnel that occurred in May 2003, the coalition and Iraqi government also need to resource this DDR effort adequately. According to Col. Martin Stanton, the U.S. military officer overseeing reconciliation and engagement, CLC members may have relatively limited patience if they are not reliably paid, noting: "The question is, what's the break

9. Michael E. O'Hanlon and Jason H. Campbell, *Iraq Index: Tracking Variables of Reconstruction & Security in Post-Saddam Iraq*, The Brookings Institution, p. 13. Available online (www.brookings.edu/saban/~/media/Files/Centers/Saban/Iraq%20Index/index.pdf).
10. Draft figures for the 2008 ARDF allocation were released on October 23, 2007. Available online (www.iraqupdates.com/p_articles.php?refid=WH-S-29-10-2007&article=23139).

point? . . . How long before people start getting sick of it and start checking out?"[11]

Attention needs to be paid to incentives, recognizing that militia membership gives Iraqis more than just a paycheck; it is theoretically a job for life, with decent benefits through the militia's ability to provide or subsidize healthcare and education, food and fuel, and even wedding ceremonies. The uncertainties of militia life—danger and the poor reputation of some militias—need to be stressed and some prospect of long-term employment and benefits need to be developed for any new civilian job-creation scheme.

Another legitimate concern is that CLC groups will not only muddy the waters by creating a loophole for armed civilian groups, but also will turn their guns on sectarian, ethnic, and factional rivals at the first opportunity. This scenario was summarized by Abu Abed, a CLC commander in the Ameriya district of Baghdad, who told reporters: "Ameriya is just the beginning. After we finish with al-Qaeda here, we will turn toward our main enemy, the Shiite militias. I will liberate Jihad [a Sunni area next to Ameriya taken over by the Mahdi army] then Saidiya and the whole of west Baghdad."[12] CLC groups have caused friction wherever they have been deployed, drawing attacks from Sadrist militias and al-Qaeda elements, and there is always the possibility that they will change their behavior from cooperation to resistance.

In areas with a complex sectarian or ethnic weave, CLC groups have been partnered with coalition and Iraqi army units and have been subjected to multiple layers of oversight, from the local imams and community leaders to the Iraqi and U.S. military forces. Cross-sectarian CLC units remain rare because of two factors: the sectarian and ethnic homogenization of neighborhoods in areas such as Baghdad and Babil; and the fact that many CLC units have thus far been formed in relatively homogenous areas such as Anbar province. Nevertheless, CLC groups have regularly been credited with assisting the return of internally displaced persons and refugees to their homes, regardless of sect, and later with protecting such families from sectarian retaliation as part of agreements made by local Sunni and Shiite mukhtars. Even if neighborhoods tend to have religiously or ethnically homogenous CLC goups, partnerships between CLC units of different sects are beginning to emerge, working collaboratively along the fault lines between communities.[13]

These instances of local-level reconciliation are potentially significant and underline the way that local people identify with each other to a far greater extent than national politics suggest. As one Sunni Arab told an interviewer, "We've been neighbors for twenty-five years and we feel like brothers. We will help them to guard and respect their mosques, and they won't harm me or my family." He concluded, "We learned we could not trust anyone who is not from our neighborhood." The comment underlines the localization of security in Iraq, whereupon outsiders are often viewed as the problem and where only local people can effectively screen out such extremists. Furthermore, CLC groups represent real progress in local security that remains connected to the broader federal security structure. As one Western diplomat noted, "They are filling a void left by Iraq's feuding and self-serving political elite, most of whom are hunkered down and out of touch in the Green Zone."[14]

Case Study: Trends in Security Decisionmaking in Basra

It is illustrative to look in detail at how the JOC and CLC models are affecting security decisionmaking at the local level. Basra, Iraq's second-largest city (population 1.3 million), witnessed the development of a com-

11. Ghaith Abdul-Ahad, "Meet Abu Abed: the U.S.'s New Ally against al-Qaeda in Baghdad," *The Guardian* (November 10, 2007). Available online (www.guardian.co.uk/alqaida/story/0,,2208819,00.html).
12. Ibid.
13. For detailing on this kind of collaboration see Lt. Col. Dale Kuehl, letter to *The Guardian*, December 19, 2007. Also see Michael Howard, "A Surge of Their Own: Iraqis Take Back the Streets," *Guardian* (December 20, 2007). Available online (www.guardian.co.uk/Iraq/Story/0,,2230041,00.html).
14. Ibid.

plicated balance of power since 2003, with multiple Shiite militias vying to control the provincial council and city's unparalleled oil wealth. Following the January 2005 provincial elections, the governorship fell to Muhammad al-Waili, a Fadhila party politician whose appointment prevented the Supreme Iraqi Islamic Council (ISCI) and the Sadrists from dominating the city. The provincial council's security committee saw all the main factions come together to undertake conflict resolution talks whenever violence spilled over, and allowed the militias to dominate a succession of weak provincial police chiefs and effectively control the province. Al-Waili's party quickly developed a chokehold over the Oil Protection Force guarding the rural oilfields. The Iraqi government and the coalition were increasingly shut out of security decisionmaking in Basra.

