IRAQ'S UNCERTAIN FUTURE: ELECTIONS AND BEYOND

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WORKING TO PREVENT
CONFLICT WORLDWIDE

TABLE OF CONTENTS

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

As a rule, Iraq's post-Saddam elections have tended to magnify pre-existing negative trends. The parliamentary polls to be held on 7 March are no exception. The focus on electoral politics is good, no doubt, but the run-up has highlighted deep-seated problems that threaten the fragile recovery: recurring election-related violence; ethnic tensions over Kirkuk; the re-emergence of sectarianism; and blatant political manipulation of state institutions. The most egregious development was the decision to disqualify over 500 candidates, a dangerous, arbitrary step lacking due process, yet endorsed by the Shiite ruling parties. Under normal circumstances, that alone might have sufficed to discredit the elections. But these are not normal circumstances, and for the sake of Iraq's stability, the elections must go on. At a minimum, however, the international community should ramp up its electoral monitoring and define clear red lines that need to be respected if the results are to be considered legitimate. And it should press the next government to seriously tackle the issue – long-neglected yet never more critical – of national reconciliation.

Over the past year, there were grounds to believe that Iraq's post-war wounds were healing and that the primary challenge had become one of state building. Despite a spate of high-profile attacks in Baghdad and lower-level ones elsewhere, violence was down. Politics took centre stage. The outcome of the January 2009 provincial elections was a setback to the more openly sectarian parties and brought a change in local government. Most significantly, perhaps, those elections marked the Sunni Arabs' unambiguous acceptance of and entry into the political and institutional arena that they had once massively rejected and violently resisted.

But simmering conflicts were not long to come to a boil. Negotiations over an electoral law in the second half of the year took far longer than anticipated, forcing a five-week election delay. The perennially difficult question of Kirkuk's administrative status, as well as Sunni Arab concerns that refugees would not be fully represented, further stood in the way. These finally were overcome with the help of external pressure and mediation but

neither they – nor the underlying ethnic and confessional fault line they reflected – are close to genuine resolution.

The mid-January announcement by the Accountability and Justice Commission (AJC) that it would disqualify 511 candidates for alleged ties to the banned Baath party was the most disturbing. The decision was blindly adopted by the Independent High Electoral Commission (IHEC); Prime Minister Maliki's government proceeded to embrace it and then pressured the appeal panel to perform a hasty and cursory review. Most appeals were denied. The episode caused havoc, raising questions about the AJC's legal standing, the judiciary's credibility, the electoral commission's legitimacy and ability to fairly administer the polls, and thus the election's integrity as a whole – not least because the AJC's leaders themselves are parliamentary candidates. A naked power play with sectarian overtones in that its most prominent victims are Sunni Arabs, it also reopened old wounds and cast a troubling light on Maliki, who only a year ago had won votes by eschewing sectarian rhetoric and has pledged to stitch together a broad non-sectarian electoral alliance.

Thankfully, there is little talk of boycott, as the spectre of 2005 – when Sunni Arabs shunned the polls and thus voluntarily disenfranchised themselves – looms heavy. That said, in the absence of an impartial internal monitor, the international community – primarily the U.S., EU and UN – now has an even greater responsibility to ensure that these flawed elections are damaged no further and to clearly define the requirements for them to be considered legitimate. Iraqi and international observers should be able to deploy freely to all polling stations and monitor both the vote and vote count. They should, in particular, observe the conduct of institutions and agencies whose impartial role will be critical in ensuring free and fair elections: the Supreme Court and IHEC, as well as the military and police. Blatant interference or massive fraud should be seen and stated as red lines that will force a review of how the international community views a future government.

That leaves what happens after the elections, assuming they pass this threshold. The question then will be whether the incoming government is able and willing to address the country's numerous political deficiencies, from sectarianism to politicised institutions and much in between. Serious work toward national reconciliation is long overdue. This time, forming a coalition government and holding it up as an example of national unity will not suffice. There will have to be meaningful progress on opening up political space, increasing cross-sectarian participation and improving transparency and accountability.

Reform of de-Baathification should be a priority, at least to set clear criteria and procedures embedded in law; the process should also be given a time horizon of a maximum of two years, at which point all remaining files should be closed and the effort terminated. In this endeavour, it will remain critical for members of the international community to stay actively engaged and bolster a still-weak Iraqi state by offering their Iraqi partners full technical, financial and diplomatic assistance and support economic reconstruction. U.S. troops may be on their way out, but it is too soon to abandon Iraq to the vagaries of internal conflicts and regional rivalries.

RECOMMENDATIONS

To the Government of Iraq:

1. Ensure free and fair elections by:

    a) implementing the important code of conduct that the main coalitions signed on 17 February;

    b) instructing security forces to provide free and secure access to polling stations;

    c) reinstating, to the extent possible, candidates disqualified on the ground of alleged ties to the banned Baath party; and

    d) refraining from interference in the work of the Independent High Electoral Commission and the Supreme Court and protecting these institutions from interference by others.

2. Launch a serious effort once a new government is formed to open up political space, increase cross-sectarian participation, improve transparency and accountability in decision making and strengthen, and encourage the political independence of, the judiciary and independent commissions.

3. Reform the Accountability and Justice Commission as a matter of priority by setting clear criteria and procedures embedded in law, and providing de-Baathification with a time horizon of a maximum of two years, at which point all remaining files should be closed and the effort terminated.

To Members of the International Community (notably the UN, EU and U.S.):

4. Play an assertive role in ensuring the elections are free, fair, transparent and inclusive.

5. Define clearly and publicly what constitute red lines that, if crossed, would discredit the elections, notably:

    a) discouraging voters from reaching polling stations for lack of security;

    b) obstructing their access to certain polling stations;

    c) allowing non-registered voters to vote or registered voters to vote more than once; and

    d) tampering with ballots, ballot boxes or vote count.

6. Encourage the parties' compliance with the code of conduct signed on 17 February.

7. Encourage the independence of the institutions and agencies involved in the electoral process, notably the Supreme Court and IHEC, as well as the military and police.

8. Monitor both the vote and vote count rigorously through the free and wide deployment of Iraqi and international observers to polling stations and both regional and central counting centres.

9. Speak out strongly against deliberate acts of fraud and manipulation.

10. Encourage political and institutional reform following the elections, especially of the Accountability and Justice Commission, and push for political independence of the judiciary and independent commissions.

11. Develop a stance that, if the above-mentioned red lines are crossed and election results are not broadly accepted by the public, would make diplomatic, military and development aid dependent on commitment to thorough institutional reform.

Baghdad/Washington/Brussels, 25 February 2010

IRAQ'S UNCERTAIN FUTURE: ELECTIONS AND BEYOND

I. INTRODUCTION

In March 2010, Iraqi voters will face the third parliamentary election in five years and the fifth major voting exercise overall. Their post-2003 experience with elections is decidedly mixed. Even if security forces and the U.S. military succeeded in reducing violence to a minimum on election day, elections have tended to accentuate pre-existing trends, at times with severe consequences. Iraq's first parliamentary elections in January 2005,[1] for example, were preceded by a period of growing political polarisation and threats from insurgents, mostly based in predominantly Sunni Arab areas, to disrupt the process, prevent voting and reject the results as having been achieved under an illegal occupation. The poll itself proceeded without major difficulty in most of the country and saw an impressive turnout. Insurgent threats in majority-Sunni Arab areas, however, as well as an announced boycott by most Sunni Arab politicians, produced a result that hardened political fissures and, most ominously, excluded a major constituency from the critical task of drafting a permanent constitution.

The constitution-making process was fraught with difficulty. Although a majority of the population endorsed the text in a 15 October 2005 referendum, the constitution has suffered from a certain lack of legitimacy ever since, achieved as it was through backroom deal-making involving very few political actors.[2] This set the stage for a surge in sectarian violence, which had started the previous year. In turn, the December 2005 parliamentary elections, organised to establish the first constitutionally-based government, institutionalised the sectarian dynamic prevailing in the streets, pitting a Shiite Islamist-led government against a Sunni-based insurgency. The result was civil war.[3]

Sensing it was losing a grip on the situation, the U.S. responded with a temporary troop increase in 2007, focused on Baghdad and Anbar governorate. In part because of the insertion of extra combat troops in urban neighbourhoods and in part because of decisions by violent actors to either join the political process or lie low and wait out the storm rather than confront U.S. military might, this troop surge succeeded in pacifying both areas, even if in the capital it entrenched a partial but new sectarian separation. Apart from mixed-population governorates such as Diyala and Ninewa, and to a lesser extent Kirkuk, the situation calmed remarkably in the next two years – enough that by January 2009 the government was able to organise provincial elections. Although turnout was lower than in 2005, these elections were notable in that voters punished the ruling parties for their failure at local governance. This suggests that security improvements arguably had convinced enough voters they could take the risk of voting incumbents out of power. In this sense, elections appeared to reinforce a pre-election upward trend.

But the 2009 provincial elections also saw a fragmentation of the political landscape that endured for the rest of the year. The prime minister emerged strengthened – his list won in Baghdad and almost everywhere in the south – but quickly became the target of concerted political attacks and alliance-building by many rivals worried by his perceived new strength. In addition, 2009 witnessed rising tensions between the federal government and the Kurdistan regional government (KRG) over the division of power, management of oil and status of disputed territories.[4] A resurgent sectarianism exemplified by political battles over the electoral law and subsequent decision to disqualify candidates from the elections augured trouble down the road, as all sides positioned for post-election advantage, new electoral strength and legitimacy. All sides also are keenly aware of the Obama administration's commitment to end combat operations and with-

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[1] Simultaneous elections were held for the council of representatives, eighteen provincial councils and the Kurdistan region's parliament on 30 January 2005.

[2] See Crisis Group Middle East Briefing N°19, *Unmaking Iraq: A Constitutional Process Gone Awry*, 26 September 2005.

[3] See Crisis Group Middle East Report N°52, *The Next Iraqi War? Sectarianism and Civil Conflict*, 27 February 2006.

[4] The KRG administers the Kurdistan region, a federal entity in Iraq that has evolved since the 1970s and is enshrined in the 2005 constitution. In the disputed territories, federal army and Kurdish regional guard (*peshmerga*) forces are facing each other in an uneasy standoff but with U.S. assistance have started joint checkpoints and patrols.

draw all combat troops by the end of August 2010 and complete a full U.S. troop withdrawal by 2012. They are starting to prepare for the aftermath.

With the novelty of relatively free elections having worn off, many voters may decide to stay home, beset by voter fatigue or despair over their ability to affect the outcome. At the same time, the new electoral law, approved on 6 December 2009, could act as an inducement: it prescribes an open-list system that gives much greater power to individual voters than did the closed-list system previously employed.[5] With open lists, voters have the option to cast ballots for individual candidates who are standing either alone or as part of a coalition, in addition to voting for an electoral list. In so doing, they rank a list's candidates according to the number of votes they receive. By contrast, in a closed system the list's leadership determines its candidates' rankings.

II. LESSONS FROM THE 2009 PROVINCIAL ELECTIONS

A. STRIKING OUTCOME

When results of the January elections became known, there was a flurry of local and international commentary suggesting that the public had turned its back on sectarianism and the parties espousing it; religion had ceased to be a primary factor driving domestic politics; and a new nationalism had started to take hold, reinforcing the old Iraqi identity that the US invasion and sectarian war had disarmed, disfranchised and nearly destroyed.[6] This response was understandable given the stunning setback suffered by the ruling parties. But a close analysis of the results and subsequent efforts to form new local governments suggests that the reasons for the electoral outcome are more complex than has been suggested.

The ruling parties were ousted first and foremost because they failed to deliver services and perpetuated instability. Because these parties were overtly sectarian, many blamed their religious ideology for their failure to govern. As an electoral strategy, Prime Minister Nouri al-Maliki, whose Daawa party had been largely excluded from local government since 2005, promised to deliver both stability and services, pointing to his record so far in restoring the former. Moreover, he abandoned sectarian discourse and instead raised nationalist slogans, as he recognised these had started to resonate with a public exhausted by two years of sectarian war.

Elections were held in only fourteen of the country's eighteen governorates. The Kurdistan regional government, which has the authority to set its own elections, did not organise provincial polls in the region's three governorates (Erbil, Suleimaniya and Dohuk), which fall under its own legislation,[7] and the council of representatives failed to agree on terms for elections in Kirkuk, instead putting in place a special procedure that would enable them sometime in the future.[8] Of the fourteen

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[5] The partial open-list system was also used in the January 2009 provincial elections. This hybrid gave voters the choice to cast their ballot for either (1) a party list without specifying a particular candidate; (2) *both* a list *and* a candidate standing on its slate; (3) a single (independent) candidate; or (4) a candidate standing for compensatory seats reserved for minority representatives (Christians, Yazidis, Shabaks and Sabean-Mandeans) in one of the following five governorates: Baghdad, Dohuk, Erbil, Kirkuk and Ninewa.

[6] This was the line taken in the mainstream media. In addition, see Robert Dreyfuss, "Iraq's resurgent nationalism", *The Nation*, 9 March 2009, and, to a lesser extent, Reidar Visser, "No longer supreme", 5 February 2009, at www.historiae.org.
[7] The KRG has promised provincial elections for some time but has not acted. Following the July 2009 parliamentary elections in the Kurdistan region and the emergence of a strong opposition in parliament, it became even less eager to hold provincial polls.
[8] On the Kirkuk question and the provincial elections law, see Crisis Group Middle East Report N°88, *Iraq and the Kurds: Trouble Along the Trigger Line*, 8 July 2009, pp. 4-7. There has been no progress in organising elections in Kirkuk, which are on hold indefinitely.

governorates, nine are majority Shiite, located south of Baghdad; one, Anbar, is majority Sunni; and four, including Baghdad governorate, have a thorough mix of ethnic and religious groups.

Three trends stand out: in areas with Sunni Arab populations, the Sunni Arab vote was significant, reversing losses resulting from the January 2005 election boycott and curbing the power of those elections' winners, especially the Kurdish parties; no single list obtained more than 20 per cent in any governorate or 15 per cent nationwide, highlighting the political landscape's fragmentation; and most importantly, in each of the fourteen governorates the local incumbent parties failed to win.

Because the ruling parties invariably had espoused ethnic or sectarian identities, the results could be interpreted as a defeat of ethno-sectarianism. However, this appears to have been an important but secondary voter consideration. The common denominator in all governorates was that the ruling parties had failed to govern effectively – a widespread refrain before the elections[9] – and now the public, if it bothered to vote at all, was punishing them for their mismanagement.[10] A television journalist summed it up: "These parties' poor performance in running the councils and local government was the primary factor in turning the public against them".[11] Tellingly, Maliki, who was the big winner in Baghdad and the south, and therefore overall, lost in the one governorate, Karbala, that his Islamic Daawa Party had carried in January 2005. Moreover, only between two and four council members were re-elected in most governorates, highlighting the general discredit from which the old councils and local government, suffered.[12]

Significantly, this was the first time that a partial open-list system was used; it meant that contrary to earlier elections, voters were not compelled to choose from fixed slates of party-ranked candidates but rather voted for both a list and an individual candidate on that list, thereby ranking these candidates through the overall number of votes they received.[13] Expecting a pummelling at the polls,

established parties both changed their (sectarian) tune during the campaign and asked technocrats and unaffiliated notables with good reputations to stand for election, replacing party stalwarts. "The parties controlling the old councils paid the price for these councils' failure over the past four years. This holds true for the Fadhila Party in Basra, the Islamic Supreme Council [ISCI] throughout the south, the Kurdish parties in Ninewa, Salah al-Din and Diyala, and the Iraqi Islamic Party in Anbar", noted Wisam al-Bayati, a parliamentarian with Saleh al-Mutlaq's (Sunni) secular National Dialogue Front.[14]

ISCI, which had a political and security stranglehold on most southern governments during these four years, earned a particularly poor reputation and suffered the consequences. A newly elected provincial council member for Daawa in Dhi Qar said:

> Before this election, most governorates were controlled by ISCI. Our brothers of ISCI mismanaged the provincial councils; their strategies were planned very poorly. They did not build any big projects. They did not set up any long-term plan to improve service delivery. People were looking for change, and so now they did not vote for ISCI.[15]

In ousting the ruling parties for mismanagement, corruption and failure to deliver services, voters appeared to attribute their dismal record in power to their ideology and their tendency to bring religion into politics and governance.[16] In other words, they at least in part blamed these parties' deference to clerics for their failure to govern. As such, this was the first public indictment of politicians who had deployed sectarian discourse, mobilised clerics and turned mosques into political bully pulpits in an effort to provide a distinct and recognisable identity, create a siege mentality, build a mass base and gain power in a perplexing post-Saddam environment. For example, a secular politician in Anbar, said, "Maliki won because he used nationalist instead of sectarian speech. His victory could be interpreted as the nationalist approach trumping the religious one. This is also why ISCI was defeated: it represents a religious attitude that people don't trust any more".[17]

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[9] Crisis Group Middle East Report N°82, *Iraq's Provincial Elections: The Stakes*, 27 January 2009, pp. 9-10.

[10] Turnout was a low 51 per cent of registered voters. Local politicians had warned of possible low participation due to voters' demoralisation over lack of governance and a widespread perception that their votes would make little tangible difference. Ibid, pp. 12-13. Anbar had the lowest turnout, 40 per cent, Salah al-Din, Saddam Hussein's home governorate, the highest, 65 per cent.

[11] Crisis Group interview, Muhannad Husam al-Deen, journalist with Babiliya satellite TV, Amman, 16 April 2009.

[12] For example: Anbar (2); Dhi Qar (4); Diyala (2); Najaf (4); Salah al-Din (4); Waset (2).

[13] Crisis Group Report, *Iraq's Provincial Elections*, op. cit., p. 11.

[14] Crisis Group interview, Wisam al-Bayati, council of representatives member from Salah al-Din for Saleh al-Mutlaq's National Dialogue Front, Amman, 11 April 2009.

[15] Crisis Group interview, Abu Nadia al-Awaili, Dhi Qar provincial council member for the Daawa Party, Naseriya, 20 June 2009.

[16] They also did so in the run-up to the elections. See Crisis Group Report, *Iraq's Provincial Elections*, op. cit., pp. 10-11.

[17] Crisis Group interview, Salim al-Isawi, Anbar provincial council member for the Patriotic Iraqi Project Gathering (Saleh al-Mutlaq), Ramadi, 4 July 2009.

The religious leadership, including those with political inclinations, had seen the writing on the wall. Grand Ayatollah Ali Hussein al-Sistani stayed aloof from the electoral campaign, his local representatives leaving no doubt that the revered senior cleric endorsed no party or candidate.[18] Other Shiite clerics followed suit, weary of contradicting Sistani. A provincial council member in Waset said, using the term *marjaiya*, which denotes the most senior Shiite clerical leadership in Najaf but is commonly understood to mean Sistani in particular:

> This election differed from the one in 2005. The *marjaiya* in Najaf sent a clear signal that it did not favour any list and that it remained non-partisan. Local religious figures rely heavily on what the *marjaiya* says, and so they encouraged people to go out and vote but didn't tell them for whom to vote. As a result, the clerics' role was not significant in these elections.[19]

Likewise, Sunni clerics refrained from overt politics. In Anbar, for example, preachers "urged people to vote but didn't support any specific list or candidate".[20]

There are other tell-tale signs. Far fewer people now frequent mosques. Friday prayers, which enjoyed large attendance during the early years of the U.S. occupation, chiefly by Sadrist followers, have lost much of their significance.[21] A young Sadr city resident said:

> Friday prayers used to constitute a critical political gathering, an expression of jihad first against tyranny during Saddam Hussein's rule and then against the U.S. occupation. Today, it has lost much of its ideological import. Shiites are in power and U.S. soldiers barely are visible on the streets. Besides, the popularity of many imams and religious leaders who lead prayers has been undermined. They proved themselves just as materialistic and worldly as others – not to mention their sectarian excesses and overt calls for confessional discord [*fitna*].[22]

While the public's view of the ruling parties determined the losers, it did little to suggest who would prevail. Yet in most cases there were clear winners: Maliki in Baghdad and the south (minus Karbala) and a Sunni list using the banner of Iraqi nationalism in Ninewa. In Salah al-Din and Diyala, however, the scene was more confused, requiring complex post-election coalition building.

In Anbar, tribal groups ousted the Iraqi Islamic Party (IIP), the local manifestation of the Muslim Brotherhood. It had won big in 2005, despite the fact that very few people voted (3,800, of which the IIP collected 2,000) and that the party did not stand officially, consistent with the Sunni Arab boycott.[23] It ended up with 34 of 41 seats. Four years later, the electorate returned in numbers, voting for groups whose armed militias had brought relative calm to the governorate after a period of extreme violence.[24] The IIP did poorly by comparison, and if it remained represented, it was only because other parties were unable to forge a unified electoral coalition. Thus, the alliance in which the IIP participated, the Coalition of Intellectuals and Tribes for Development, collected 16 per cent of the vote, giving it six seats on the 29-seat council. The two winning lists received barely more than

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[18] Sheikh Jawad al-Khalisi explained Sistani's attitude as follows: "The overthrow of Saddam Hussein's regime and the subsequent U.S. occupation presented a real opportunity for the *marjaiya* [the Shiite clerical leadership in Najaf under Grand Ayatollah Ali Husseini al-Sistani]. It was able to fill the political vacuum and soon asserted its hegemony, However, as years went by, it became the victim of its overwhelming power as it was blamed for whatever went wrong. The results of the provincial elections shocked the clerical institution. Even residents of Najaf, one of the clerics' strongholds, now openly express disdain for religious figures whom they view as complicit in the corrupt and arbitrary rule of several political parties". Crisis Group interview, Baghdad, 15 December 2009. Al-Khalisi descends from a prominent ayatollah who declared jihad against the British colonial power in 1920. After his return from exile in 2003, he reopened his family's Shiite religious school in Kadhimiya and boycotted the U.S.-led political process, allying himself with the Sunni religious leader Harith al-Dhari. Another observer in Najaf said, "the *marjaiya*'s heavy-handed intrusion into all things political is a thing of the past. It is blamed for the country's mismanagement. Besides, many political leaders and movements whose legitimacy depended on the *marjaiya*'s have since become financially self-sufficient and therefore no longer follow its lead". Crisis Group interview, Sheikh Naema al-Ebadi, director of the Iraqi Centre for Research and Studies, Najaf, 23 December 2009.

[19] Crisis Group interview, secular Waset provincial council member, Kut, 22 June 2009.

[20] Crisis Group interview, Sheikh Naser Muhammad Fahad, Anbar provincial council member for the Reform and Development Movement, Ramadi, 4 June 2009.

[21] The Iraqi regime freely permitted Friday prayers during part of the 1990s, until popular confrontations developed with followers of Muqtada Sadr's father, Ayatollah Muhammad Muhammad Sadiq al-Sadr, in 1999 that ended with the elder Sadr's assassination. Friday prayers at Sunni mosques became a very powerful instrument of mass mobilisation after 2003, with mosques turned into political and logistical centres.

[22] Crisis Group interview, young Sadr city resident, Baghdad, 12 December 2010.

[23] Concerning this controversy, see Crisis Group Report, *Iraq's Provincial Elections*, op. cit., p. 5, fn. 27.

[24] For an analysis of politics in Anbar, see ibid, pp. 5-6, 30-31; and Crisis Group Middle East Report N°74, *Iraq After the Surge I: The New Sunni Landscape*, 30 April 2008.

17 per cent each. Nevertheless, post-election manoeuvring ensured that the IIP was locked out of local government.[25]

The Ninewa results were dictated by the governorate's peculiar logic. The Kurds claim several of its districts as part of historical Kurdistan, and when Sunni Arabs absented themselves from the polls in 2005, the Kurdish parties took advantage, grabbing 31 of 41 seats and dominating government. In 2009, a resurgent and unified Sunni Arab bloc, flying the banner of Iraqi nationalism, recaptured all of the lost ground. The al-Hadbaa coalition garnered over 48 per cent of the vote, while the Kurds were also-rans with 25 per cent, still respectable but insufficient to retain even a share of power. Because al-Hadbaa claimed a majority of seats (19 of 37), it was able to shut out the Kurdish list from participating in government. This set the stage for tensions that persisted throughout the year, especially whenever the Hadbaa-controlled government tried to assert its sovereignty over Kurdish-controlled disputed territories.[26]

In Baghdad and most of the south, Maliki swept the polls, out-voting his nearest opponents, ISCI, two to one overall. The main factor behind his victory may be that he was the only clear available alternative once voters had turned their backs on ISCI[27] and the Sadrists, whose penchant for street violence during the intervening years had discredited them with many Shiite voters.[28] Precisely because Maliki's Daawa party had not done well in the 2005 elections, its reputation in local governance (Karbala excepted) remained intact. Moreover, at the national level, Maliki had transformed himself from a low-profile compromise candidate for prime minister in 2006 to a leader willing to transcend partisan and sectarian interests – or at least appearing to do so on the national stage. Starting in April 2008, he began to lash out at the Sadrists, al-Qaeda in Iraq, the awakening movement and the Kurds in almost equal measure.

These actions, which arguably exemplified a new nationalism and an effort to restore law and order in a situation of near-chaos, proved highly popular with the majority Shiite public and, depending on the individual target, many others as well.[29] As an Anbar politician, a Sunni sheikh who is not a traditional Maliki/Daawa ally, put it in June 2009: "Maliki is a strong nationalist and non-sectarian leader. It's true that his party is religious in appearance but its applications are secular. Maliki's profile in the street improved with the government's security achievements. Although there has been corruption among government ministers and officials, Maliki's reputation hasn't been touched".[30]

Maliki matched his military forays with a nationalist rhetoric that resonated with the public. A secular member of parliament said:

> Maliki won because of his nationalist rhetoric. He didn't depend on Islamic sectarian slogans, or even on his own Daawa Party.[31] And he won because of

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[25] Six other lists won a total of 23 council seats, against the Coalition of Intellectuals and Tribes for Development's six, and formed an alliance to establish the local government.

[26] See Crisis Group Middle East Report N°90, *Iraq's New Battlefront: The Struggle Over Ninewa*, 28 September 2009; and Crisis Group Report, *Iraq's Provincial Elections*, op. cit., pp. 2-4, 28-29.

[27] A Baghdad politician said Maliki won because he restored security and stability, and refrained from using sectarian rhetoric, but also because "the other parties failed". Crisis Group interview, Yaqoub Yusef Bkhati, politically unaffiliated president of the local council in Rashid neighbourhood, Baghdad, 22 June 2009.

[28] See Crisis Group Middle East Report N°72, *Iraq's Civil War, the Sadrists and the Surge*, 7 February 2008. The Sadrist movement received some credit after the elections for having chosen politics over violence. A Baghdad politician said, "the Sadrist current demonstrated its ability to play politics, and in this way they got out of their bottleneck. This is proof positive that they can change and participate in the game of give and take. I think they will have a political future". Crisis Group interview, Ali Naser Bnayan, Baghdad provincial council member for the Patriotic Reform Trend (Ibrahim al-Jaafari), Baghdad, 28 April 2009.

[29] In April 2008, the Maliki government sent troops to Basra to confront lawlessness and, in particular, to crush Muqtada al-Sadr's Mahdi Army's hold on the city. Crisis Group summarised what happened next: "First, [Maliki] moved against the Mahdi Army in Sadr City, Baghdad's sprawling Shiite slum, burnishing his credentials in Sunni eyes. He then pressured the awakening councils by arresting some leaders; the Shiites, fearing a Sunni resurgence, applauded. Following the parliamentary standoff over the provincial elections law in August 2008, he launched a military campaign in Diyala ("Operation Glad Tidings") to fight al-Qaeda in Iraq; however, government forces not only again arrested awakening members, but some soon engaged Kurdish *peshmergas* in disputed areas under de facto Kurdish control. This infuriated the Kurds but transformed Maliki for many from a sectarian politician into a national (Arab) leader. Finally, a televised speech in November 2008 in support of strong central government and against regionalisation, arguably in response not only to Kurdish ambitions in Kirkuk but also to some parties' attempt to create a Basra region, further enhanced his nationalist credentials". Crisis Group Report, *Iraq's Provincial Elections*, op. cit., p. 17.

[30] Crisis Group interview, Sheikh Moayyad al-Hmeish, secretary general of the Anbar Salvation Council, Ramadi, 3 June 2009. Other Anbar politicians echoed this view. Yet, Anbar Salvation Council leader Hamid al-Hayes has teamed up with the Iraqi National Alliance, Maliki's main Shiite rival, in the March 2010 legislative elections.

[31] Some have suggested that Maliki's victory was all his own and had little to do with the Daawa Party. An ISCI politician, for example, contended: "Daawa's agenda differs from Maliki's. Maliki's character is not that of the Daawa Party. The people

his nationalist actions, which were appreciated by the people, for example when he dealt with the gangs in Basra and stood up to the Kurdish challenge. Right or wrong, Iraqi Arabs have strong feelings regarding the Kurds' superiority. Maliki played this tune and thus won the people's confidence.[32]

Others were quick to point out that Maliki owed his victory at least in part to the fact that he had used state funds to create electoral support groups among southern tribes, called "support councils" (*majalis al-isnad*).[33] While noting that the change in voters' approach toward sectarianism favoured Maliki, who rode the crest of the new nationalist sentiment, a Sunni politician commented that "we also noticed that when a party is in power, as Maliki's party is, it can use this power to, let's say, harvest votes for its side".[34]

The scope of the prime minister's victory should not be exaggerated, however. His State of Law list won only 15.1 per cent of votes nationwide. While this put it well ahead of ISCI, the runner-up, which collected 7.7 per cent,[35] it hardly can be read as a popular mandate. Rather than producing a single victor, these elections instead produced a highly fragmented political landscape, with several lists garnering roughly similar numbers of votes and a large array of smaller lists and individuals collectively accounting for a significant proportion of the remainder.

As a result of a provision in the electoral law – devised by the ruling parties at the national level – Maliki gained the right to form the new local governments in most governorates. Indeed, the law set a high bar for gaining seats: lists or single candidates had to obtain at least the equivalent of what was called the electoral divider, namely the number of valid voters in a given governorate divided by the number of seats allotted to it.[36] Most lists that received votes failed to meet this threshold and therefore did not

receive any seats. In Babel, for example, only eight lists made the grade with a total of 45.9 per cent of the votes; the remainder was distributed over a large number of lists and individuals who ended up not being represented. In Karbala, the five winners collected a mere 43.8 per cent; in Waset, five winners had no more than 39.8 per cent.[37]

The threshold requirement favoured the larger parties that emerged in the immediate post-2003 environment, which were mostly Islamist. As a result, once seats were allocated and government posts assigned, the strikingly large independent and secular vote in these elections virtually evaporated in favour of Maliki's State of Law as well as the Islamist vote, which while much less in percentage terms benefited from being clustered in only three lists: ISCI and the Sadrists on the Shiite side, and Tawafuq/Iraqi Islamic Party on the Sunni side. Iyad Jamal al-Din, a secular lawmaker, put it this way:

> About half of the registered voters went to the ballots, or 7.5 million Iraqis. Out of 418 lists only sixteen won seats. The votes of the other 402 were lost. The losers had 4 million votes while the winners had only 3.5 million. Most losing lists had a nationalist, non-religious perspective, while the winners were a mix of religious and nationalist lists. The winning nationalist lists won about one million votes. This means that 5 million Iraqis voted for nationalist lists and only 2.5 million voted for religious lists. The ratio is 1/3 to 2/3.[38]

The threshold requirement had real consequences at the governorate level because of an accompanying provision in the electoral law whereby residual votes were awarded to the winning lists proportional to the number of seats they had already won.[39] Thus, in Najaf, Maliki's State of Law and ISCI each won four seats before the electoral divider was applied, but then ended up with seven each after the losing parties' votes were divvied up. The incoming deputy council chairman, who hails from the smallest list that crossed the bar, said:

> The independent lists in Najaf that failed to get into the council wasted about 127,000 votes out of the total of 330,000 votes cast. Maliki and ISCI each won only four

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voted for Maliki, not for Daawa". Crisis Group interview, Sadiq Jaafar, deputy chairman, Diyala provincial council for ISCI, Baaquba, 30 May 2009.

[32] Crisis Group interview, Izzat Shahbandar, council of representatives member (Iraqiya), Beirut, 24 May 2009.

[33] For a discussion of the support councils, see Crisis Group Report, *Iraq's Provincial Elections*, op. cit., pp. 25-27.

[34] Crisis Group interview, Alaa Makki, council of representative member for Tawafuq (Iraqi Islamic Party), Baghdad, 5 September 2009.

[35] In the ten majority-Shiite governorates (including Baghdad), Maliki's list won 20 per cent overall, against ISCI's 10 and the Sadrists' 9 per cent.

[36] The September 2008 provincial elections law defines the threshold parties must cross as "the number of votes required to obtain a seat in the electoral district, which is reached by dividing the number of valid votes in the electoral district by the number of seats assigned to that district".

[37] In other governorates, the phenomenon was less dramatic. In most cases, the winning lists had an aggregate of at least 65 per cent of the vote. In Baghdad, the seven winning lists collected 81.2 per cent.

[38] Crisis Group interview, Iyad Jamal al-Din, council of representatives member for Iraqiya (Iyad Allawi), Baghdad, 26 May 2009.

[39] Article 13 of the provincial elections law stipulates: "In case there are vacant seats, they shall be granted to the winning open lists that obtained the highest number of votes so as to fill all the seats allocated to the electoral district proportionate to the seats they [already] received".

seats; the rest they got from the distribution of the losers' votes among the winners. This gives you an indication of how popular the independents are in Najaf.[40]

Thus, thanks to political fragmentation and the electoral divider, some of the parties that controlled local government in 2005-2009 took advantage of their head start in post-2003 politics and resulting relative organisational capacity to return to provincial councils despite their unpopularity. By and large, however, their disproportionate presence on the councils did not translate to a renewed role in local government. This is because Maliki aligned himself with the Sadrists and independents against ISCI, supplanting ISCI in Baghdad and most of the south.

In sum, the elections were not as sharp a defeat for religious parties as might initially have seemed. Maliki's State of Law/Daawa, ISCI and the Sadrists came in first, second and third; the Iraqi Islamic Party did very well in Diyala, while its defeat in Anbar was expected – as a recalibration of a disjointed post-2005 setup – and could have been far worse. By contrast, secular parties performed poorly, defeated less by their political enemies' popularity than by the electoral system the ruling parties had crafted, by their organisational weakness and by their inability to mobilise popular support. Moreover, while handing Maliki a victory, the elections did not so much renew the ruling elite as they punished it. In a sense, they redistributed power within the same relatively small circle of well-entrenched parties.

Nor did the elections represent a clear defeat for ethnosectarianism. Most Sunnis still voted for Sunni parties, Shiites for Shiite parties, Arabs for Arab parties and Kurds for Kurdish parties. Maliki did not even bother to stand in Anbar. In Ninewa, the vote was unambiguously based on ethnicity. Instead, the elections appear to have reflected a defeat for sectarian *rhetoric*, which no party dared to explicitly employ. Moreover, the two lists that had promoted federalisation via regionalisation, ISCI and the Kurds, both were dealt body blows, along with their regionalist schemes.