Since 2006, the federal government has mounted a concerted effort to loosen the militia hold over Basra. Initially, efforts to vet and retrain the IPS would not work without an open-ended British military presence, but in time the al-Maliki government developed a more broad-based and powerful political-military surge in Basra. First, the governor's hold on power was shaken by a vote of no confidence that weakened his legal mandate. Then, al-Maliki appointed Lt. Gen. Mohan al-Firaiji to command the Basra JOC as well as the newly formed Law Enforcement Committee, which intended to undercut the provincial council's security committee. Al-Maliki also orchestrated the sacking of the existing weak police chief by the minister of interior, replacing him with another handpicked replacement, Maj. Gen. Jalil Khalaf, who was under General Mohan's command.

Under the JOC model, General Mohan oversaw a major increase in Iraqi government presence in Basra. Recognizing that a British withdrawal was effectively already a fact on the ground, Mohan pushed for a formal withdrawal of UK forces from Basra in September 2007 and negotiated Basra's transfer to provincial Iraqi control in December 2007. The unreliable 1st Brigade of the 10th Division was rotated out of Basra to break its ties with local militias. Instead of one weak brigade, three stronger brigades were deployed in the city throughout 2007, with a fourth brigade due in July 2008. Basra's priority status was underlined by the transfer of two Baghdad national police battalions and a new ISOF unit that was made up of units from Baghdad, Anbar, and Ninawa provinces in August 2007. The latter ISOF unit remains under the direct control of the prime minister's Counterterrorism Bureau and was used in summer 2007 to eliminate a number of troublesome militia commanders.[15]

Both the JOC commander and the provinvial director of police are relatively insulated from provincial level pressure since the decisionmaking ability of the provincial council's security committee has been sidelined. And as a result of a CPA statute that allows the prime minister to freeze the removal of any provincial appointee for six months, the provinvial police director is shielded from intimidation as well. Predictably, local factions have sought less formal ways to remove men from both posts. Following more than a dozen assassination attempts on Generals Mohan and Jalil, they began to unveil their new law enforcement campaign in November 2007, which was prepared in secrecy without the provincial council security committee. Mohan described the campaign as an even-handed effort that would not favor any one faction but would instead seek to weed out the bad apples from any institution or political faction.

As part of this campaign, Mohan opposed the extension of the CLC model to Basra, seeing it as a loophole that militias would use to legitimize their armed presence on the streets and in the oilfields. Various militias and their representatives on the provincial security committee quickly seized on the opportunity and have sought to create unpaid CLC movements as a fait accompli, particularly in the northern Basra oilfields (where the predatory tribes also made up the Fadhila-backed Oil Protection Force) and certain urban neighborhoods and at various utilities hubs (where "emergency regiments"

15. D.J. Elliot, *Long War Journal* (www.longwarjournal.com).

were formed to "protect" critical infrastructure). As frequently happens in Iraq, a solution ideally suited to one part of the country—the Sunni triangle—has proven complicated in other areas.[16]

The Monopoly of Force in Iraq

It is useful to use the aforementioned three levels of governance in Iraq to summarize the current distribution of security decisionmaking responsibilities at the local level in Iraq. The three levels comprise:

- **Federal government.** There are strong indicators that the federal government is falling back on Saddam-era reliance on the Iraqi army for internal policing. The al-Maliki government has subverted existing command-and-control relationships to allow open-ended Iraqi army primacy, with all local security forces led by generals handpicked by the prime minister. Units are rotated regularly to break their ties to local communities. Special forces and intelligence operations are commanded from the prime minister's situation room. Although such tight federal government control of provincial security may seem advisable under present circumstances, it is possible that Iraq could slip into a permanent state of emergency unless greater thought is given to the civil-military implications of such a strategy.

- **Subnational governments.** The substantial security decisionmaking powers accorded to governors and their PDoP under CPA order 71 have been thoroughly undercut, perhaps justifiably as a reaction to the gross ineffectiveness of the IPS and the penetration by militias of all the security organs of provincial government. Provincial Iraqi Control—meaning police primacy and the return of control to governors and provincial security committees—appears to be a distant prospect.

- **Nongovernmental actors.** Militias remain a very substantial check on the government's monopoly of force in some provinces. They are deeply embedded in all paramilitary forces of the subnational governments (FPS, police, etc.) but are losing some of their influence on Iraqi army recruits. Militias will react on a case-by-case basis to CLC groups in different areas, demanding the right to form such groups in areas where they require legitimacy or funding, but violently opposing other groups in places where locals seem poised to break away from militia rule.

It will also be vital to judge the right moment to rein in the growing overcentralization of security decisionmaking by the federal government. And since Iraq still has numerous obstacles in terms of internal security, centrally controlled security forces are a necessary part of this ongoing effort, particularly at a time when U.S. forces are beginning to leave. Nevertheless, thought should be given to reintegrating the provincial leaders into the security decisionmaking process and moving toward police primacy using a formal process of transition. The state of emergency has not ended yet, but it must not become open ended and unaccountable.