Whether the elections represented a victory for Iraqi nationalism is difficult to say. Maliki may have struck a potentially rich vein in sounding a more nationalistic discourse, his personal background and sectarian inclinations notwithstanding. His nationalist posture and push on the security front may have created their own self-reinforcing

dynamic, refashioning him as an acceptable alternative to the ruling parties.[41]

B. LESSONS LEARNED

If the message from the electorate was loud, it was not immediately clear to many politicians, who attributed their loss to extraneous factors or their victory to their own prowess. Still, there were important lessons to be drawn and time was short, given upcoming legislative elections which were due to to take place before the end of January 2010. Parties thus engaged in extensive reviews of their performance.[42]

1. Maliki and his party

The prime minister clearly emerged with an advantage. If in 2006 he represented the acceptable compromise candidate between ISCI and Sadrists, the two strongest groups in the Shiite coalition, in 2009 he had outflanked these two parties and assumed a strong profile all his own. His recipe of nationalist rhetoric combined with an ongoing campaign to restore calm to the streets (and, to the extent U.S. forces were instrumental in accomplishing this, to claim credit for their efforts), as well as ostensible defiance of the U.S., potentially could serve him well in the upcoming election, supported by the institutions of state, which he controls. In the words of a local politician:

> Maliki's victory was earned and will have a positive influence on his political future. He will need to continue his national reconciliation program, move firmly against anyone breaking the law, have some improvements on the constitution [as part of the review process], and preserve the national Iraqi identity of Kirkuk.[43]

Sadeq al-Rikabi, a senior political advisor to Prime Minister Maliki, laid out his view after the provincial elections:

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[40] Crisis Group interview, Khudair al-Jbouri, deputy provincial council chairman for the Union of Independent Najaf, Najaf, 26 May 2009.

[41] Regardless of the rhetoric, Maliki's approach appears most of all to be statist – supporting a strong state – rather than nationalist.
[42] A Sadrist politician in Baghdad said, in May 2009, "my list, the Independent Liberals, has formed a committee to analyse the election results. The committee plans to count the number of registered voters in every electoral district, as well as the number of votes each party won. We need to understand the factors that led voters to vote for this party or that list. This information will help us do a better job in the parliamentary elections". Crisis Group interview, Saleh al-Jazaeri, Baghdad provincial council member for the Independent List of Liberals (Sadrists), Baghdad, 20 May 2009.
[43] Crisis Group interview, Dhamen Alaiwi al-Mutlaq, head of the Liberation and Construction Front (Jabhat al-Tahrir wa al-Binaa) in Salah al-Din, which won two provincial council seats, Tikrit, 2 June 2009.

The results indicate that the majority of Iraqis favour a strong, democratic, unified Iraq, with a strong central government that promotes freedoms and a non-sectarian agenda, delivers on services and has integrity. They further indicate that Iraqis are against a strong federalism that may lead to Iraq's partitioning. The strong participation of groups that previously boycotted the political process indicates their renewed engagement and the development of democracy in the country. In addition, the results prove that religious rhetoric on its own is not enough to gain the support of the masses.[44]

For Maliki, the lesson was that he ought to stay the course while simultaneously strengthening his hold over the bureaucracy and security forces as well as extending patronage and forging alliances with key players. A tribal leader in Baghdad noted, referring to Maliki's party: "Daawa is capitalising on the momentum of its recent success by opening offices throughout the country and expanding its activities. It has started its own charity organisation and launched humanitarian work, just like ISCI".[45]

2. The main rival parties

Maliki's rivals took away their own lessons from his victory. If the electorate was blaming politicians for ineffective governance, then the prime minister could no longer count on this advantage come the parliamentary elections. By then, he would have little to show for his tenure, with the notable exception of an end to sectarian fighting, and newly formed local governments led by his allies would be unlikely to swiftly deliver material progress. Even if they had the political and technical capability to make a difference, in 2009 they did not have the budgetary means required to implement their plans.[46] A Sadrist politician commented:

The State of Law list has dominated most governorates. People will now watch their performance. If they see an improvement in their lives, Maliki will have a very good chance to win the next elections, but the reverse also holds true.[47]

The electoral system – dividing the country into eighteen districts rather than a single one – also could accentuate Maliki's problem insofar as local parties and constituencies will play a far greater role.

In other words, the fate that befell his adversaries in the provincial elections could well become Maliki's in the legislative poll. Likewise, just as various parties ganged up on ISCI throughout the south to oust it from local government, so now some of these same parties – ISCI included – could launch a concerted effort to oust Maliki.

Of perhaps central importance, the prime minister's promise to bring security has suffered significantly in the months leading up to the voting. Large-scale bomb attacks targeting ministries and other important sites in Baghdad occurred on four occasions since the provincial elections (in August, October and December 2009 and January

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[44] Crisis Group email communication, Sadeq al-Rikabi, senior adviser to Prime Minister Nouri al-Maliki, 28 May 2009.
[45] Crisis Group interview, tribal leader and head of an electoral list in the provincial elections, Baghdad, 3 May 2009.
[46] An Anbar politician said, "people are optimistic because the winners here are well-known tribal leaders with high degrees and good potential. We are waiting for the state to support these people so that they can provide good things to the citizens. If we are able to get investment contracts, the situation in the governorate might improve. But if the current budget remains, we won't be able to build anything". Crisis Group interview, Saad Mansi, Anbar provincial council member for the Iraqi Tribes List (Hamid al-Hayes), Ramadi, 4 June 2009. Another council member declared that Anbar's budget was insufficient to cover the governorate's accumulated debt. Crisis Group interview, Salim al-Isawi, Anbar provincial council member for the Patriotic Iraqi Project Gathering (Saleh al-Mutlaq), Ramadi, 4 July 2009. Politicians in other governorates echoed

this concern. In Dhi Qar, for example: "The international economic crisis has badly affected Iraq and especially the provinces. Dhi Qar governorate had debts at the time our council took over the governorate. The small budget we have does not enable us to repay these debts in the coming two years. And so we cannot build any big projects because of lack of funds. The only way would be to open the governorate to investors. We are waiting for a new investment law to be passed by parliament". Crisis Group interview, Hassan Ali Jabbar, Dhi Qar provincial council member for the Islamic Daawa Party (Maliki), Naseriya, 20 June 2009. In January 2010, a resident of Ramadi in Anbar told a journalist: "We were expecting that the local government would change conditions in the province, but it did nothing new. We have seen no positive changes, and services, instead of improving, have got even worse". He also cited the increase in violent attacks, "all of which happened when the local government had been formed yet was unable to provide people with any protection". Niqash, 11 January 2010, at www.niqash.org.
[47] Crisis Group interview, Saleh al-Jazaeri, Baghdad provincial council member for the Independent List of Liberals (Sadrists), Baghdad, 20 May 2009. A Sadrist member of parliament warned that Maliki's senior appointments in the governorates would backfire in the national elections: "State of Law made big promises: that they would appoint the best governors, who would deliver services. But it appointed party people who have not been accepted by the population. Baghdad has a governor and council chairman who are originally from Naseriya. Where are Baghdad's elites? This is an insult to Baghdad. Did you know that Basra's governor is not from Basra, Karbala's governor cannot speak Arabic properly [a reference to Iranian origin] and Maysan's governor is also from outside the governorate?" Crisis Group interview, Baha al-Araji, council of representatives member for the Sadrist trend, Baghdad, 15 July 2009.

2010).[48] These were exploited by Maliki's rivals to puncture his image, criticising him for laxity and incompetence.

As some of his competitors acknowledged, defeating Maliki likely will take more than tarnishing his image. They also would need to alter their policies and burnish their reputations. The public having signalled impatience with militant sectarian rhetoric, Maliki's rivals would have to soften their discourse if not their overall approach. A (secular) minister put it this way: "The majority of parties learned one thing – that they have to get rid of anything related to religion. Although they are religious people, they are all trying to say now: 'We are Iraqis'".[49]

ISCI, in particular, underwent a process of intense soul-searching. It was criticised for failing to deliver services and security, using its Badr militia as an abusive security apparatus, maintaining ties to Iran,[50] supporting the country's breakup through sectarian-based federalism and placing its senior members in government positions despite their lack of qualifications.[51] In May 2009, an ISCI politician in Diyala said, "our failure has made us recalculate our situation and review our positions. We

are studying our policies in order to draw lessons. We are still in the early stages of democracy, so it is important to learn from these lessons".[52]

Following an internal review, ISCI re-emerged, apparently with fresh vigour and a new approach. Qasem Daoud, an independent member of the United Iraqi Alliance who has joined the ISCI-led Iraqi National Alliance in the 2010 elections, commented:

> ISCI was punished severely by society. They conducted an evaluation and drew their conclusions. They have made huge changes in their structure and political ideology. They are now even looking for women who do not wear a veil [*hijab*] to join their coalition, as well as non-Muslims.[53]

ISCI's TV channel, Al-Furat, began to occasionally play music and feature broadcasts with female presenters who appeared without a head dress. Its politicians indicated they would pursue a broad, non-sectarian electoral alliance.[54] Even before this review, Ammar al-Hakim, the son of ISCI leader Abd-al-Aziz al-Hakim, claimed that ISCI had suspended its proposal to support a Shiite super region as part of a federal Iraq. In February 2009, as election results rolled in, he said, "we are stepping back to review (a) how we communicate to the people, (b) our program and (c) our party organisation. We will select a new way in the future. We believe in strong government in Baghdad, and we froze the discussion about federalism a long time ago".[55]

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[48] Security forces managed to thwart a fifth such attack on 12 January 2010, just as it was being launched.

[49] Crisis Group interview, Abid al-Ajeeli, minister of higher education and scientific research, Baghdad, 21 September 2009.

[50] An Anbar politician emphasised this particular point: "ISCI lost because of their connection to Iran, and I think they will continue losing if they keep this relationship". Crisis Group interview, Saad Mansi, Anbar provincial council member for the Iraqi Tribes List (Hamid al-Hayes), Ramadi, 4 June 2009.

[51] A respected academic in Qadisiya governorate said, "ISCI lost its position here and may never recover it, because of their poor management of the services and security files and the level of cruelty they used against the population during security operations. The people they used in government, especially the governor, had a disastrous impact on the city [Diwaniya] and lost all credibility. Particularly bad were the Badr corps guys who were seeking revenge on the one hand and had no capacity to serve people on the other". Crisis Group interview, Diwaniya, 26 April 2009. A Karbala politician attributed ISCI's defeat to a series of factors: "its relationship with Iran; its support of sectarian-based federalism; its objection to state-funded tribal 'support councils' [*majalis al-isnad*]; and its elected members' lack of qualifications". Crisis Group interview, Sheikh Abd-al-Hassan al-Furati of the Islamic Action Organisation and a former provincial council member, Karbala, 30 April 2009. ISCI acknowledged that it had not placed the right people in local government positions even before the provincial elections, bringing unaffiliated technocrats onto its electoral lists. In Diyala, "ISCI did not re-nominate any of its previous council members, because they were not qualified". Crisis Group interview, Sadiq Jaafar, deputy chairman, Diyala provincial council (ISCI), Baaquba, 30 May 2009. For an analysis of ISCI's evolution, see Crisis Group Middle East Report N°70, *Shiite Politics in Iraq: The Role of the Supreme Council*, 15 November 2007.

[52] Crisis Group interview, Sadiq Jaafar, deputy chairman of Diyala provincial council (ISCI), Baaquba, 30 May 2009.

[53] Crisis Group interview, Qasem Daoud, council of representatives member (UIA) and an independent candidate for the INA, Baghdad, 29 September 2009.

[54] An ISCI politician in Diyala said the party would try to forge a broad non-ethnosectarian alliance for the legislative elections: "We will bring Sunnis and Kurds into our coalition". Crisis Group interview, Sadiq Jaafar, deputy chairman Diyala provincial council for ISCI, Baaquba, 30 May 2009.

[55] Interview on Al-Arabiya TV, 20 February 2009, cited in Sean Kane, "Iraq's Oil Politics: Where Agreement Might Be Found", U.S. Institute of Peace (January 2010), note 96. That ISCI leader Abd-al-Aziz al-Hakim died in August 2009 and was replaced by his son did not hurt the party's effort to project a new image, especially as the elder al-Hakim had been uncharismatic and widely disliked. He had succeeded his brother, Ayatollah Muhammad Baqir al-Hakim, a man of considerable charisma, who was assassinated in 2003. Ammar al-Hakim has been active in politics for some time but has yet to fully emerge from his father's shadow, establish control and chart his own approach for the party. That "suspension" of ISCI's brand of federalism is more tactical than strategic comes out in interviews with party officials: "The [Supreme] Council has not changed its views on federalism. We still believe in

Members of another party humbled in the elections, the IIP, also questioned their decision to operate overtly under the banner of (Sunni) Islam.[56] Shatha al-Abbousi, one of its parliament members, said:

> The problem with the Islamic parties is that they failed. Since many people turned against them, they began to change, like Maliki, who now calls himself a nationalist. I am from a religious party, but I don't like that name, "religious". We are human beings, not angels. We make mistakes. When parties that call themselves Islamic are corrupt, it sends a very bad message. We are learning this in a very hard way.[57]

Usama al-Takriti, the new leader, attributed the party's post-2003 rise and decline to an initial influx of young Islamist-inclined recruits who had grown up during the 1990s, when they were exposed to Saddam Hussein's "faith campaign" (*al-hamla al-imaniya*); others joined the party because they saw it as a safe haven in a context of growing sectarian polarisation.[58] When sectarianism began to wane, however, most shifted toward other parties or lost interest. He explained the IIP's decision to move away from its sectarian identity:

> The party has successfully moved from being perceived as a sectarian entity toward a more patriotic and national stand. Our founding constitution and by-laws forbid us from being sectarian. True, at a specific moment in Iraq's post-Baathist history, other parties chose to represent their [ethnic] communities

and sects, and so it was by default that the Islamic Party was forced to protect the underdog, which happened to be the Sunni community. That is why it was perceived as having a sectarian agenda. Since sectarian strife and tension have abated, we feel that Iraq finally is on the right track toward becoming a nation state rather than a state of communities and sects.

Today, he said, the party is open to everyone and would seek to ally itself with other groups in the 2010 elections.[59]

Instead, the IIP, as well as the coalition to which it belonged in the 2005 elections, al-Tawafuq, splintered. Its leader, Vice President Tareq al-Hashimi, was ousted in internal elections, after which he left the party along with many senior cadres.[60] Some, like Hashimi, set up other parties (in his case, Tajdid, "Renewal") and have joined other alliances in the national elections.[61] The party itself did not join an alliance, dimming its electoral prospects.

3. Independents

Unaffiliated Iraqis – mainly secular independents – also took away important lessons. First, they benefited from the partial open-list system. A Baghdad provincial council member said, "the parties that want open lists [in the next elections] are those that have a presence on the ground and enjoy popular support".[62] Hussain al-Shahristani, the current oil minister who ran as an independent candidate on the United Iraqi Alliance slate in 2005 and headed the Mustaqiloun (Independents) bloc in Maliki's State of Law alliance in the provincial polls, saw those elections as a breakthrough for independents thanks to the electoral system. He said, "we scored better than we had expected. We didn't accept donations, and we had no offices or a real campaign, and we still got 11 per cent of the seats in ten governorates [Baghdad and the south]".[63]

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it, as it is based on a well-studied vision. There are a lot of articles in the constitution that talk about it. However, it seems there still are a lot of things that need to be developed further to help launch the project and allow it to be applied smoothly without hindrance from here or there". Crisis Group interview, Adnan Muhammad Shah, the ISCI chief of the parliament's political advisory office, Baghdad, 9 February 2010.

[56] The Iraqi Islamic Party, standing either alone or as part of the Iraqi Consensus (Tawafuq) Front, did well in Diyala, Salah al-Din and Baghdad, less well in Anbar and poorly in Ninewa. A senior IIP leader acknowledged defeats in Ninewa and Anbar, progress in Diyala and Salah al-Din, "and we should have done better in Baghdad". Crisis Group interview, Baghdad, 21 July 2009. Overall, the IIP won 32 council seats and was able to appoint two governors (Diyala and Salah al-Din).

[57] Crisis Group interview, Shatha al-Abbousi, council of representatives member for the IIP, Baghdad, 9 September 2009.

[58] In the 1990s, the Iraqi Muslim Brothers acquired a small margin for manoeuvre that they exploited to proselytise within society through religious evening classes and increased presence within mosques; this allowed them to "rejuvenate" their base. However, nascent Salafism rapidly became a strong competitor. The regime also promoted Islam via a "faith campaign" launched in the early 1990s that included young officers within the security apparatus; those "professionals" became leaders of the post-2003 insurgency.

[59] Crisis Group interview, Usama al-Takriti, head of the Iraqi Islamic Party, Amman, 23 July 2009.

[60] Crisis Group interview, Saleem al-Jbouri, council of representatives member (Tawafuq – IIP), Baghdad, 22 January 2010.

[61] Crisis Group interview, Alaa Makki, council of representative member for Tawafuq (Iraqi Islamic Party) but now standing for Iraqiya – Tajdid, Baghdad, 19 January 2010.

[62] Crisis Group interview, Ali Naser Bnayyan, Baghdad provincial council member for the Patriotic Reform Trend (Ibrahim al-Jaafari), Baghdad, 28 April 2009. He also said: "Some parties want to revert to the old mechanism of a closed list. They saw that they lost in the provincial elections and have no option but a closed list, as an open-list system would represent the final bullet to them".

[63] Crisis Group interview, Hussain al-Shahristani, oil minister, Baghdad, 28 September 2009.

The open-list system was so successful that it caught some candidates by surprise. In Karbala, a single candidate with a Baathist past, Majid al-Habboubi, outvoted the next list, "Hope of Rafidain", a Shiite Islamist list, by almost 5 per cent. Because he was on his own, he ended up with a single council seat (out of 27) against the runner-up's nine and only a minor position in local government.[64] Some Iraqis saw Habboubi's victory as a possible harbinger for the future. A parliamentarian remarked: "We believe that what happened in Mr Habboubi's case could work with others; he is not the only person who can attract voters". She noted that her list, the secular Iraqiya, had "opened dialogue with political entities that did not participate in the provincial elections, as well as with well-known figures who enjoy popular respect and support".[65]

Secondly, independents realised they might have done much better had it not been for the high threshold requirement – or for their disunity. "The most important lesson that Iraqi parties learned in the provincial elections is that there is no use in having large numbers of parties and fronts, because it means that our votes will be scattered and wasted", a Tikriti politician said.[66] Independ-

ent politicians acknowledged they were unlikely to succeed in changing the system for the legislative elections, given their near-absence in the council of representatives. They appear to have two ways forward: to persuade established lists to place them on their slates or to create their own broader alliances.[67] The first option, tried and proven in the provincial elections, holds the most promise. As to the second, it remains unclear how easy it would be for smaller groups to coalesce in light of their disparate nature and lack of resources.

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[64] This was because Habboubi, possibly expecting few people to vote for him or unaware of the nature of the electoral system, had failed to add other candidates to his list. Thus, Habboubi had to satisfy himself with the position of second deputy governor in the new local government, despite his unambiguous victory, while both the runner-up and Maliki's State of Law list walked off with the prize positions. Habboubi won 13.3 per cent of the vote. The runner-up, the Hope of Rafidain list, won 8.8 per cent, while State of Law won 8.5 per cent. The latter two received nine seats each, and two smaller lists each took four. A State of Law candidate became governor, while Hope of Rafidain took the council chairmanship. A local politician commented: "People here are indifferent about the political situation, except those who elected Habboubi. They really think it was unfair that he was not appointed governor. Many felt like they had been fooled with another version of the closed list". He also noted: "Habboubi is an interesting phenomenon that deserves study. The people of Karbala clearly preferred an honest Baathist over dishonest Islamists". Crisis Group interview, Sheikh Abd-al-Hassan al-Furati of the Islamic Action Organisation and a former provincial council member, Karbala, 30 April 2009. Another Karbala politician observed: "It was expected Habboubi would win, because he is a well-known and respected person. He could have won half the council seats if he had entered as a list rather than as an individual". Crisis Group interview, Ahmad Abd-al-Hamid Muhammad, who stood as an independent in the elections, Karbala, 29 May 2009.

[65] Crisis Group interview, Maysoun Damlouji, council of representatives member for Iraqiya (Iyad Allawi), Baghdad, 6 July 2009. In the 2010 legislative elections, lists are permitted to present as many candidates as there are seats available in their electoral district (governorate).

[66] Crisis Group interview, Dhamen Alaiwi al-Mutlaq, head of the Liberation and Construction Front (Jabhat al-Tahrir wa al-Binaa) in Salah al-Din, Tikrit, 2 June 2009.

[67] Hussain al-Shahristani, the oil minister, did both in the provincial elections: he created the Independents bloc, and he had the bloc join Maliki's State of Law coalition. He took the same approach in the 2010 legislative elections.

III. PRE-ELECTION POSITIONING

Massive bomb attacks in Baghdad on 19 August, 25 October and 8 December 2009 and on 25 January 2010 clearly frayed nerves and shook public confidence. Still, while they created an environment in which polarising rhetoric could re-emerge, in the end they did little to disrupt the drive toward elections. The fight over these elections remains the central stake of the current political competition. In the process, unhealed past wounds have been re-infected, old fissures laid bare and political differences accentuated for electoral gain.

Such debates are, in one sense, testimony to a political system's vitality and vibrancy. That said, in the Iraqi case, given the country's fragility, they also risk precipitating large-scale instability, the unravelling of institutions and legal breakdown. The controversy over the election law, the looming question of Kirkuk, the scheduling of elections after the 31 January deadline (in possible violation of the constitution) and the use of a de-Baathification commission of uncertain standing to eliminate political rivals – these developments, more than any bombs, have rattled the body politic and raised questions about whether the elections can be held as planned and, if they are, how they will unfold.

A. ELECTORAL POLITICS AND ALLIANCE FORMATION

Ever since Maliki's 2008 operations against the Sadrists in Basra and Baghdad's Sadr City, against awakening council members and against the Kurdish security presence in Diyala, his opponents within the government coalition itself have stepped up efforts to unseat him.[68] The provincial elections results alarmed them even more. After the parliament speaker, Mahmoud al-Mashhadani, was pushed out by parties arrayed against Maliki in December 2008, a struggle broke out over his succession. It was resolved with great difficulty in April 2009, when the house elected the IIP's Iyad al-Samarraie, who was aligned with ISCI and others against the prime minister. This enabled Maliki's opponents to summon the prime minister's allies who held executive posts for questioning over corrupt practices and incompetence; in turn, this led to the resignation of the trade minister on corruption

charges.[69] While monitoring government is a legitimate parliamentary task and the minister's removal may have been justified, the overall effort clearly aimed at undermining the prime minister.

Maliki fought back, including through his ally the deputy speaker,[70] and contained the parliamentary drive against him, albeit at a price: legislative gridlock and mutual recrimination.[71] An IIP politician opposed to Maliki openly accused him: "The relationship between the prime minister and the council of representatives is very tense and unhelpful. By delaying legislation he wants the council leadership to fail and thus to discredit the IIP".[72]

A senior Maliki adviser lashed out at his opponents:

> Unfortunately, some of those who lost in the provincial elections [ie, parties currently belonging to the Iraqi National Alliance] have been working on three levels to hamper the efforts of the winning parties in a manner that does not serve national interests and which should not be part of the parties' political game: First, attempts to trigger fears about the security situation and expressing concerns that it is fragile, while trying to restrict the government's counter-terrorism capabilities. Secondly, continued rhetoric about an unstable political climate and a politicisation of accusations about corruption. And thirdly, attempts to place obstacles in the way of financing and implementing government-issued contracts in the fields of services and electricity.[73]

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[68] Well before that, there had been perennial talk of removing Maliki through a no-confidence vote in the council of representatives, but the parties seeking to remove him remained unclear as to who could and should replace him. The danger of protracted negotiations and a stalemate may have deterred them from mustering the necessary majority vote.

[69] Trade Minister Abd-al-Falah al-Sudani, a member of one of the Daawa split-offs, the Daawa Party – Iraq Organisation, and loosely allied with Maliki, resigned after parliament removed his immunity but before it could vote on his dismissal. He was charged with corruption but allowed to stay free after posting bail.

[70] A Maliki opponent complained: "Some are trying to delay the questioning of the oil minister and are thus preventing the council from doing its job properly. This is the work of the deputy speaker, Khaled al-Atiyya. We have tried to summon the minister many times, but his bloc [State of Law] has prevented it each time". Crisis Group interview, Sabah al-Saadi, council of representatives member (Islamic Virtue Party – Fadhila), Baghdad, 16 September 2009. Oil Minister Hussain al-Shahristani finally appeared in the council on 10 November 2009, at which point he could tout his success in persuading international oil companies to develop oil fields on Iraqi terms.

[71] A member of parliament put it as follows: "The problem in the council is that a coalition of ISCI and other groups may try to block a law just because Maliki is in favour of it. When politics enters into it, trouble ensues. Some 37 laws are ready to be voted upon, but we have managed to pass only two of these". Crisis Group interview, Yonadam Kanna, council of representatives member (Rafidain), Baghdad, 14 September 2009.

[72] Crisis Group interview, Amman, July 2009.

[73] Crisis Group email communication, Sadeq al-Rikabi, senior

1. The Iraqi National Alliance

In September 2009, following summer recess and Ramadan, parliament members began the battle for political advantage in earnest. But the first salvo had come a month earlier. On 24 August, Shiite politicians announced a new electoral list, the Iraqi National Alliance (al-Ittilaf al-Watani al-Iraqi, INA). Its roots lay in the United Iraqi Alliance (UIA), which sought to assemble the so-called Shiite House under a single roof in the context of the 2005 elections, though it now re-emerged as something less. The principal participants were ISCI and the Sadrists, both Shiite Islamist groups, joined by a large number of smaller groups and individuals, both Islamist and secular Shiites. It even included some Sunnis.

Still, the list fell short of its leaders' original pledge to put together a broad-based coalition. Two factors militated against a more inclusive alliance: Sunni and secular distrust of the INA leadership's Shiite Islamist outlook on the one hand, and Prime Minister Maliki's refusal to join the list except as its leader on the other. "There is no real difference between our and Maliki's list", said Humam Hamoudi, the chairman of parliament's foreign affairs committee and an ISCI leader. "The only difference is that Maliki wants a bigger share. If we tell him he can be our candidate for prime minister, he will join the INA".[74]

The UIA's grand Shiite coalition resulted from pressures from both Iran and the Shiites' foremost religious leader, Grand Ayatollah Ali al-Sistani. Since 2005, however, Sistani appears to have grown progressively more disaffected with Shiite politicians, frustrated by their incompetence in governance and pursuit of self-interest.[75] While still meeting with these politicians and making Delphic pronouncements grounded in ethical considerations and matters of democratic principle, he has stayed aloof from partisan politics. Sistani purportedly did not weigh in on deliberations over a renewed UIA. Qasem Daoud, a secular politician who joined the INA, said, "I went to see Sistani two months ago [before the August 2009 announcement of the INA] and asked him: 'What is more important: Shiite unity or protecting democracy?' He said, 'definitely the second'. I told him: 'Thank you very much. That is what I needed to hear'".[76] Sistani also has refused to endorse any list for the elections.[77]

Iran, on the other hand, has maintained a keen interest in seeing Shiites remain in power, viewing it as the best guarantee for a stable long-term bilateral relationship.[78] In 2009 it supported an updated version of the UIA that would unite the same original groups but reflect new political realities: not only ISCI and the Sadrists, whose enmity has turned violent at times,[79] but also Maliki. Tehran proved unable to resolve differences between these groups, in particular once Maliki insisted on being the alliance's new leader. An independent Shiite parliamentarian said, "the obstacle to the UIA's revival is the Daawa party's demands – that Daawa should preside over the alliance with Maliki as leader, so that he will be the next prime minister".[80]

For Maliki, the choice was between joining the INA at the price of losing the prime ministership or going alone at the risk of an electoral loss. He chose the latter. An aide to a senior politician on the State of Law list explained Maliki's reasoning:

> Maliki stayed out of the INA because he would have had to ally himself with the Kurds [as the UIA allied itself with the Kurds following the 2005 elections], and he would not have been given the top spot. Maliki understands he needs to stand apart during the elections, win them and only then enter into an alliance with the INA and the Kurds. He does not want to once again be a weak prime minister based on Daawa's twelve seats.[81]

The decision broke what had been the UIA into two competing parts: the INA and, emerging a month later, Maliki's State of Law list. For the INA, that means being led by two groups – ISCI and the Sadrists – that, jointly,

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adviser to Prime Minister Nouri al-Maliki, 28 May 2009.

[74] Crisis Group interview, Humam Hamoudi, foreign affairs committee chairman in the council of representatives (ISCI), Baghdad, 28 September 2009.

[75] Sistani has repeatedly stated his displeasure with the political parties' endless wrangling and poor governance. See for example, *The Los Angeles Times*, 28 December 2009.

[76] Crisis Group interview, Qasem Daoud, council of represen-

tatives member (UIA) standing as an independent for the INA, Baghdad, 29 September 2009. Shiite politicians routinely report Sistani's reputed positions as established fact.

[77] In February 2010, Sistani's office announced that he was encouraging citizens to vote as the only way to improve the government's and parliament's performance and to prevent "illegitimate forces" from seizing control; that he does not favour any electoral list over another; and that voters should cast ballots for those who are "trustworthy" and have Iraq's interests at heart. See Sistani's website, www.sistani.org/local.php?modules=extra&eid=2&sid=145.

[78] See Crisis Group Middle East Report N°38, *Iran in Iraq: How Much Influence?*, 21 March 2005.

[79] See Crisis Group Report, *Iraq's Civil War*, op. cit.; and Crisis Group Middle East Report N°55, *Iraq's Muqtada Al-Sadr: Spoiler or Stabiliser?*, 11 July 2006.

[80] Crisis Group interview, Shatha al-Musawi, council of representatives member (UIA) and now unaffiliated, Baghdad, 9 July 2009.

[81] Crisis Group interview, parliamentary aide, Baghdad, 26 September 2009.

obtained fewer votes than Maliki's State of Law in the provincial elections.[82] The combination of ISCI and the Sadrists is remarkable, however, given their history. The two groups represent very different Shiite constituencies and have been in open competition, most recently in the provincial elections. ISCI is rooted in the Shiite mercantile middle class. By contrast, the Sadrists' mainstay is the urban Shiite underclass, rural migrants who tend to be un- or underemployed and live in vast slums. Their strength has waned as well, in their case because of involvement in street violence during the sectarian war; they were brought to heel in a series of military campaigns Maliki directed in Basra and Baghdad in 2008.

Weakened, both parties now seem to need each other in order to make a political fist. They have gathered around a common platform that is sufficiently vague as to allow them to stay together; ISCI, for example, has suspended its call for a Shiite "super region" in the south. ISCI's Humam Hamoudi explained the Sadrists' decision to enter into an alliance with ISCI as follows: "The Sadrists lost a lot of ground after the Basra and Sadr City operations in 2008. They came to realise that they cannot gain their rights without joining the political process. Moreover, their size in the council of representatives is not sufficient to be effective, so they need to ally themselves with others".[83]

Falah Shanshal, a Sadrist lawmaker, explained his group's decision to team up with ISCI as resulting from their ability to agree on some key points: Iraq's independence, sovereignty and unity and the need for the U.S. to withdraw its troops.[84] Still, Muqtada al-Sadr appears to have had a rough time selling this unpopular alliance to his constituency. To mollify the criticism, Muqtada reminded his followers that "politics have no heart" and called upon them to be "with them [ISCI] without becoming part of them".[85]

ISCI and the Sadrists have been joined by Shiite politicians, both Islamist and secular, who, like ISCI, derive

from the middle class but lack ISCI's Iranian provenance. They are united in their opposition to Maliki and Daawa as well as Shiite politicians arrayed around him. Still, tensions are evident within the INA as each of its constituent parts vies for power. Many expect the coalition to disintegrate after the elections.

As a second electoral liability, the INA also failed to attract significant Sunni partners, either Arab or Kurd. The only noteworthy Sunni Arab ally was Hamed al-Hayes, an awakening leader from Anbar whose Iraqi Tribes List had come in seventh in the provincial elections, earning him two seats on the Anbar council.[86] In the end, the INA looked as sectarian as the UIA but half its size.

In a departure from the UIA precedent, ISCI and the Sadrists made a serious effort to bring independents and technocrats into the INA, apparently with some success. A number of secular Shiite tribal sheikhs previously unaffiliated with the old UIA signed up with the INA, banking that the open-list system would boost their chances of entering parliament (see next section). Because the State of Law list was equally in pursuit of independent candidates, it is unclear which of the two lists would benefit most.

Humam Hamoudi, an ISCI leader, defended the INA's failure to create a broad-based coalition by suggesting it could still be done after the elections:

> In the first elections in January 2005 [for a constituent assembly], the climate was good, and at Sistani's request we set up an alliance, the UIA. He also made sure that we would include Allawi and the Iraqi Islamic Party [in the post-election ruling coalition]. We sent delegations to them to gather them all in. We did this because we understood that the constitution was meant for all. The goal was to rebuild the country. However, conflicts broke out over views, and there was sectarian violence. This led to a new UIA in the second elections, in December 2005, that was sectarian. In the past four years we have had a security crisis. Now the focus is on building the state, an effort as important as drafting the constitution. This is why the INA is planning to establish a front after the elections that will include everyone, even if we go into the elections separately.[87]

Whether such a post-election alliance would include Maliki's State of Law remains to be seen. Although much

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[82] In the fourteen governorates in which elections took place, State of Law won 15.1 per cent of the vote, ISCI 7.7 per cent and the Sadrists 6.4 per cent. In Baghdad and the south (ten governorates) alone, State of Law won 20 per cent, ISCI 10 per cent and the Sadrists 9 per cent.
[83] Crisis Group interview, Humam Hamoudi, foreign affairs committee chairman in the council of representatives (ISCI), Baghdad, 28 September 2009.
[84] Crisis Group interview, Falah Shanshal, accountability and justice committee chairman in the council of representatives (Sadrist trend), Baghdad, 25 January 2010.
[85] See, "Sayid Muqtada answers a question regarding participation in the March 2010 legislative elections", media release, 8 January 2010, at: http://pc-sader.com/news.php?action=view&id=385.