16. Another example would be the formation of multiprovince regions, which were designed to legitimise the Kurdistan Regional Government but may now be applied more broadly across the Shiite south, which potential for destabilising the country.

Issues and Options in Local Governance

ALTHOUGH THERE IS strong support for the existence of an Iraqi state, there is equally strong demand for significant decentralization within the national framework. Powerful central control is viewed negatively and as the defining characteristic of Saddam Hussein.

After his fall, the traditional independence of Iraq's subnational constituencies quickly reasserted itself. The disintegration of the federal government in 2003 and the decline in law and order brought an extreme form of devolution into Iraq's provinces. Today, a considerable share of devolved authority still remains in the hands of the militias and other informal organs of power.

In contrast, the formal process of decentralization has arguably stumbled. The promise of greater decentralization was inherent in the Local Governance Program run by U.S. Agency for International Development (USAID), the legitimization of the Kurdish region, Iraq's 2005 constitution, and the multitude of legal codes published by the CPA. Due to federal government resistance, coalition nervousness, and the virtual paralysis of the legislative agenda, the promise of formal decentralization never fully matured. The disappointment caused by this unfulfilled promise now threatens to severely strain the fledgling Iraqi democracy as it recovers from years of chronic insecurity.

The centralizing tendencies of Iraq's federal government are thus adding to the frustrations of the population. Fearing an outright breakup of Iraq, and grasping for any sign of improved government capacity, the coalition has arguably allowed many features of the Saddam-era security architecture to reassert themselves. The Iraqi army is now poised to maintain direct control of security in the provinces with no real mechanism to govern the eventual transition to police primacy and civilian leadership. Fiscal dependence on the federal government remains extensive, with no formal commitment governing the federal government's assessment of local needs or transfer of funds for subnational expenditure.

The flawed provincial elections of January 2005 created many injustices, ranging from the underrepresentation of Sunni Arabs to the disproportionate dominance of certain political parties and factions across the country. In essence, the elections created a situation where minorities ruled majorities. Unelected powerbrokers often demonstrated a greater capacity to meet local needs and even greater representation of local communities than elected decisionmakers. The lack of provincial elections since 2005 has frozen these inequities in place and the political system within Iraq's provinces is now straining to contain the resultant pressures.

The rapid development of "awakening" movements across Baghdad and southern Iraq is an indicator that those locked out of provincial governance since 2005 are demanding to be heard. Informal solutions such as the development of consultative fora that merge the parallel power bases can only achieve so much. The frustration of subnational political awakening and the desire for greater autonomy may have strong negative effects on Iraqi national cohesion.

One obvious effect might be to make the formation of new single or multiprovince regions more likely. The Kurdistan Regional Government's existence has already created some pressure for the formation of equivalent blocs, and this pressure will grow if Iraq's provinces feel frustrated by the federal government's continued resistance to decentralization. It must be remembered that the KRG developed over a ten-year period that included a major Kurdish civil war. So the formation of further regions at such a delicate moment in Iraq's history would be perilous as well as a distracting to the nation-building and economic reconstruction efforts. It is not clear whether the controversial formation of a Shiite "super region" would benefit Iraq or the region, particularly if such a body adopted a radical constitution and allied itself closely with Iran or further exacerbated tensions between major Shiite factions in Iraq.

Even without the formation of a new region, there are plenty of ways that Iraq's provinces could react negatively to ongoing frustrations and political rebalancing. Violent uprising against provincial authorities is one option that is already being undertaken by individual Sadrist groups across southern and central

Iraq, drawing the coalition into the fight on the side of the Supreme Iraqi Islamic Council (ISCI). A similar dynamic is potentially brewing in Sunni Iraq, where local "awakening" movements are beginning to demand greater powers at the expense of Sunni, Kurdish, and Shiite factions that are often viewed (quite rightly) as unrepresentative of the local community.

Iraq's provinces may also respond to ongoing fiscal dependence by looking aggressively to outside partners to meet their revenue needs. This is already happening to some extent in Kurdistan, where insufficient revenues from Baghdad and frustration over stalled oil legislation have led the KRG to develop its own legal framework and entice foreign investment. Maysan province in the south has likewise engaged heavily with the Iranian government to meet perceived shortfalls in the share of transfers received from the Baghdad government. Provincial hoarding of national resources (such as electricity) and the illegal diversion of other assets (such as oil) have also begun across Iraq.

Scenarios for Future Governance

The three-way struggle for Iraqi governance involves federal, subnational, and nongovernmental institutions. Although members of the same political parties or militias may sometimes be present at all three levels, there is a meaningful struggle even within such factions over the relative strength of the federal government, the provincial councils, the districts and localities, the Concerned Local Citizen movements, and so on. Regardless of political or factional leanings, the different levels of governance are competing actively to control decisionmaking and resources. Four scenarios capture the possible outcomes in this struggle:

Scenario 1: Overcentralization. In this scenario, the federal government continues to resist the formal process of decentralization and uses military force to suppress the power of individual militias and factions at the local level.