[86] For a profile of Hamed al-Hayes, see Anthony Shadid, *The New York Times*, 9 January 2010.
[87] Crisis Group interview, Humam Hamoudi, foreign affairs committee chairman in the council of representatives (ISCI), Baghdad, 28 September 2009.

will depend on election results, at least one INA member suggested that all the groups standing separately should coalesce after the elections to isolate and defeat Maliki.[88]

2. The State of Law list

Maliki allies have derided the INA's attempt to present itself as the core of an inclusive post-electoral alliance. Ali al-Adeeb, a senior Daawa figure in the council of representatives, said:

> I doubt that these parties have learned anything from the past election because they are all still adopting sectarian ways and thinking only about their own best interests. Learning the lessons will take time. We all know, however, that the Iraqi people examined and tested these parties in the laboratory to find out which were the good ones and the bad, and then they took a clear stand when they voted. The reason behind all these coalitions now is that some of the blocs that participated in the last election failed and they know that, in the upcoming election, it won't be much different. The main reason that the INA was formed was to allow these people to stay in parliament. Their agenda and slogans are pretty much the same, and they use each other's slogans to convince the people that they are united.[89]

Maliki planned something different. A Daawa politician explained:

> We believe that conditions under which we established the UIA in 2004 have changed. We do not want to recreate the UIA on the same basis. Iraq has moved forward. We seek a new cross-sectarianism coalition. We have offered a national program to parties that are not part of the UIA. Our vision is of a large national list comprising the full political spectrum. This list should form the next government without making a coalition with the other lists, who will go into opposition. We want to advance the political process

by building a multi-party ruling list and a multi-party opposition regardless of parties' sect or ethnicity.[90]

Daawa has been hemmed in by its own limitations, however. It has remained an elitist organisation, whose members chiefly are intellectuals and cadres without deep social roots. A party cadre said, "we have generals but no soldiers; we have no capacity to mobilise the masses. We were able to take advantage of the conflict between ISCI and the Sadrists to find our way onto the political map in 2005. In a sense, our presumed weakness led our rivals to discount us, focus on each other and provide us with the political space to prosper".[91]

Since 2005, Daawa has bolstered its position by virtue of controlling state institutions; still it has been unable to attract either strong popular or religious support. Unlike its Shiite rivals, Daawa has not tapped into the ritualistic fervour that currently predominates among Iraqi Shiites,[92] nor does it have the benefit of a strong presence within mosques or *husseiniyas* (Shiite community centers).[93] Instead, it has turned to tribes – whose loyalty is fickle and uncertain – to acquire a measure of institutional and popular backing. The head of one of the Baghdad-based tribal councils established to back the prime minister – *majalis al-isnad* (support councils) – said:

> All in all, the *isnad* are just make-believe. We feel no particular loyalty toward the current Iraqi leadership. Our loyalty is directed closer to home: toward our families, our parents, our neighbours. Our goal is to defend our interests and we are well aware that the political parties disrespect and despise us. Our relations with the Daawa leadership are tense because they see us as competitors. They call on us for electoral purposes only but who knows what they will do once the elections are over. In any event, we are upfront: we are prepared to sell our services to the highest bidder.[94]

Tribal personalities aside, Maliki's list was unable to attract support from other political parties; as a result,

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[88] Qasem Daoud, an independent INA member, said, "We worked to establish the INA under a single vision: to obtain a national mandate for parties with roots in society. I met with leaders of other parties, such as the Iraqi Islamic Party. Most said we should announce a unified alliance after the elections: the INA, IIP, the Kurds and Allawi. We don't like to call it an anti-Maliki front, but Maliki is a huge threat due to his repeated violations of the constitution". Crisis Group interview, Baghdad, 29 September 2009. This is a reference to Maliki's practice of making on his own key appointments in the security apparatus that, his opponents claim, require parliamentary approval.

[89] Crisis Group interview, Ali al-Adeeb, council of representatives member (UIA – Daawa), Baghdad, 9 September 2009.

[90] Crisis Group interview, Kamal al-Saiedi, council of representatives member (UIA – Daawa), Baghdad, 9 July 2009.

[91] Crisis Group interview, Daawa party member, Baghdad, 10 October 2009.

[92] Unlike the 1960s and 1970s, Daawa's current activism is mostly devoid of theological/ideological debates regarding ways to establish an Islamic state. Daawa cadres and militants pioneered those debates but today are no longer involved, unlike ISCI and the Sadrists.

[93] During the holy month of Muharram, Shiite believers assemble in *husseiniyas* to commemorate the martyrdom of Imam Hussein.

[94] Crisis Group interview, head of a Baghdad support council, Baghdad, 21 December 2009.

the outcome of his coalition-building efforts did not differ markedly from the INA's.

On 1 October, the prime minister announced his new State of Law (Dawlat al-Qanoun) list. It consisted of the Daawa party and several independent Shiites, including Hussain al-Shahristani's Mustaqiloun (Independents) bloc.[95] Its strength clearly was its inclusion of persons known in southern governorates as capable technocrats with personal integrity. Like the INA, it also counted some Sunni politicians, such as a tribal leader from Anbar, as well as the defence minister, Abd-al-Qader al-Obeidi,[96] but these appeared to be there merely to provide a veneer of cross-sectarianism; no prominent Sunni Arab politician joined the coalition. Attempts to court secular candidates such as Iyad Allawi (a Shiite) and Saleh al-Mutlaq (a Sunni) failed. The announcement, therefore, did little to dispel the suspicion that Maliki remained firmly tied to sectarian politics. As a senior Kurdish official put it: "Maliki can bring in Sunni politicians, whom he will give positions in government, but he cannot bring in Sunni constituencies".[97] Speaking of both the INA and State of Law, a Kurdish Islamist said:

> Some Shiite lists have gotten some Sunni parties to join them, but their coalitions will still be seen as Shiite coalitions. The same thing goes for the big Sunni lists that have attracted small Shiite parties. They all call themselves national coalitions, but the truth is that they are just the same as before.[98]

The civilian spokesman of the Baghdad security plan, an independent, put it as follows:

> Both the INA's and State of Law's programs represent sectarian more than national interests. Changing some groups is not going to make a difference. If you ask the INA how many Sunnis are voting for them, they will say, "a few". They don't even expect it, and

this is telling. If you ask the Sunnis, they will give the same answer. There is no real change.[99]

Although both lists in all likelihood will appeal to the same Shiite constituency, there are differences in emphasis and electoral platforms. Most importantly perhaps, Maliki's nationalist rhetoric is less obviously hollow than the INA's. The prime minister repeatedly has stressed the importance of a strong central state, whereas ISCI remains burdened by its earlier promotion, now "suspended", of a Shiite super region. Maliki also can invoke his success in bringing relative stability; however thin a record of governance, it is more than the INA can offer. Finally, the signing of several contracts for the development of large oil fields in late 2009 and early 2010 could help burnish Maliki's standing as long as he succeeds in portraying this as benefiting Iraq rather than as a sell-out of its natural resources to foreign companies.[100]

At this point, the main threat facing Maliki appears to be the inability of his security forces to prevent large-scale bomb attacks. In September 2009, after the previous month's major attack in Baghdad, a parliamentary aide contended: "Maliki cannot depend on his charisma. He is strong but lacks a strategy. All he did was make some progress on the security front – thanks to the U.S. and the awakening councils. This will not be enough. One more bomb could undo his image".[101] The persistence of bomb attacks against symbolically important targets – ministries and other government institutions, as well as hotels – could damage Maliki's re-election prospects.

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[95] A significant recruit to Maliki's list was Jaafar al-Sadr. He is the son of the much revered Ayatollah Muhammad Baqir al-Sadr, who was executed by the regime in 1980. The inclusion of Jaafar, who studied with Muqtada's father, Ayatollah Muhammad Muhammad Sadiq al-Sadr, in Najaf in the early 1990s, is symbolically very important for Maliki: it allows him to claim the allegiance of some of the most disillusioned Sadrists and assert Daawa's ideological authenticity and genealogy.

[96] One of the Sunni Arab politicians to join Maliki's list was Sheikh Ali Hatem Suleiman, a tribal leader from the Dulaim of Anbar. Others included Hajem al-Hassani and Farouq Abdullah, both Sunni Turkomans.

[97] Crisis Group interview, Erbil, 4 October 2009.

[98] Crisis Group interview, Sami al-Atroushi, council of representatives member (Kurdistan Islamic Union), Baghdad, 24 January 2010.

[99] Crisis Group interview, Tahsin al-Sheikhly, civilian spokesman for the Baghdad security plan (Fardh al-Qanoun), Baghdad, 16 September 2009.

[100] Some Maliki opponents have criticised the contracts; others have supported them. An ISCI official said, "I think it was a good thing to do. We support these contracts as long as they encourage foreigners to invest in Iraq. Moreover, the oil ministry acted transparently in making these contracts. They were rendered fair by the fact that Iraq was dealing with [companies from] several countries, not just one". Crisis Group interview, Ridha Jawad Taqi, Baghdad, 16 February 2010. By contrast, a candidate on Bolani's list opposed the contracts but refused to go on the record. Crisis Group interview, Baghdad, 16 February 2010. A Sadrist lawmaker said, "we support increased oil production but oppose production that holds no meaningful benefit for the Iraqi people. The companies were given no-risk contracts and a lot of help and concessions that don't really match the nature of these fields, which are active fields, cheap and easy to drill. There is a big question mark about the rush to sign, which made the deals look suspicious, especially considering that the present government has very little time left, and the elections are just ahead of us. Why the rush?" Crisis Group interview, Nassar al-Rubaie, head of the Sadrist bloc in parliament, Baghdad, 21 February 2010.

[101] Crisis Group interview, parliamentary aide, Baghdad, 26 September 2009.

3. Two secular alliances:
Unity of Iraq and Iraqiya

Three more coalitions emerged. The first of these, the Unity of Iraq Alliance (Ittilaf Wahdat al-Iraq) unveiled on 21 October, is a non-sectarian alliance consisting of both Sunni and Shiite politicians, mostly of a secular bent. Other than its leader, Jawad al-Bolani, however, it does not appear to comprise any major national figures. Bolani, the current interior minister, is a secular Shiite appointed in 2006 following pressure from the U.S., which was upset with the ministry, then under ISCI control, and its role in fanning the sectarian war. Joining Bolani is Ahmad Abu Risha, a Sunni and Anbar tribal sheikh who, along with his brother Abd-al-Sattar, stood at the birth of the awakening movement; Abdullah Hmeidi, a Sunni sheikh of the Shammar tribe in Ninewa; and Ahmad Abd-al-Ghafour al-Samarraie, head of the Waqf (Sunni Endowment).[102]

While more genuinely mixed in terms of confessional makeup, the alliance does not seem to distinguish itself in any significant way from the State of Law in terms of its program or otherwise. If Bolani projects himself as a strong man who, as interior minister, can impose law and order, he can do so no better than Maliki, his boss; inversely, if insurgent attacks succeed in puncturing Maliki's security image, Bolani will not be spared in the public eye, as his forces are responsible for maintaining security in the cities. Moreover, if past performance is any guide, Bolani has reason to worry. In 2008 he established the Iraqi Constitutional Party, which gained seats in only a single governorate, Waset, in the provincial elections. His hopes, therefore, reside in an implosion of Maliki's campaign, the INA's failure to gain traction and the electorate's disgust with sectarian politics reaching the point where voters abandon these two Shiite alliances in favor of a secular alternative.

Still, the tentative return of a more secular form of politics is an important development.[103] In the December

2005 parliamentary elections, its standard-bearer – former prime minister Iyad Allawi, a secular Shiite with support from various Arab states – performed poorly, far below U.S. expectations, winning a mere 25 seats (9 per cent). In January 2009, his Patriotic Iraqi List came in fifth after the State of Law, ISCI, the Sadrists and Tawafuq, gaining 26 seats in eight governorates, or 6 percent of non-quota seats.[104]

For the upcoming elections, however, Allawi has gathered up some of his second-tier rivals to create a more formidable challenge to the big three's supremacy. On 16 January, he announced his Iraqiya Alliance with Saleh al-Mutlaq, a secular Sunni Arab whose Iraqi Front for National Dialogue (aka Hiwar) gained eleven parliamentary seats in December 2005 and, as the Patriotic Iraqi Project Gathering, nineteen provincial council seats in January 2009.[105] Moreover, several senior Sunni politicians joined Allawi and Mutlaq: Vice President Tareq al-Hashimi, previously the head of the Iraqi Islamic Party and Tawafuq; Deputy Prime Minister Rafea al-Issawi, also an IIP defector; and the two al-Nujayfi brothers: Usama, an outspoken parliamentarian, and Atheel, who became Ninewa governor after his al-Hadbaa list won the 2009 provincial elections there.

Given the anti-sectarian backlash, it is not surprising to hear some religious leaders openly call for the establishment of secular parties. Sheikh Iyad Jamal al-Din, who was elected to parliament in 2005 on Iraqiya's list, has since become the first Iraqi cleric to head an explicitly secular party, al-Ahrar (Liberals). Founded in 2009, the party backs a strict separation between religion and state, going so far as to demand a revision of Article 2 of the constitution, which establishes *sharia* (Islamic law) as the principal source of legislation. Several of the Sadrist movement's early leaders have split from the party and joined secular organisations.

Fattah al-Sheikh, a onetime Sadrist leader and currently the eleventh-ranked candidate on Iyad Allawi's list, joked that such ideological conversions will boost the fortunes of the country's barbers, as candidates will rush to shave off the beards that had been virtually mandatory in 2005.[106]

While it is difficult to calculate these groups' and individuals' current strength based on past electoral per-

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[102] Abdullah Hmeidi is the primary rival to Atheel al-Nujayfi, Ninewa's governor and brother to parliamentarian Usama al-Nujayfi, who is a leading figure in Iyad Allawi's Iraqiya coalition.

[103] In 2009, Crisis Group wrote: "One of the most salient aspects of the 2005 elections was the secular elite's political vanishing act. Its self-appointed standard bearer, Iyad Allawi, who served as prime minister of the interim government in 2004, failed to deliver on U.S. expectations he could lead the country. Despite massive U.S. funding, his Iraqi National Accord Movement (known as Wifaq) performed poorly, reflecting the powerful role assumed by clerics, the progressive haemorrhaging of the urban secular middle class – which largely left for Jordan, Syria and the Gulf – and perhaps above all his reputation as a weak manager and autocrat who had overseen an administration viewed as corrupt". Crisis Group Report, *Iraq's Provincial*

Elections, op. cit., p. 22.

[104] Allawi's list gained seats in Anbar (two), Babil (three), Baghdad (five), Basra (two), Diyala (three), Qadisiya (three), Salah al-Din (five) and Waset (three).

[105] Mutlaq's list gained seats in Anbar (six), Baghdad (four), Diyala (six) and Salah al-Din (three).

[106] Crisis Group interview, Fattah al-Sheikh, Sadr City, Baghdad, 20 December 2009.

formance, particularly given intervening permutations (for example, Tawafuq has largely fallen apart, with some members having moved to Iraqiya), Iraqiya conceivably could come close in electoral size to the INA, State of Law and Unity of Iraq now that the original UIA, which combined these three, is gone, and Bolani might draw votes away from the INA and State of Law.

4. The Kurdistani Alliance

The last major coalition, announced in November 2009, was the Kurdistani Alliance. It combines the main parties, the Kurdistan Democratic Party (KDP) and Patriotic Union of Kurdistan (PUK) and an array of smaller groups but notably does not include the two parties' main challengers in the July 2009 legislative elections in Iraqi Kurdistan: the secular Goran (Change) movement of Nowshirwan Mustafa and the two principal Sunni Islamic groups, the Kurdistan Islamic Union (KIU) and the Islamic Group in Iraqi Kurdistan. The KIU was not part of the Kurdistani Alliance when it ran in December 2005; the alliance won 53 parliamentary seats against the KIU's five,[107] so combined they would have had 58 seats, a distant second to the UIA's 128 but well ahead of other competitors. The departure of Goran and Islamists could be a significant setback for the alliance.

Goran arose in 2009 from a major split in the PUK, driven by the question of who eventually would succeed the party's leader (and Iraqi president), Jalal Talabani. It took the form of a debate, which started several years earlier, over party reform, led by Nowshirwan Mustafa, Talabani's deputy. When Mustafa and his followers reached the conclusion that Talabani would not make any meaningful concessions, they decided to stand on a separate slate in elections for the Kurdistan regional parliament. They campaigned on a pledge to fight government corruption, poor distribution of wealth, lack of services and the leadership's inability to deliver Kirkuk and other disputed territories to Kurdish sovereignty. The two Islamist groups stood on their own list in what was a somewhat incongruous alliance with two small socialist groups, hoping to capitalise on popular anger toward the KDP/PUK-dominated regional government.[108]

In the end, Goran drew votes away from both the PUK and the Islamists, emerging as a formidable player behind the KDP-PUK alliance with 25 of 111 seats.[109] Building on its performance, it announced that it would present a separate slate in the parliamentary elections. The consequences could be significant. If the PUK used to account for roughly the same number of votes as the KDP, its share was now cut in half, the balance going to Goran. This could mean that out of roughly 50 seats, the PUK would lose some twelve or thirteen to Goran (assuming the traditionally high voter turnout among Kurds). If the two Islamist parties, which are standing separately in the legislative elections, manage to capture six or seven seats, the opposition to the Kurdistani Alliance could end up with some twenty seats in the council of representatives. This would give each the opportunity to use the threat of an alliance with Arab parties to negotiate key demands in Kurdistan, such as the reinstatement of civil servants dismissed by the Kurdistan regional government (KRG) for switching their loyalty from the PUK to Goran.[110]

A Goran official said:

> Personally I expect that we may win as many as twenty seats, consistent with the Kurdish election results in July. All options are still open for the post-election period. It will not be easy to work with the PUK, however, after what they did to us here [ie, the

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with the Kurdistan Islamic Union (which it indeed ended up doing), because "if they think long-term, they could protect their base by standing separately, whereas if they joined the Kurdistani list instead, they would be assured of two seats but face punishment at the ballot box in the next Kurdish elections". Crisis Group interview, Fadhil Qaradaghi, journalist and member of the Islamic Group, Suleimaniya, 30 September 2009.

[109] The Kurdistan regional parliament has 111 seats, eleven of which are quota seats given to minorities. In other words, Goran won exactly one fourth of elected seats – 25 out of 100. The Islamists' Reform and Services List won thirteen seats.

[110] While there was some talk of Goran allying with Maliki's State of Law or another Arab slate, nothing came of it. A Goran candidate in the legislative elections said, "There were some efforts by different Arab groups to make an alliance with Goran before the general elections, but we want to avoid forming any alliance before the elections. Maliki asked Nowshirwan to meet with him in Suleimaniya when he was there earlier this month [August 2009], but Nowshirwan refused to meet him in the place where Maliki was staying, which was one of Talabani's homes. Nowshirwan asked him if he would meet somewhere else instead, a neutral place or Goran's headquarters, but Maliki refused on the grounds of security concerns, as he had been told not to leave the place where he was staying". Crisis Group email communication, 27 August 2009. Whatever the reason, a meeting between Maliki and Nowshirwan never transpired, despite the ease with which one could have been arranged, if not in Suleimaniya, then certainly in Baghdad.

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[107] The Islamic Group in Iraq Kurdistan stood on the Kurdistani list in the December 2005 elections.

[108] The Islamists may have lost votes due to their alliance with the two socialist groups. The alliance triggered a lively post-election debate within the Islamist parties over how to recapture their lost support: join the government – and risk further alienating their Islamist base – or stay out of power to rebuild. Likewise, they debated whether to stand with the Kurdistani Alliance in the national elections or separately. A journalist affiliated with the Islamists predicted that the Islamic Group would join

dismissals]. We will set conditions before entering into a coalition with the Kurdistani list, most importantly the reinstatement of those who were fired. We would have to be considered a true partner.[111]

A senior Kurdish official claimed that dissension in Kurdish ranks would adversely affect the Kurds' post-election prospects:

> If Goran gets more than five seats, it could mean trouble. It could lead to a collision between us and them, and this would weaken the Kurds' position on a range of issues. Kurdistan is seen as a separate bloc geographically and politically. Divisions will turn our issue from a nationalist to a political party one. Other parties are sure to exploit this.[112]

A Kurdish entrepreneur close to a senior leader agreed, warning that if Goran and the Kurdistani list failed to reach a compromise and post-election coalition negotiations broke down, their split would "affect all the debates relevant to the Kurdistan region in the council of representatives: about Kirkuk, the Kurdistan regional guard force (known as *peshmergas*), the budget and more. The KDP and PUK would have a hard time satisfying Goran, and the least this would do is create a huge headache".[113] Moreover, Goran could block Talabani's re-election as president (see below). To avoid such problems, the KDP and PUK have continued negotiations with both Goran and the Islamists to form a post-election alliance.[114]

That said, concern about inter-Kurdish squabbles on the national level appear to be exaggerated. On key national questions – such as Kirkuk – significant divergence among Kurdish parties is unlikely. Goran supports Kirkuk's incorporation into the Kurdistan region; it criticises the KDP and PUK merely for not having done enough to make this happen. Nor can Goran afford to be out of step with the Kurdish population's strong nationalist feelings. Mahmoud Othman, an independent Kurdish parliamen-

tarian, observed: "Goran will have its own list, but [Goran leader] Nowshirwan has already said he will be part of the Kurdish front in Baghdad. His approach may be different, but his positions are similar to the alliance's, and in any case he knows he has to be in line with the Kurdish street".[115] The same holds true for the Islamists.[116]

Owing to the UIA's breakup into three separate coalitions, the electoral landscape in 2010 looks dramatically different from December 2005, with some five lists – those three, along with the Kurdistani Alliance and Iraqiya – having credible prospects. Because the winning list can make the first attempt at forming a government and taking the prime minister's seat, the struggle for votes has intensified.

B. THE ELECTORAL LAW CONTROVERSY

From the outset, the debate over the new electoral law in the council of representatives (*majlis al-nuwwab*) was highly contested. It hit on roadblocks more than once. After the law was passed with considerable delay, one of the two vice presidents, Tareq al-Hashimi, vetoed it; he came close to vetoing it a second time before a last-minute compromise was reached under heavy U.S. pressure. As a result of these further delays, the elections were pushed back from the original date, 16 January 2010, to 7 March, five weeks past the constitutionally mandated deadline.

The episode highlighted critical features of the current political environment: the depth of divisions; the importance the U.S. attaches to timely elections in large part because of its withdrawal plans; Washington's continued ability to force agreement via intense diplomatic engagement that Iraqi politicians both see as necessary and deeply resent; and the utility of the UN Assistance Mission in Iraq's (UNAMI) interventions in finessing compromise on complex technical points.

1. Amending the 2005 law

The council had faced serious difficulty in passing a provincial elections law in 2008.[117] This time, many lawmakers suggested that the best way to avoid delays would be to use the existing 2005 law and make only minor necessary amendments. In August 2009, before the Ramadan break, the council achieved little more than setting the

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[111] Crisis Group interview, Omar Sayed Ali, senior Goran official, Suleimaniya, 30 September 2009.

[112] Crisis Group interview, Erbil, 4 October 2009. He said he was less worried about the Kurdistan Islamic Union: "In 2005 they ran alone and gained five seats. In their positions they were often closer to the (Sunni Islamist) Iraqi Islamic Party, but fortunately, the IPP was close to us".

[113] Crisis Group interview, Erbil, 3 October 2009.

[114] A Kurdish parliamentarian said in September 2009, "we have been in discussions with the Islamists. Even if we decide to stand on separate lists [as indeed transpired], we can make a gentleman's agreement to present ourselves in Baghdad as a common front. This could include Goran as well". Crisis Group interview, Fuad Masoum, council of representatives member (Kurdistan Coalition List – PUK), Baghdad, 29 September 2009.

[115] Crisis Group interview, Mahmoud Othman, council of representatives member (Kurdistan Coalition List – independent), Baghdad, 27 September 2009.

[116] Crisis Group interview, Sami al-Atroushi, council of representatives member (Kurdistan Islamic Union), Baghdad, 24 January 2010.

[117] For a discussion, see Crisis Group Report, *Iraq's Provincial Elections*, op. cit., pp. 11-12.

January 2010 election date and, accordingly, a date by which the electoral law should be completed.[118] By then, negotiations over the law's content had hit a serious roadblock: the question of Kirkuk, and whether elections in this conflicted governorate should receive special treatment, as had occurred for the provincial elections.

In September, the council reviewed a draft law prepared by the cabinet of ministers, but for each article there were many widely diverging options yet to be amalgamated into compromise language. As the deadline approached, a chorus arose in favour of amending the old law, though serious differences remained regarding the changes. Lawmakers appeared to agree that the old law required at least two principal modifications. First, the federal supreme court had ruled that the number of parliamentary seats in an electoral district should be proportional to the relevant population size as per the constitution (one seat per 100,000 citizens).[119] This in turn raised the question of how to calculate population growth.

Secondly, most parties asserted – without necessarily meaning it (see below) – that they favoured an open-list system, such as used in the provincial elections, over the 2005 closed-list system. In this they were encouraged by Ayatollah Sistani.[120] An ISCI lawmaker stated: "The best way forward is to amend the old law. Drafting a new one would take too long and would create conflict. We should focus on the important detail".[121]

Once the law was opened for amendment, however, anyone could propose changes. Some lawmakers suggested changing the number of electoral districts from nineteen

(as in December 2005) back to one (as in January 2005). The Kurdish parties, in particular, favoured treating Iraq as a single electoral district, as it would allow Kurds living outside the three main Kurdish provinces to add their votes to the overall Kurdish tally. Given these parties' ability to bring out the Kurdish vote, the outcome could differ significantly from a multiple-district election, where the votes of Kurds living as a minority in a given governorate would count for naught.[122] Political leaders of small minority groups took the same position.[123] The majority, led by Shiite parties, prevailed; neither they nor Sunni parties had an interest in a system that would, among other things, add to the Kurds' total.

The biggest obstacle, however, was the question of Kirkuk's participation in the elections. The 2005 law did not mention the governorate, but growing political tensions led some lawmakers to plead that its exceptional situation be reflected in the law, for example by putting in place a power-sharing arrangement rather than holding an open election. If elections were to go forward, the dispute centred on who would be eligible to vote. Iraq's voter registry had been updated as of the end of September 2009, including in Kirkuk, but there has long been a dispute about demographic manipulations in Kirkuk perpetrated to prejudice the outcome of a popular referendum over its status. Arab and Turkoman politicians accuse Kurdish parties of bringing Kurds in from Erbil and Suleimaniya who do not originate from Kirkuk;[124]

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[118] The constitution states (Article 56) that parliamentary elections should be held at least 45 days before the conclusion of the preceding parliamentary term. The term is set to conclude four years after its beginning, which was in mid-March 2006, ie, in mid-March 2010. Counting backward 45 days, the elections should have been held by the end of January 2010. On 13 May 2009, the federal constitutional court ruled that the deadline would be 30 January 2010.

[119] Article 49(1) of the constitution states that the ratio to determine the number of parliamentary seats should be one per 100,000 Iraqis. In the December 2005 elections, this ratio was not applied; instead the size of the parliament elected in January 2005 was maintained, ie, 275 seats. Technically, this was a violation of the constitution. On 26 April 2009, the federal supreme court enjoined lawmakers to observe the terms of the constitution in drafting the new electoral law.

[120] Sistani's representative in Karbala, Abd-al-Mahdi al-Karbalaee, reiterated Sistani's wish for a multiple-district, open-list election in his Friday sermon on 25 September 2009. Crisis Group interview, parliamentary aide, Baghdad, 26 September 2009.

[121] Crisis Group interview, Humam Hamoudi, council of deputies member (UIA – ISCI) and foreign affairs committee chairman, Baghdad, 28 September 2009.

[122] A Kurdish legislator said, "the single-district electoral system is for us the best one to solve the problems of Kirkuk and other places. It will ensure that we will not lose the votes of Kurds in cities like Basra, Baghdad, Ramadi and elsewhere". Crisis Group interview, Abd-al-Khaleq Zangana, council of representatives member (Kurdistan Coalition Bloc – KDP), Baghdad, 14 July 2009. He added that if there was a non-Kurdish consensus favouring a multi-district election, "we will not reject it". A Sunni Arab lawmaker from Ninewa opposed the single-district system for the same reason, albeit in reverse. The Kurdish parties are able to mobilise Kurdish voters, he said, much more than parties elsewhere in Iraq. Because turnout is lower, the Kurdish parties "could get 90 seats if Iraq is treated as a single district. This would be a disaster for Iraq and good only for the agenda of the Kurdistani Alliance. Iraqis totally reject this. It is a red line that should not be crossed". Crisis Group interview, Usama al-Nujayfi, council of representatives member (Iraqiya), Baghdad, 26 July 2009.

[123] Crisis Group interview, Yonadam Kanna, investment and reconstruction committee co-chairman in the council of representatives (Rafidain Bloc) and leader of the Assyrian Democratic Movement, Baghdad, 14 September 2009.

[124] An Arab nationalist legislator said, "There has been a huge change in Kirkuk's population since 2003. The Kurdish parties brought in more than 650,000 Kurds and built for them what look like colonies around the city. It doesn't need mentioning that in the same period some 200,000 Arabs were pushed out of Kirkuk to other governorates by various means". Crisis Group

the Kurdistan regional government asserts these are former deportees reclaiming their old properties and rights and that Arabs brought by the former regime to replace Kurds should not have the right to vote in Kirkuk but should return to their "original places".[125]

The Kirkuk question has long bedevilled Iraqi politics and its return to the debate over the electoral law was therefore ominous. Arab and Turkoman deputies from Kirkuk and their non-Kirkuki supporters in parliament insisted on using the 2004 voter registry (the basis for the January 2005 elections), which had been created before the bulk of the Kurdish influx into Kirkuk; it contained 400,000 voters. Kurdish leaders, by contrast, called for the use of the updated 2009 registry throughout Iraq, including (and especially) Kirkuk; here the registry contained almost 900,000 voters, a stunning increase.

Struggling for a compromise, lawmakers missed the 15 October deadline by 24 days. When they passed the law on 8 November, they had reached a solution all sides appeared to accept. Voter rolls would be based on the 2009 registry but in governorates, such as Kirkuk, where the annual population increase exceeded 5 per cent since 2005, election results would be investigated by a special committee if parliament so requested. If the committee were to uncover any error or irregularity in the voter registry, the registry would be amended and election results modified accordingly by subtracting seats proportional to the votes thrown out.[126] As long as the investigation continued, the contested registry could not be used as the basis for any other elections or as a precedent for any political or administrative status.[127] A Kurdish lawmaker, Mahmoud Othman, commented: "This formula wasn't satisfactory to everyone, but everybody thought, one way or another, that it was okay. That's why we accepted it".[128]

On its face, the agreement represented a Kurdish success. Yet the conditionality turned it into a pyrrhic victory. In effect, the 2009 registry cannot be used for an indefinite period if the results in Kirkuk are challenged, which the Kurds' detractors are almost certain to do, given their stated positions and the recorded increase in voters. While the law prescribes an investigation of a year at most, it does not say what should happen if the committee fails to complete its examination and reach a decision. Kirkuk has a history with committees that get bogged down due to the deep divisions between local political leaders and the communities they purport to represent.[129] Thus, the 2009 registry could become a useless instrument in any Kurdish attempt to deploy it in the cause of incorporating Kirkuk into the Kurdistan region – by referendum or otherwise – based on a Kurdish majority in the governorate.

Given the broad support for the attempt to have a special arrangement for Kirkuk by using an earlier registry, some suspected that parties without an immediate stake in this debate were acting out of an ulterior motive. It was an open secret in 2009 that parties that had done poorly in the provincial elections preferred a closed-list system, despite their public professions in favour of open lists. This applied in particular to ISCI.[130] A Sadrist lawmaker said that "parties like ISCI have no interest in open lists, but they have even less interest in contradicting the *marjaiya* [Sistani]".[131]

These parties stood accused of seeking a deadlock in drafting the electoral law in order to force a return to the unamended 2005 law, which has the closed system. They

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interview, Usama al-Nujayfi, council of representatives member (Iraqiya), Baghdad, 26 July 2009.

[125] Crisis Group Middle East Report N°64, *Iraq and the Kurds: Resolving the Kirkuk Crisis*, 19 April 2007, and Crisis Group Middle East Report N°56, *Iraq and the Kurds: The Brewing Battle over Kirkuk*, 18 July 2006.

[126] Articles 6 and 7 of the Amendment Law to Elections Law N°16 (2005) of 9 December 2009.

[127] Article 6(4) of the Amendment Law to Elections Law N°16 (2005) of 9 December 2009 states: "The election results in Kirkuk governorate or any other governorate with a suspect register shall not be taken into account as a basis for any future electoral process or as a precedent for any political or administrative status until the examination of its voter registries has been completed".

[128] Crisis Group interview, Mahmoud Othman, council of representatives member (Kurdistan Coalition List – independent), Baghdad, 29 December 2009.

[129] Article 23 of the 2008 provincial elections law set up a committee with special powers to investigate certain matters in Kirkuk before provincial elections could be held there. Its deadline was 31 March 2009; this was extended once for two months, before the committee, which barely did any work and could come to no agreement, disappeared into political oblivion. See Crisis Group Report, *Iraq and the Kurds: Trouble Along the Trigger Line*, op. cit., pp. 4-7.

[130] KDP and PUK leaders also supported a closed-list system but said they would bow to the (evident) majority in this regard. A closed-list system has the advantage that voters know beforehand who the top candidates, and therefore the main figures in a future government, will be if the list for which they vote wins. The system, which promotes the creation of large coalitions, is also easier to administer. It is used in the Netherlands, among other Western democracies. Because the Kurdish leadership is of long standing and therefore well-known to the Kurdish public, a closed list simplifies the process. This is apart from the fact that in the wake of the July 2009 elections for the Kurdistan regional parliament, the KDP and PUK are worried that popular discontent may translate into the defeat of several top candidates.

[131] Crisis Group interview, Falah Shanshal, council of deputies member (Sadrist trend) and accountability and justice committee chairman, Baghdad, 27 September 2009.

would then confront Sistani, the most formidable champion of the open-list system, with the argument that they tried to get the system into law, but the Kirkuk imbroglio forced them to abandon any attempt to amend the law. A secular politician with the INA claimed: "Because the Shiite Islamists need to listen to the *marjaiya*, they will use Kirkuk to get out of the open-list option. Kirkuk will be the excuse".[132] This comment was echoed by many politicians across the political spectrum in September 2009.[133] In the end, however, the Kirkuk crisis was overcome and the parties, unwilling to defy either Sistani or public opinion, were forced to acquiesce in an open-list system.

The three-week delay was an unfortunate setback and sent U.S. diplomats scrambling to help lawmakers hammer out the compromise described above. This agreement, reached partly thanks to deft technical support and facilitation from UNAMI, promised to keep the elections on track.