- Federal government officials continue to stave off decentralization to the subnational level. A weak legal code on provincial power is eventually developed in 2009 or 2010 but leaves many loopholes that are exploited by federal government officials to undercut the power of provincial councils.

- The Joint Operations Command (JOC) mechanism is used to maintain a permanent state of emergency and prime ministerial command of provincial security. No mechanism governs the eventual transition to police primacy and civilian leadership in the provinces. The Iraqi army remains the main guarantor of internal security. In multisectarian areas (notably Baghdad and the Shiite south), local auxiliary forces such as CLC are actively discouraged or disbanded, releasing potential fighters back into the insurgent recruiting pool.

- Fiscal dependence on federal government does not decrease. Revenue assignment to the provinces is limited to intergovernmental transfers that are not tied to any set formula; in other words, the government is not committed to transferring a certain percentage of the national budget to the provinces. Federal ministries undertake the majority of expenditure, and the needs assessments in provincial development strategies (PDSs) fail to have significant impact on ministry plans.

Scenario 2: Decentralization. In this scenario, the formal process of decentralization to the provinces proceeds but stops short of steps toward an extreme federal state (i.e., further multiprovince regions). Mechanisms ensure local input into economic development and the eventual transfer of security decisionmaking to provincial councils when security conditions allow. Subnational government becomes a more credible and legitimate alternative to militias at the local level.

- Comprehensive provincial powers legislation is passed in 2008 and followed by provincial elections in some governorates in late 2008 or early 2009.

- The law contains a mechanism governing the eventual transition to police primacy and civilian leadership in the provinces. *Sahwa* (awakening) move-

ments and local auxiliary forces such as CLC are encouraged and closely monitored as part of a reinvigorated demobilization and job-creation effort.

- Although federal government spending through the ministries continues to account for most expenditure in Iraq, revenue assignment to the provinces are related to an agreed formula that commits the federal government to transfer a certain percentage of the national budget to the provinces. Legislation underlines a formal role for the local needs assessments contained in the PDS in the design of ministry plans.

Scenario 3: Extreme federalism. In this scenario, the federal government continues to resist the formal process of decentralization, driving frustrated local factions to develop a more extreme federalist state by creating new multiprovince regional governments in southern and central Iraq.

- A determined effort is made by ISCI and allied movements to swing public and elite opinion behind the creation of a southern region. At some point in 2009, certain southern provinces become the first members of this region, which forges its own Islamic constitution leaning heavily on Iran's theocratic system. The creation of a regional assembly is protracted and querulous. Efforts continue to draw others into the region, exacerbating factional tension between Shiite militias.

- The southern region has the right to raise its own security forces, which are used against minority factions within the region. Iraqi army personnel retention suffers as recruits join the regional security forces, while the presence of the Iraqi army and federal agencies is a constant source of tension.

- The fiscal arrangements of the new region are complex and relations with the federal government are strained. An additional layer of governance adds to time delays and costs. The region grows disillusioned with the PDS process and becomes desperate for alternative revenue to bolster federal transfers. It quickly looks to external investors and develops its own legal framework. The federal government opposes its unsanctioned foreign investments. Iranian influence grows. Local government services are not improved and in fact decline. Connection to national systems suffers due to regional hoarding of national resources such as electricity and illegal diversion of other assets such as oil.

Scenario 4: Fragmentation. In this scenario, the federal government becomes little more than a talking shop as amalgamated tensions and renewed insecurity push power down to the local level once again. In areas where the 2005 elections produced grossly unrepresentative results, the de facto representatives of the community—local *mukhtar*s and associated militias—effectively run security and control many aspects of the local economy. The area is partially or fully a "no go" zone for federal security forces. Local courts and powerbrokers mediate over disputes. Baghdad's Sadr City at the height of its isolation from the federal system provides a good example of this phenomenon. Foreign influence in the form of charities and business interests can become extremely influential under such conditions, seriously compromising Iraq's territorial and sovereign integrity.

It is clear from the above scenarios, that the most preferable scenario is that of a measured program of decentralization. Overcentralization runs against current Iraqi popular expectations and against the grain of coalition war aims. Extreme federalism is a complex and problematic means of improving governance and may spur factional competition and add a new layer of dysfunctional local governance into the mix.

Since 2003, two forms of legitimacy have been identified in Iraq: one coming from the proven capacity to deliver social goods, and the other from perceived representativeness. The capacity of provincial government is slowly building, but it has still been granted too little fiscal responsibility and too few formal authorities. The representativeness of many provincial governments is at an all-time low, based upon the inequities of the 2005 elections and the apparent freeze on new polls. Both these deficits need to be resolved.

The Need for an Engaged International Community

As the initial round of the PDS process demonstrated, subnational institutions (provincial councils, Provincial Reconstruction and Development Committees, and districts) have a long way to go before their technical capacity can meet public expectation; there is still a paucity of individuals who are fully trained in integrated development planning processes, linkages between the provincial level and both the federal government and the locals levels are limited, and the leadership at the provincial level often failed to lead the PDS process forward and forge these links.

The PDS process, improved budget execution, and other aspects of provincial governance remain dangerously reliant on coalition support. Extensive Provincial Reconstruction Team (PRT) support is evident in the development of the current crop of PDS documents and it is highly doubtful that they could have been completed without constant mentoring and pressure from the coalition. There are many other examples of coalition support, such as USAID's automated provincial budget execution monitoring system, and the support of various U.S. agencies in creating Provincial Procurement Assistance Teams. Provincial utilization of subnational borrowing from domestic and international lenders requires support, and the execution of PDS plans will require a multiyear commitment to capacity development throughout all the levels of subnational government in Iraq.

The first step will be to think about how support will be maintained as U.S. forces draw down in 2008. In Baghdad and central Iraq, where U.S. force levels are likely to be maintained, this is not such a problem. But in many areas of northern, western, and southern Iraq, there will be a necessary reduction of coalition forces. It is particularly unclear what will happen, for instance, to the embedded PRTs in brigades that are withdrawn. Such forces have no permanent bases and few institutional linkages with the Iraqi provincial governments. What is needed is the development of more permanent arrangements like the CPA-era governorate coordinators who were tied to Iraqi provinces (rather than U.S. formations) and supported by secure facilities and sufficient military support to undertake visits throughout their areas of responsibility. Collocation with U.S. logical and training units embedded at Iraqi army bases would be one option. Increased leverage of technology such as that seen in coalition virtual microfinance centers is another option.

Beyond the maintenance of the PRT effort, the key questions should be: how can the international community ensure that Iraq's next round of provincial development strategies are more successful than the current round, less reliant on foreign assistance, and less likely to strain the federalist system by alarming the federal government or disappointing the provinces? And, how can the international community broaden participation in the PDS process and improved integrated budget execution?

The UN could arguably lead a reinvigorated effort to maintain the current capacity-building efforts of the coalition. The August 2007 adoption of UN Security Council Resolution 1770 extended the mandate of the UN Assistance Mission for Iraq (UNAMI) by 12 months and also expanded its political role in the country to "advise, support, and assist" the Iraqi government on a range of issues. As the Stanley Foundation recently noted, the time may be right for the UN to step up its activities in Iraq, including working toward the goal of building good governance practices and institutions, potentially with the backing of a high-profile UN special representative or multiple representatives with a track record of success in these types of situations. The Foundation further noted, "Former UN Special Adviser on Iraq, Ambassador Lakhdar Brahimi, was mentioned as the type of mediator/interlocutor needed if an expanded UN mission is to meet with even limited success."[1]

1. For more information, call Stanley Foundation program officer Kathy Gockel (+1 563 264 1500). Also see the discussion's background papers: *The UN and Iraq: Moving Forward?*, a Stanley Foundation policy analysis brief by James Traub of the *New York Times Magazine*; and *The United Nations in Iraq*, a Brookings Institution policy paper by Carlos Pascual commissioned by the Better World Campaign. Available online (www.stanleyfoundation.org/publications/pab/Traub_PAB_1007.pdf and http://www.brookings.edu/papers/2007/09iraq_pascual.aspx).

The Importance of Concerned Local Citizens and Sahwa Movements

A proper and farsighted handling of the CLC initiative will be vitally important for the future of security decisionmaking at the subnational level. If handled badly, the CLC initiative could easily disappoint militiamen who were willing to disarm. Equally dangerous, the initiative could breathe life into militia activities in some areas where armed groups had previously been under pressure to demobilize. The CLC initiative should thus be judged on a case-by-case basis across Iraqi provinces.

CLC schemes represent a tremendous opportunity to do more than demobilize militiamen by drawing them onto a government payroll or civilian job-creation opportunities. The initiative also offers the opportunity to support neighborhood civic society movements that wish to break away from militias, criminals, and extremists. CLC groups are beginning to act as incubators for political power bases other than religious militias. In many areas, such groups have been formed by local men who previously had no option other than to pay militias for neighborhood protection. Providing an alternative to this option is precisely the kind of support the federal government and provincial councils must jointly show they are capable of providing to their constituents.

Since many young unemployed Iraqis want to join the schemes, every effort should be put into overcoming the resistance of federal "securocrats" to the CLC concept. Effort should be invested in coordinating the *sahwa* initiatives with other aspects of demobilization such as general amnesty legislation. Although many CLC are predominately either Sunni or Shiite, there is evidence of positive inter-sectarian cooperation and protection. Broader international support needs to supplement U.S. oversight of such groups to reinforce their positive aspects. Until the Iraqi government is willing to fund selected CLC units, the U.S. military should continue to finance this pivotal initiative itself.