2. The Hashimi veto

Having focused all their attention and energies on clearing the Kirkuk hurdle, and pressed by the U.S. Embassy and military command,[134] lawmakers reportedly missed an

innocuous-seeming provision in the law that provoked one of the three members of the presidency council, Vice President Tareq al-Hashimi, to veto it.[135] What followed was a dizzying period of deliberations concerning not only the clause challenged by Hashimi but other issues as well, as parties saw an opportunity for additional amendments. This led to another significant delay, triggered steeply escalating U.S. pressure and eventually caused a postponement of the elections until March 2010. When the law finally was adopted on 9 December, having avoided a second Hashimi veto three days earlier, it was not greatly different from the version passed in November. In the end, Hashimi appeared to have suffered a setback, while others gained modestly, especially the Kurdistani Alliance.

The veto came after pressure on Hashimi from two secular politicians, Iyad Allawi and Saleh al-Mutlaq, concerning so-called compensatory national seats mentioned in Article 1.[136] In the 8 November draft, parliament was to have 323 seats (an increase from the current 275), 5 per cent of which (sixteen seats) would be considered compensatory seats.[137] Of these, eight would be given to minority groups as quota seats (five to Christians, one to Yazidis, one to Sabean-Mandeans and one to the Shabak).[138] The remaining eight would be divided among the victorious lists from the votes won by candidates or lists that failed to cross the electoral threshold.[139]

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[132] Crisis Group interview, Qasem Daoud, council of representatives member (UIA) standing as an independent for the INA, Baghdad, 29 September 2009. A government official close to Maliki likewise said, "these parties are not eager to have an open-list system. They hope the Kurds will oppose the law, so that the deadlock will yield the old law as a compromise. This could suppress voter turnout, which would be bad for Maliki". Crisis Group interview, Baghdad, 26 September 2009. A senior adviser to Maliki said the prime minister preferred a semi-open list, such as was used in the provincial elections, with voters having the choice to vote for either a list or an individual candidate on that list or standing as an independent. He interpreted this as consistent with Sistani's call for open lists. Crisis Group interview, Sadeq al-Rikabi, Baghdad, 28 September 2009.

[133] Crisis Group interviews, range of politicians, Baghdad, September 2009. For example, a legislator said, "I don't think we will meet our 15 October deadline, and the main reason will be Kirkuk. This means we will have to use the old law, and this entails a closed-list system. Kirkuk will be the main reason for this". Crisis Group interview, Hunein al-Qaddu, council of representatives member (UIA – Democratic Shabak Assembly), Baghdad, 13 September 2009.

[134] In a joint statement at the end of October 2009, U.S. Ambassador Christopher Hill and MNF-I Commander Lt-Gen. Raymond Odierno said, "the future of Iraq depends on the Iraqi leadership and people. We urge Iraq's political leaders to work out their differences and take swift action to do what is in the best interest of the Iraqi people so they may exercise their democratic rights on January 16, 2010". U.S. embassy news release, 29 October 2009.

[135] Article 138(5) of the constitution gives the presidency council the power to ratify laws within ten days of their approval by the council of representatives. Any member of the presidency council can refuse to ratify, in which case the bill is returned to parliament for amendment and a new vote. In case of a second veto, parliament can override it with a three-fifths majority.

[136] According to Saleh al-Mutlaq, "parts of our group told him [Hashimi] that we thought it was very important for him to do this. At first, he did not want to veto the law, but we talked about it some more, and he then decided it was the right thing to do. He used the veto for his own reasons as well, but we were the ones who talked to him about it". Crisis Group interview, Saleh al-Mutlaq, council of representatives member (Hiwar), Baghdad, 18 December 2009.

[137] The UN explained: "Compensatory seats are awarded to winning lists in proportion to the governorate seats they won in the country as a whole. A winning list's compensatory seats are awarded to the candidate(s) who did not yet win a seat, and who received the list's highest share of individual votes when compared to candidates running for that list in other governorates". UNAMI Factsheet, available from www.ihec.iq.

[138] For a review of Iraq's minorities, see Crisis Group Report, *Iraq's New Battlefront*, op. cit.

[139] A parliament member of Iyad Allawi's Iraqiya list denounced the compensatory seat system: "The mechanism is unfair, especially for the smaller parties. The votes of parties that do not reach the electoral threshold will be distributed to the winning lists. The highest winner will be advantaged over the

In vetoing the legislation, Hashimi made three complaints: he wanted the number of compensatory seats raised from 5 to 15 per cent; he wanted more quota seats for minorities (one extra each for Christians and Sabean-Mandeans); and he wanted the compensatory seats to go to the high losers rather than the high winners.[140] His primary concern was that Iraqis outside the country were to vote in a special nineteenth "national" district that would count against the compensatory rather than governorate seats[141] and that, because in the prevailing Sunni Arab view most refugees are Sunni Arabs, this community would be sharply disadvantaged if there were only eight compensatory seats (which would be divided among all the various lists that would draw votes abroad).[142]

Shiite parties, by contrast, preferred this low number of compensatory seats, because they feared that regimes in Syria, Jordan and elsewhere would falsify refugee records and ballots in favour of Sunnis.[143] As Saleh al-Mutlaq put it, "the government and some of the Shiite parties do not want the displaced to have the correct number of votes, and it is Sunnis we mean when we talk about the displaced".[144]

Before this could be sorted out, new complications arose. Having reopened the discussion, the politicians behind the veto could not prevent others from making additional claims that ended up cancelling out any advantage these politicians had hoped to gain. Parliament Speaker Iyad al-Samarraie observed: "It looked like everyone wanted to make changes to the law. First the Kurds wanted to make use of the veto and then the Shiites did.

Each list was trying what it could to get something out of the deal".[145]

Kurdish leaders seized the opportunity to reject the seat allocation for each governorate, which was based on the updated 2009 voter registry. They claimed that Kurdish governorates had received fewer seats than they were entitled to in light of population increases since 2005. They contended that the issue had not emerged by 8 November, because at that time the only population figures available were from the trade ministry (which supervises the food ration system in place since the UN Security Council imposed sanctions in August 1990).[146] But now, a Kurdish lawmaker explained, the planning ministry had published its own population figures:[147]

> These showed that the trade ministry statistics were not accurate – just at the right time. Indeed, those statistics were not just inaccurate, they were forged. For example, they showed that population growth in Suleimaniya over the past four years was almost zero, while it was 67 per cent in Karbala and 65 per cent in Ninewa. The trade ministry says Suleimaniya has a population of 1,635,000, while the planning ministry says it is 2,020,000. So we proposed using the 2005 statistics and counting 2.8 per cent population growth per year in all governorates for a total of 11 per cent in four years.[148]

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highest loser. The law was designed by the big coalitions for two reasons: to acquire these compensatory seats and to push smaller parties to join their coalitions by persuading them that standing as they are would be unlikely to deliver them a seat in the elections. The parties controlling the majority in parliament seek to reduce the number of parties and shrink them into a small number of large coalitions". Crisis Group interview, Jamal al-Bateekh, council of representatives member (Iraqiya), Baghdad, 23 January 2010.

[140] Crisis Group interview, Mahmoud Othman, council of representatives member (Kurdistan Coalition List – independent), Baghdad, 29 December 2009.

[141] In December 2005, refugees, as well as members of the police and military, voted in a special nineteenth electoral district. According to the 8 November 2009 amendment law, members of the security forces are to vote along with the general population (although a few days earlier). The provision on refugees remains unchanged, however.

[142] This calculation is difficult to verify and could be wrong. Regardless, this was Hashimi's and others' perception, and it informed his decision to veto the law.

[143] Crisis Group telephone interview, Iraqi election expert, 29 January 2010.

[144] Crisis Group interview, Saleh al-Mutlaq, council of representatives member (Hiwar), Baghdad, 18 December 2009.

[145] Crisis Group interview, Iyad al-Samarraie, council of representatives speaker (Tawafuq – IIP), Baghdad, 19 December 2009.
[146] Article 2 of the 8 November 2009 draft states that the basis for calculating the number of seats in each governorate should be the public distribution system, i.e., ration system, cards. Article 1 states that the ratio should be one seat per 100,000 inhabitants (which is consistent with the constitution). The interim trade minister at that time was Safa al-Din al-Safee, a Shiite independent close to Maliki.
[147] The planning minister is Ali Baban, a Kurdish member of the Iraqi Islamic Party close to the Kurdish parties. There have been allegations but no clear evidence that the sudden release of the planning ministry statistics after the 8 November law was passed informed Hashimi's decision to veto the law, for example via pressure from the Kurdish parties.
[148] Crisis Group interview, Saadi Barzinji, council of representatives member (Kurdistan Coalition List – KDP), Baghdad, 2 January 2010. Another Kurdish lawmaker questioned the statistics on a separate matter as well: "Iraq's population [supposedly] grew from 27.5 million in 2005 to 32.5 million today, an increase of five million people. However, the number of voters has *also* increased by five million – from 14 to 19 million. How can you have an increase in population of five million and at the same time an increase in voters of five million?" Crisis Group interview, Mahmoud Othman, council of representatives member (Kurdistan Coalition List – independent), Baghdad, 29 December 2009. One should be skeptical about any figures put forward by the various sides in the absence of

The Kurds were upset in particular about Ninewa benefiting disproportionately from the trade ministry's statistics, having its seat tally go up from nineteen in 2005 to 31. After al-Hadbaa's victory in the provincial elections, the Kurds feared that their opponents would now also make significant gains in parliament at their expense.[149] Kurdish leaders sent a five-person delegation to Baghdad headed by the speaker of the Kurdish parliament, Kamal Kirkuki, a known ultra-nationalist hardliner, to demand additional seats. Parliament Speaker Iyad al-Samarraie commented:

> After all the parties had agreed, then the Kurds came back to us and talked about the percentage growth in their areas, demanding more seats. They now were asking for 50 [they had 39 as per the 23 November draft law]. We are not sure what the population of the governorates is, due to displacement from one governorate to another [over the years]. Arabs have their figures, Kurds have theirs. We really don't know. There is no accurate information.[150]

He challenged the Kurds' calculations, telling them that the reason they did not gain seats since 2005 was that in 2005 they had "more seats than they deserved", while Ninewa had had far fewer than it merited because of the Sunni Arab election boycott; this, in other words, was a necessary correction in his view.[151] He appeared particularly annoyed that the matter was being negotiated in the council of representatives by politicians, such as Kirkuki, who themselves were not council members.[152]

Ignoring Hashimi and those he claimed to represent, Kurdish and Shiite legislators threw out the 8 November amendments to the 2005 law, creating a new set of amendments, which they passed on 23 November; most Sunni Arab lawmakers boycotted the vote. This new legislation erased any advantage Hashimi had hoped to obtain through his veto and even caused a setback. It required use of 2.8 per cent annual population growth over a period of four years to calculate the number of seats for each governorate. It also included a provision that Iraqis living outside the country, as well as minority groups, should vote for candidates in their home governorates rather than compete for eight compensatory seats in a special nineteenth district.

Under these amendments, and with the new way of calculating seats, Ninewa lost two of its seats outright; moreover, since Ninewa had three minority seats (one Christian, one Shabak, one Yazidi), in effect the governorate would now only have 26 competitive seats, a loss of five. Furthermore, the Kurdistan region gained three seats (two in Suleimaniya, one in Dohuk).[153] These factors together outraged Sunni Arabs, with Usama al-Nujayfi, a Ninewa parliamentarian, in the lead, accusing Hashimi of having accomplished the opposite of what he and his supporters had intended. The change in out-of-country voting appeared not disfavourable to their interests, although the precise electoral implications were difficult to calculate.[154]

As Sunni Arab politicians clamoured for Hashimi to use his veto power a second time, others worked on a compromise with UNAMI's help and under U.S. pressure. Their idea, supported by Hashimi, was to go back to the draft law passed on 8 November which Hashimi himself found more palatable than the new law.[155] Now the Kurds balked, rejecting again the seat allocation in the 8 November law and insisting on using the 2.8 per cent formula, which had given them three extra seats.

It took White House intervention for an eleventh-hour compromise. Lawmakers adopted it, reverting to the 8 November law with only three changes: parliament would have 325 seats; the Kurdish governorates would retain

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a population census.

[149] The Kurds had a point: Whereas Ninewa gained twelve seats, their three governorates combined gained only three.

[150] Crisis Group interview, Iyad al-Samarraie, council of representatives speaker (Tawafuq – IIP), Baghdad, 19 December 2009.

[151] Ibid.

[152] The PUK was possibly more annoyed than Samarraie, because Kirkuki was accompanied by members of the Kurdish opposition, including a senior member of the opposition Goran list, Shaho Saeed. The PUK has been trying to isolate Goran ahead of the elections.

[153] The difference between the number of seats per governorate in the 8 November law and the 23 November law is small, but significant to Sunni Arabs, who lost two seats in Ninewa. The changes were: Baghdad: +four; Basra: -one; Dhi Qar: -one; Dohuk: +one; Diyala: +one; Karbala: -one; Kirkuk: -one; Najaf: -one; Ninewa: -two; Qadisiya; -one; Suleimaniya: +two. Seat levels in the other governorates remained unaltered. The overall number went up from 323 to 325 seats. Southern governorates lost some seats, but Shiite politicians brushed aside criticism from their followers, valuing the holding of elections more highly than having a few seats less. Crisis Group telephone interview, Iraqi election expert, 3 February 2010.

[154] In a special nineteenth district, out-of-country voters would be able to receive no more than eight (later reduced to seven) seats in the national legislature, whereas under the new system, they could compete for many more seats in each of eighteen governorates. It is unclear whether there are sufficient out-of-country voters, let alone Iraqiya supporters, to account for eight seats; if not, the change in voting system would make no difference for their electoral fortunes. Much revolves around dubious refugee figures, as well as prognoses regarding out-of-country-voter participation on 7 March.

[155] Hashemi might have had to live with the amended law if he vetoed it, as his opponents might have succeeded in mustering the three-fifths majority they needed in parliament to override his second and last possible veto.

their three seats in Suleimaniya and Dohuk; and out-of-country voters would cast their ballots in their governorate of residence. In supplementary legislation,[156] they declared the new parliament to have 325 seats – 307 plus eight minority seats, seven compensatory seats and three extra seats for the Kurdish governorates.[157] Several senior politicians worked hard to hammer out the agreement, notably ISCI's Hadi al-Amiry, chairman of the defence committee, and Deputy Prime Minister Rafea al-Issawi.

While Hashimi had little to show for his first veto, he could claim not to have lost any significant ground after almost having suffered a huge defeat. This was still a subject of derision for some. Kurdish lawmaker Mahmoud Othman said, "Hashimi didn't win on any of the three points he raised when he vetoed the [8 November] law. That's why I laugh when people talk about Hashimi's victory. But he became a champion of more seats in Sunni governorates, which served his own election purposes. This is what saved him in the end; without it, he would have been in very bad shape indeed".[158]

By all accounts, the U.S. Embassy played a major, possibly a decisive, role in pushing negotiations toward an agreement. Speaker Samarraie said he was not pleased by what he saw as a heavy-handed approach:

It was a case of "minutes left". Vice President Hashimi's adviser was in our office and said that the vice president would not withdraw his veto. This was the final decision. Just at this time, a woman from the American Embassy ran into the office and told the vice president's adviser to call his own office. She said "They are trying to get in touch with you. They want you to withdraw the veto". He called his office, and then after talking to someone on the phone, he turned to us and said that the vice president had decided to withdraw the veto.[159]

Under the current situation, Iraqis' inability to reach agreement on critical issues on their own is an undisputed, if somewhat distressing, reality. From the Iraqis' standpoint, the picture is mixed: both encouraging mediation by UNAMI and the U.S. to help overcome obstacles and bemoaning it. In most instances, the U.S. is called upon by one side to mediate while being denounced by the other for violating the country's sovereignty; sometimes, the same side will adopt both positions sequentially. A good example of these ambivalent emotions came with Washington's efforts to persuade the Kurds to drop their demand for even more seats. Many Arab politicians wanted Washington to lean on the Kurds even as they displayed anxiety about what the administration might be promising them as a quid pro quo.

The Kurds dropped their demand for more seats after a last-minute phone call from President Barack Obama to the Kurdistan region's president, Masoud Barzani. The conversation's contents have not been made public, but in apparent exchange for lowering his demands, Barzani was invited to meet with Obama in Washington and promised an official White House statement the next day confirming U.S. commitment to Article 140 of the constitution concerning Kirkuk.[160]

The statement released on 7 December was innocuous, restating long-standing U.S. policy. It read in part:

The United States reiterates its strong support for the Iraqi people and their elected government, and reaffirms its respect for the Iraqi constitution, including Article 140, which addresses the dispute over Kirkuk and

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[156] In a strictly legal sense, such reversion was impossible, because the council of representatives could not cancel or amend a law (the 23 November version) it had already passed but that had not been vetoed and sent back to it for revision. In order to revert to the 8 November version, therefore, the council had to resort to legerdemain: it left the 23 November law on the record but added a supplement, interpreting the 23 November law broadly along the provisions of the 8 November law, thus in effect rendering the 23 November law inoperable. This sleight of hand yielded another odd development: On 9 December, the presidency council decreed the issuance of the new electoral law, providing a text that amends the 2005 law based on the 23 November law (including, for example, the calculation of governorate seats via the 2.8 per cent annual addition), even though it was no longer operable, and without mention of parliament's 6 December supplementary law. A historian deprived of the oral record would be hard pressed to make any sense of how events evolved, or ended, based on the available iterations of the law alone.

[157] This means one compensatory seat was removed from the original eight in the 8 November law. This was done because the Kurds' three additional seats led to a grand total of 326. Because the council should have an odd number of seats, it was necessary to eliminate one, and the only seat that could be eliminated was a compensatory one. Technically, this is a contradiction in the 8 November law, which states that 5 per cent of the total number of seats (325) should be compensatory, in other words at least sixteen.