Civil-Military Relations at the Provincial Level

There is a need to formalize the mechanism and conditions under which the JOC system is deactivated in each province, security transferred to provincial security committees, and police primacy restored. The rationale for this kind of system is already enshrined in Iraqi national security strategy in the provincial Iraqi control (PIC) concept, but the mechanism is notoriously vague and increasingly outmoded. A new detailed formulation agreed by federal and subnational stakeholders should be developed to ensure that Iraq's state of emergency does not become an open-ended slide into authoritarianism.

The February 13, 2008, provincial powers law, entitled "law of governorates not organized into a region" (LG), includes some treatment of this issue. Article 31, clause 10, notes: "The Governor shall have direct authority over the local Security Agencies (except for the Armed Forces) as well as all the departments operating in the Governorate and charged with duties of protection, land conservation, and order." Article 7, clause 10, proposes to grant the governor powers to oversee security plans related to the province, granting authority to "approve the local security plans submitted by the security agencies in the Governorate through the Governor, in coordination with the Federal Security Departments while taking into consideration their security plans."[2] These are both useful clauses that theoretically return "direct authority" over the Iraqi Police Service (IPS) to the governors and allow the provinces to participate in security plans hatched by JOC commanders. On the downside, however, there is still no mechanism to allow for a return to "police primacy," with the Iraqi Army relinquishing its lead role in security.

A precursor to the transfer of security to provincial control is the strengthening of the IPS, a notoriously difficult task that has frustrated all attempts since 2003. The IPS is a provincial security force, akin to the forces that regions are allowed to raise under the 2005 constitution. Any future resolution of security responsibilities

2. For an English-language approved draft, see annex II, available online (www.washingtoninstitute.org/templateC04.php?CID=289). Note that this draft may not reflect all of the legislation's final language,

at the subnational level would need to include consideration of the division of responsibilities between the federal and subnational governments related to the IPS. Currently, the IPS is paid for by the federal Ministry of the Interior, yet the ministry has almost no insight into hiring practices or other aspects of spending at the provincial level. The role and powers of the provincial director of police has developed with too little oversight. Resolution of these issues—and the overall development of the IPS—is the means by which the provinces can demonstrate their commitment to accountable security forces and justify development of a mechanism to reduce Baghdad's grip on local security.

The Lynchpin: Provincial Powers Legislation

As noted above, provincial councils have lacked legitimacy due to an inability to improve the lives of Iraqis and the perceived nonrepresentational nature of the January 2005 provincial elections. Both of these shortfalls can be addressed to some extent through legislation. Since 2003, the failure to correctly sequence this effort undermined the provincial councils, resulting in councils being appointed before they had any powers or budgets. The sequence should logically involve the further development of local government powers and capacities first, followed quickly by the holding of new provincial elections to refresh the legitimacy of the provincial governments.

U.S. pressure was a decisive factor in the February 2008 passage of initial provincial powers legislation. In a January 17, 2008, press conference, Multinational Corps Iraq commander Lt. Gen. Ray Odierno had discussed the benefits of such a move, as well as the need for provincial elections:

> I would like to see provincial powers. The provincial power law is important to us. It leads to provincial elections. I think that's an important next step. I believe the hydrocarbon law is important because that has to do with private investment. It's not so much … that we need the hydrocarbon law to distribute assets because actually the Iraqi government is doing that on its own. They are allocating assets to the provinces—so they're already doing that. But we need the hydrocarbon law in order so we can continue to develop their economy, their capability to export oil and do some privatization out here. So I think it's important for that law to get passed in order for them to—for economic reasons in the future. *But number one for me is provincial powers* [emphasis added] leading then to the laws they need in order to conduct provincial elections because many people—although we had a great turnout in 2005, Sunnis didn't vote and some Shiite groups didn't vote. It would be important for them to be locally represented, and so we think that's important. And we think that it would bring stability on its own by just having those elections.[3]

The potential positive impact of more-detailed provincial powers legislation is hard to appreciate until one looks at the incremental "gumming-up" of Iraqi governance that is caused by the uncertainty of a weak legal code being interpreted by risk-averse or resistant Iraqi civil servants. Iraqi officials at the provincial level have been trying to tell coalition decisionmakers for years that clearly stated official powers mean everything in the Iraqi system of governance. The lack of a clear post-coalition legislative framework complicates the task of cooperation between the federal and subnational authorities, and leaves many interactions subject to contending interpretations of various rulings.

The new legislation provides some of the authorities required by the provinces. Importantly, it notes that the governorate council is "the highest legislative and supervisory authority within the administrative borders of the Governorate"; it enshrines the governorate's ability to function as a parallel legislature and executive in accordance with "the administrative decentralization principle"; and it designates the governor as "the highest-ranking executive officer in the governorate." The governor has gained authority in this draft to designate the pool from which ministry director generals will be chosen, as well as to directly

3. Multinational Corps Iraq commander Lt. Gen. Ray Odierno, January 17, 2008 press conference at DefenseLink. Available online (www.defenselink.mil/transcripts/transcript.aspx?transcriptid=4122).

authorize the hire of low-level employees at local ministry branches.[4]

A key point of contention, however, is the level of independence of the governor from federal oversight. According to some accounts, the ISCI member of the Presidency Council, Adel Abdul Mahdi, initially vetoed the draft law because its seventh article gave the prime minister the power to call his federal cabinet to vote to remove a governor *for cause* with a majority vote. This article is likely to continue to be a sticking point, with centralizers fearing the creation of fifteen provincial-level premiers, and decentralizers fearing the creation of a class of stooges who owe their political survival to Baghdad.[5]

Perhaps the key failing of CPA order 71—and thus the key requirement for new provincial powers legislation—was its lack of detailed examination of the fiscal roles and responsibilities of the provincial councils. The current LG repeats the vagueness of order 71 and order 95, identifying the governorate as a spending unit and an organization responsible for drafting provincial budgeting and development strategy. Revenue generation by the province is treated lightly, leaving plenty of room for the provinces and the federal government to fight over what kind of revenue-raising activities are permitted within the governorates. Though article 52 notes "The Governorate budget included in the Federal budget shall be delivered directly to the Governorate by the Ministry of Finance after subtracting the strategic costs," there is no commitment to the level of funding that the federal government must commit to the provinces.

A stronger legal code should support the creation of formulas for government transfers to the provinces, which could assist multiyear budgeting and establish greater trust between the federal and subnational levels. Legislation should also formalize a programmatic coordination mechanism between PDS needs assessment documents, Accelerated Reconstruction Development Fund (ARDF) transfers, and ministerial development planning. Federal control over subnational borrowing might be explained in greater detail and phrased to encourage provinces to make greater use of such facilities.

Not all of these elements need be rolled into a single piece of legislation, particularly if that would threaten further delays to the new provincial powers legislation. The relative ease with which this legislation might be passed and its ability to provide a quick win as a U.S. Congressional benchmark are strong incentives to bring pressure on Iraqi decisionmakers to pass the law. Arguably more significant is that the legislation would enable many other important economic and political steps at the subnational level, producing more forward movement on stabilization, reconciliation, demobilization of militias, and economic recovery. Detailed treatment of the transfer mechanism to the provinces should be included in the forthcoming Revenue Sharing Law, which is arguably more urgent than the draft Hydrocarbons Law package that it will be bundled with for parliamentary approval.

Elections in the Immediate to Near Future

The current LG includes a late addition forced into the text that stipulates the passage of a new elections law by mid-May 2008 and the holding of provincial elections by October 1, 2008. This step has highlighted the urgent demand for such elections across Iraq. Included in a three-part bundle of legislation (including the budget and amnesty legislation), the late addition of the electoral date was a gambit by the factions most disadvantaged by the January 2005 elections (some Sunni Arab and Sadrist elements).

Not coincidentally, the factions that initially opposed passage of the provincial powers legislation (and vetoed it at first) were those that stood to lose the most from new provincial elections, namely ISCI, the Kurdish bloc, and the Sunni Tawafiq bloc—a group whose mandate rested on a tiny number of Sunni votes in the 2005 election, and is now being eclipsed by the grassroots "awakening" movements. The Iraqi government increasingly constitutes blocs that do not

4 Draft Law of Governorates not organized into a region, approved by the Iraqi National Assembly on February 13, 2008, Articles 2 and 24.
5. Ibid., Article 7.

represent their constituent communities, while more popular Sadrist and Sunni awakening groups are still building informal power structures parallel to the formal executive branch. This has damaged the government's credibility and could even result in Baghdad playing fast and loose with the national electoral cycle in the future.

Although all the key Iraqi factions state their support for an October 2008 election date, it is imperative that the international community ensure the elections take place and do not get derailed off by factions that want to prevent them. From a practical perspective, the preliminary steps that need to be achieved before polls can take place could be undertaken in many provinces in time to hold elections late in 2008:

- **Independent Higher Electoral Commission (IHEC) staffing.** With sustained UNAMI support, the IHEC should be able to assemble staffs in most provinces by late 2008. Great care needs to be taken to ensure that electoral staffs are seen as independent to undermine the fear that the next provincial elections will witness widespread irregularities to allow the existing power cadres to remain in place.

- **Voter lists.** Using the Ministry of Trade's Public Distribution System (food packages) list to produce voter lists will be difficult in some areas affected by sectarian cleansing, but not necessarily in all areas. In fact, some of the areas suffering the grossest distortions in the January 2005 elections (the predominately Sunni provinces of Anbar and Salah al-Din, and areas where Sadrists did not compete across southern Iraq) have suffered the lowest numbers of internally displaced persons. Baghdadis make up 80 percent of the 290,000 internally displaced persons estimated by the Institute of Migration to have left their homes since February 2006. As Baghdadi displaced persons have predominately (85 percent) relocated to other parts of Baghdad, their movement need not complicate provincial elections held with governorates as single electoral districts.[6]

- **Implementing legislation.** See detailed comments below.

- **Security concerns.** Although elections might be an unwelcome distraction as U.S. forces begin to draw down in Iraq, violent incidents have dropped below the level seen during the January 2005 elections, and the Iraqi security forces are now much more capable. Although factional tensions (and resultant strains on the security forces) would be bound to escalate during an electoral season, the situation is hardly worse than it was when two successful elections and one referendum were held in 2005.

Political arguments for further postponing elections are weak since they are championed by Iraqi factions that do not wish to see the current power balance altered or subjected to uncertainty. For instance, although provincial elections might result in a shuffling of provincial leadership, councils, and a number of technocratic officials, this natural political process cannot be sidestepped. There is no sense withholding elections for either convenience or in order to alter the result; both options are undemocratic and run counter to the Iraqi constitution and the war aims of the coalition to bring accountable democracy to Iraq.

Perhaps the key decision regarding Iraq's next provincial elections is whether an entirely new electoral legislation is needed. The Iraqi Elections Law of 2005 is of uncertain provenance, adapted from CPA order 96 (the Election Law, June 2004) and introduced before the ratification of Iraq's constitution, which thereafter did not detail arrangements of local elections. It remains the only extant legislation governing provincial elections and should, at some point, be replaced by legislation developed by a constitutionally elected Iraqi government. In an ideal world, the important issues of electoral reform—a vital determinant of the representativeness of future provincial governance—would be

6. International Organization of Migration, "Baghdad: Post-February 22 emergency IDP monitoring and assessments, May 15-Sept 30, 2006." Available online (www.reliefweb.int/rw/RWB.NSF/db900SID/LSGZ-6VACHL?OpenDocument&rc=3&cc=irq).

resolved at a leisurely pace. In the real world, however, Iraqi decisionmakers appear to want to develop new legislation before the next set of polls.

The Iraqi elections law of 2005 formally provided the rules for the local elections that were held in January 2005.[7] The proportional representation system treated each province as a single electoral district and required parties to submit their lists of candidates. The system partially shielded potential candidates from intimidation by delinking them from a particular local constituency and therefore loosened the ties of accountability between constituents and their representatives. It also accentuated the power of political parties whose campaigns easily overshadowed those of independents and local candidates. In a campaign with a bewildering assortment of lists, this proved to be a major advantage for political parties. If possible, therefore, some reform of the electoral system should be attempted, with provinces broken down into more local voting districts with one or more representatives with direct connection and accountability to local constituents.

The need to "refresh" the accountability of local governance and break up entrenched systems of patronage is urgent. The Sunni awakening movements are beginning to clash violently with Sunni politicians who were elected by narrow margins in 2005. Sadrist elements locked out of provincial government are escalating their fight against the elected ISCI-dominated councils across the south. New elections might also provide greater opportunities for nonviolent power transfer instead of coercive bargaining or the creation of parallel official and unofficial power sets. Finally, since this would be potentially the first such plebiscite contested by all factions, the election may uncover the true internal power balance inside Iraq—something of immense value in formulating future policy.

The incentives for early elections—and the near-term feasibility of polls in many, if not all, of Iraq's Arab provinces—suggest that some elections could be held as early as winter 2008. Iraqi deputy prime minister Barham Saleh hinted at this during a speech on January 28, 2008, noting: "I suspect there will be rolling elections sometime soon because the political demand from the local communities is really growing for that."[8] In fact, in some particularly urgent cases, electoral reform and new legislation need not slow down an initial set of elections. Though imperfect, the participation of factions that boycotted the elections in 2005 would boost the legitimacy of provincial authorities in grossly unbalanced areas such as Anbar.

Key candidates for early elections include provinces where there is severe underrepresentation and where the number of internally displaced persons is relatively low. Good options include Anbar, Salah al-Din, and a range of the Euphrates provinces south of Baghdad. Though Ninawa, Diyala, and Basra are urgently in need of political refreshment, they will need careful handling from a security perspective. The staggering of elections would prevent them becoming too much of a security burden, and indeed reduce tension in areas of high factional discord such as the Shiite south. Staggering of elections might also allow closer international scrutiny of polling, which will be vital to prevent a repeat of the gross violations of 2005.

Subnational Governance and Iraq's Future

Four key elements would avoid the negative scenarios that crowd Iraq's horizon: ongoing commitment to capacity building, conditional support for *sahwa* initiatives, detailed provincial powers legislation, and provincial elections in the immediate to near future. Decentralization is the middle road that can give Iraqi Arab provinces sufficient incentive and freedom to stay within a unitary set of fifteen provinces. The alternatives are unattractive: on the one hand, a return to the authoritarianism of Iraq's past; on the other, a fragmentation of Iraq into a patchwork of local fiefdoms, a situation that one Iraqi described as getting rid of one dictator to be left with fifty lesser ones.[9]

7. For more information, visit the Independent Electoral Commission of Iraq. Available online (www.ieciraq.org/English/Frameset_english.htm).
8. "Iraqi Deputy PM Calls for 'Rolling' Provincial Elections to Begin Soon," *Associated Press*, January 25, 2008.
9. Ian Black, "You Got Rid of One Saddam and You Left Us with 50," *Guardian* (September 21, 2007).

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