[158] Crisis Group interview, Mahmoud Othman, council of representatives member (Kurdistan Coalition List – independent), Baghdad, 29 December 2009.

[159] Crisis Group interview, Iyad al-Samarraie, council of representatives speaker (Tawafuq – IIP), Baghdad, 19 December 2009.

[160] A Kurdish lawmaker said that the promises Obama made to Barzani in his phone call were critical to Barzani's decision to compromise: "It wasn't the only factor, but it was a way to comfort the Kurds, since they lost a seat or two, which was not fair. We accepted it for the sake of the American promise to secure implementation of Article 140 of the constitution". Crisis Group interview, Saadi Barzinji, council of representatives member (Kurdistan Coalition List – KDP), Baghdad, 2 January 2010.

other disputed internal borders, and Article 142, which addresses the process for constitutional amendments.[161]

It spawned controversy nonetheless. Kurds were disappointed that the U.S. did not endorse their interpretation of Article 140.[162] Moreover, as they see it, the U.S. wedding of Article 140 to Article 142 negated the former. Article 142 calls for a review of the constitution; the committee charged with revising the constitution has been deadlocked for years, however, precisely over Article 140, which some parties want to see changed – a Kurdish red line. The only thing the Kurds found encouraging in the White House statement was the U.S. commitment to a census,[163] which they hope will show they enjoy a majority in Kirkuk.[164] On balance, though,

they were displeased with the concessions they made, given the meagre returns.[165]

U.S. officials confirm that the Obama administration provided the Kurds no guarantees on their interpretation of Article 140.[166] Barzani's sole gain was an invitation to the White House, which he duly consummated on 25 January. In exchange, the Kurds gained only three seats in their three governorates, in addition to the three they gained in the 8 November law compared to what they had in 2005. This was far fewer than they believed they were owed given the much greater seat increase in several non-Kurdish governorates since 2005.[167]

This left veteran Kurdish politicians such as Mahmoud Othman embittered and suspicious of U.S. intentions:

> The Americans wanted this law, and they want these elections, at any price, whether good, bad, with fraud, without fraud, just like with Karzai in Afghanistan. They don't care whether the law is very just or very good. They want it on time, so that they can tell their people that they accomplished this, that there is a law and Iraqis are holding elections. I don't trust the Americans, the American message. The Kurds shouldn't depend on them; Iraqis shouldn't depend

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[161] "Statement by the U.S. Press Secretary on the passage of Iraq's revised election law", The White House, 7 December 2009.
[162] To Kurdish leaders, Article 140 means a process that concludes with an up-or-down referendum on Kirkuk's status; given the Kurds' actions since 2003 to assure a Kurdish majority in Kirkuk and their belief that the majority of Kurds in Kirkuk will vote in favour of joining Kurdistan, they have an unshakable conviction that the referendum will place Kirkuk inside the Kurdistan region. Article 140 does not stipulate the nature of the referendum, however, and in an April 2009 report, UNAMI denounced the notion of an up-or-down referendum, which it referred to as a "hostile" referendum, and proposed instead what it called a "confirmatory" referendum, one that would follow on the heels of a political agreement with all stakeholders. For a discussion, see Crisis Group Report, *Iraq and the Kurds: Trouble Along the Trigger Line*, op. cit., pp. 7-10. Such a referendum is anathema for the Kurdish leadership, however. Masoud Barzani's chief of staff said, "the notion of a confirmatory referendum is ridiculous. A referendum is about choice. A confirmatory referendum does not provide choice. This goes against the constitution. You should give people a real choice, for example three options on Kirkuk. Or give them UNAMI's four options and add another one or two. But this is cheating". Crisis Group interview, Fuad Hussein, Amsterdam, 5 October 2009.
[163] The Obama administration's statement pledged help in organising a long-overdue national census: "A current and thorough census will help facilitate the conduct of those future elections, and the United States remains ready to help the Government of Iraq conduct an accurate census next year as one element in support of a stable Iraq with a government that is fair and accountable to the Iraqi people".
[164] The Kurds' opponents are fearful of a census for the same reason. A minority leader from Ninewa said in September 2009, "the Kurdish parties want the census to take place in October [2009], but I was the first to oppose it. In many places in the Ninewa plain, the KDP and PUK have started a campaign threatening people to declare that they are Kurds. They want to exploit the census to their benefit – to say that a lot of the minority groups living under their control are in reality Kurds. This would give them some sort of justification to claim that these areas are theirs". Crisis Group interview, Hunein al-Qaddu,

council of representatives member (UIA – Democratic Shabak Assembly), Baghdad, 13 September 2009.
[165] Mahmoud Othman, who has been involved in Kurdish negotiations with Baghdad since the 1970s, put it this way: "American pressure was hard on everybody but mainly on the Kurds, because Kurds are friendly to the Americans. Obama called, Biden called, everybody called, and they promised that they would give the Kurds guarantees on Kirkuk. "The White House will issue a communiqué that will have some guarantees for the Kurds". That's what they said. The next day [7 December], the White House issued a press release, and there was nothing in it. It talked about the Iraqi constitution: 'We will respect the Iraqi constitution'. Okay, everybody says they will respect the constitution. Then it said Article 140 should be implemented, but at the same time, it said that Article 142 is also an article of the constitution that should be implemented. Article 142 wipes out Article 140, because the people who ask for 142 want to remove or amend Article 140. So this means nothing. Where are the guarantees? I see the press release as some sort of confirmation of America's support for Iraq as a whole, not only the Kurds". Crisis Group interview, Baghdad, 29 December 2009.
[166] Crisis Group interviews, U.S. officials, Washington DC, January 2010.
[167] Dohuk gained three seats, Suleimaniya two and Erbil none. By comparison: Ninewa gained twelve; Baghdad nine; Basra eight; Dhi Qar six; Anbar and Babel five; Karbala, Najaf and Salah al-Din four; Diyala, Kirkuk, Maysan, Qadisiya and Waset three; and Muthanna two. Moreover, whereas the three Kurdish governorates had 14.6 per cent of parliamentary seats in December 2005, they will have only 12.7 per cent in 2010, a relative decline.

on them. It's all about their own interests. They were with Saddam Hussein all through the time he was using chemical weapons, carrying out Anfal, destroying Kurdistan. The Americans were very, very friendly with Saddam Hussein. It was in their interest. Now, of course, they have relations with us, with all Iraqis. We cannot rely on them.[168]

The Obama phone call had an impact in non-Kurdish quarters as well, where it stoked rumours of a U.S. commitment to the Kurds on Kirkuk, irrespective of the White House statement. Secular politician Saleh al-Mutlaq of Hiwar claimed that the Kurds had received an agreement from the president that "they will get help with Kirkuk and other disputed areas. Masoud Barzani said he got more than he had expected. I don't know if there is something in writing, or if America will really help them, but there must be something secret going on". Any deal, he added, would be "against the sovereignty of the Iraqi government".[169]

The incident showed something else. The renewed focus on Kirkuk augurs poorly for post-election negotiations over a new government during which Kurdish leaders are sure to press their view at every available turn.

C. POLARISING POLITICS

Once the electoral law and coalitions were in place, the most significant electoral development to date has been the attempted disqualification in the middle of January of over 500 candidates (almost one-sixth of the total) by the Supreme National Commission for Accountability and Justice, an organ established to vet Iraqis for association with the banned Baath party. Tensions rose sky-high, marked by public acquiescence in the decision by the two main Shiite coalitions, which support de-Baathification generally and could not afford to oppose the commission only weeks before elections. The commission's action thus laid bare an old wound that relative security since 2007 had failed to heal and which may return to haunt political elites if they fail, in the next legislative cycle, to establish the basis for a state of law with clear rules and effective enforcement. It also triggered, once again, but without success, high-level U.S. intervention designed to ensure that elections would both be held on time and

enjoy broad legitimacy. In the end, only 26 of the original banned candidates were allowed to stand for election.[170]

Saleh al-Mutlaq, one of the commission's most prominent and visible targets, foresaw the events some time ahead. In December 2009, he characterised the upcoming elections as a potential turning point from religion-based to secular rule and, as a secular candidate, predicted trouble:

> This election is *the* most important one. If change doesn't happen this time, it is not going to happen for another ten or twenty years. Iraq will never be stable until a nationalist secular trend is in power. This will be the opportunity to twist the sectarian parties' arm and effect some kind of balance. The government is using intimidation in many different ways. They are going to come after us – me and other politicians. They are going to try to stop us from participating in the election and to break up our coalition.[171]

The Accountability and Justice Commission is the second iteration of the de-Baathification commission established by the U.S. Coalition Provisional Authority in 2003. The 2005 constitution kept the commission alive and unchanged, but in 2008 parliament passed a new de-Baathification law, the Supreme National Commission for Accountability and Justice Law, through which a new commission was to be established with a new board and new staff, operating under amended rules. Instead of moving to appoint a board, though, parliament dithered for two years, considering and then rejecting a government-proposed slate of candidates in late 2009.[172]

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[170] The commission also tried to ban fifteen parties, along with individual candidates, but UN intercession with the Independent High Electoral Commission thwarted this effort, and no parties were prevented from participating. The UN argued that banning parties would disenfranchise not just the candidates but voters. Crisis Group interview, UN official, New York, 22 February 2010. The commission's director complained (before IHEC decided not to implement the decision): "If the banned candidate is the head of a party, then his entire party will be banned. We informed IHEC about this. IHEC is facing some difficulties in banning entire parties, and it has been suggested that it should work this out with the UN. The UN is trying to squeeze itself into this matter, but the matter is legal, not technical". Crisis Group interview, Ali Feisal al-Lami, executive director, Accountability and Justice Commission and a candidate on the Iraqi National Alliance list, Baghdad, 29 January 2010.

[171] Crisis Group interview, Saleh al-Mutlaq, council of representatives member (Hiwar), Baghdad, 18 December 2009.

[172] In 2009, the council of representatives opposed the Maliki government at every turn as a way of reducing Maliki's re-election chances. The slate proposed by the government was headed by a Maliki loyalist, Daawa's Walid al-Hilli. Crisis Group interview, Abd-al-Khaleq Zangana, council of repre-

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[168] Crisis Group interview, Mahmoud Othman, council of representatives member (Kurdistan Coalition List – independent), Baghdad, 29 December 2009.

[169] Crisis Group interview, Saleh al-Mutlaq, council of representatives member (Hiwar), Baghdad, 18 December 2009.

In the meantime, the old de-Baathification commission continued its work by default, with its old board and staff. Ali Feisal al-Lami, its executive director, justified his and his board's presence in 2010 by suggesting that the old should continue until it is replaced by the new.[173] His critics have not been impressed by this argument.[174]

Besides enjoying uncertain legal standing, the commission acted in obscurity and apparent violation of procedural rules and basic human rights. Its staff failed to obtain its own board's formal approval for the exclusions, as the law requires, and evidence was not made available to the victims, preventing them from staging an effective defence during their appeal (which they had only three days to file). It told its victims they could only challenge the verdict before an appeal panel but nevertheless proceeded to arbitrarily reverse at least one decision itself.[175] Moreover, in its rush to disqualify candidates, it included 59 persons against whom no evidence existed but whose name appeared similar to names in its database as legitimate targets for de-Baathification.[176]

Indeed, while wrapping themselves in the protective fold of the law, the perpetrators suggested in their timing,[177] broad sweep and specific targets that they were motivated primarily by political concerns. This also was evident from the fact that the commission's de facto chairman, Ahmad al-Chalabi, and executive director, Ali al-Lami, are both candidates in the elections for the INA,[178] were therefore acting with a clear conflict of interest and should have recused themselves. A lawmaker commented: "The commission should be independent, but Ahmad al-Chalabi and Ali al-Lami clearly are not. They are both standing for election and are using the de-Baathification process against rival parties. How is it that they are judges and competitors at the same time?"[179]

The U.S. military leader in Iraq, General Ray Odierno, as well as the U.S. Ambassador Christopher Hill, accused Chalabi and al-Lami of being under Iranian influence.[180]

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sentatives member (Kurdistan Coalition Bloc – KDP), Baghdad, 23 January 2010.

[173] He said, "the 2008 law changed the name from the de-Baathfication to accountability and justice commission. All the laws and terms, plus the employees, remained the same and legal. The law also says that a board should be formed of seven persons proposed by the council of ministers and approved by parliament. These seven can sit and elect a president. Once this happens, the duty of the commission's current president – Dr. Ahmad al-Chalabi – will be over, while the others can keep their jobs. Since parliament did not approve the seven nominated by the council of ministers, Ahmad al-Chalabi stays as its president. This is what happened recently and shows how lawful the commission is". Crisis Group interview, Baghdad, 29 January 2010.

[174] A critic said: "The de-Baathification commission was dissolved by the council of ministers. This means it does not exist, and its decisions have no legal basis. The new accountability and justice commission, for which there is an even more oppressive law than for the de-Baathification commission, should have jurisdiction, but so far that commission is inactive, given that parliament has not yet approved the nominees for its board". Crisis Group interview, Jamal al-Bateekh, council of representatives member (Iraqiya), Baghdad, 23 January 2010.

[175] Ali al-Lami said, "Saleh al-Mutlaq announced many times that he is not going to abandon the Baath party. He hasn't even come to the commission. His brother [who is also standing for parliament], however, came to the commission. We looked into his objection and saw that he has evidence that proves he quit his work for one of the former regime's security agencies some 23 years ago. Moreover, he signed a letter saying he left the Baath Party". Crisis Group interview, Baghdad, 29 January 2010.

[176] Ali al-Dabbagh, the government spokesman on Maliki's list, was one person so affected. Ali al-Lami explained: "It happened because the commission didn't have anything [specific]

against the candidates. We have a database full with names and evidence. IHEC gave us only the names [of candidates], with no further details about them. When these people brought us their documents, these proved it was only a similarity in the names. For example, their date or location of birth, or their tribal name, weren't the same as those in our database. This is why we accepted their objections". Crisis Group interview, Baghdad, 29 January 2010.

[177] A Kurdish lawmaker said, "I think the timing was terrible, plus this is not the right way to solve such a problem. We are on the doorstep of elections; this should have been done a year or two years ago, not now. Some of those banned are in high positions: one was the former prime minister's adviser, another is the head of a political bloc. You can't just issue these decisions in such a short time and thus give them the opportunity to say it's all for political reasons. Even if it wasn't, they will think it is, and that's why we have the current uproar". Crisis Group interview, Abd-al-Khaleq Zangana, council of representatives member (Kurdistan Coalition Bloc – KDP), Baghdad, 23 January 2010. The parliament's accountability and justice committee chairman disagreed: "There is no timing. Candidates submitted their names for election to the electoral commission [IHEC]. According to the electoral law, the candidates should not be Baathists, should have a high school degree, should not be involved in terrorism and should never have committed a crime. IHEC confirms this with all the relevant institutions by checking these candidates' background: the ministries of education, interior and national security, and also the Accountability and Justice Commission. The commission checked the names and determined that 511 of them should be banned. There is no timing, and there is no targeting". Crisis Group interview, Falah Shanshal (Sadrist trend), Baghdad, 25 January 2010.

[178] Chalabi appears as third on the INA's list for Baghdad governorate and al-Lami as number 24.

[179] Crisis Group interview, Jamal al-Bateekh, council of representatives member (Iraqiya), Baghdad, 23 January 2010.

[180] *The New York Times*, 17 February 2010; also Ambassador Hill at public event attended by Crisis Group, Washington DC, 17 February 2010.

Some Iraqis also have pointed an accusing finger at Iran. Nabil Saeed, the number two on Bolani's list, said, "the whole thing is an Iranian game. Our friends here [the commission] are really playing it well. It all happened when the Iranian foreign minister came to Iraq and told them to start this whole thing and then returned home. These guys here did exactly as he instructed".[181] Evidence of a direct Iranian hand has been elusive, however.[182]

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[181] Crisis Group interview, Gen. Nabil Khalil Saeed, member of Jawad Bolani's Unity of Iraq list, Baghdad, 16 February 2010. Saleh al-Mutlaq said, following his disqualification, "this is Iranian intervention. Those who managed this and interfered publicly, such as Iran, who want to exclude us from the elections, they will also be able to defraud the elections secretly. Then the outcome will be as Iran wants it to be". Crisis Group interview, Baghdad, 27 January 2010. However, some other Sunni politicians, usually quick to the draw when it comes to blaming Iran for all manner of ills, shied away from attributing the commission's actions to an Iranian plot. Crisis Group interview, Sunni politician on Allawi's list, Washington DC, 1 February 2010. This politician, for example, blamed Iran for the major bombings of government ministries in Baghdad on 19 August 2009, attacks that the government had pinned on Baathists operating from and supported by Syria. Crisis Group interview, Baghdad, 28 September 2009.

[182] The state remains so weak, its sovereignty so permeable and its political class so divided that it almost invites foreign interference. Iran's influence is palpable, extending throughout the country and political elite, even across the sectarian divide. While Arab countries also try to keep a finger in the pot, Iran has been far more effective in spreading its influence. As a Kurdish lawmaker put it, "Iranian intervention isn't new; it was there even during the old regime. Iran's impact on parties is tremendous, and when we say this, people might think we are talking only about Shiite parties. This is not true. Iran has influence with all the parties. But pressure differs in degree from one party to another. Iran is worried that if Iraq becomes stronger, it won't need Iran's blessing on important issues. It is not necessary for this government to be completely loyal to Iran; it is enough to have relations and coexist without any problems. We have to understand the reasons why Iran has achieved this. The Arab countries distanced themselves from Iraq and have been focused on their own business. When they try to interfere, they deal only with one side, ignoring the rest. Iran, however, has adopted a policy of dealing with everyone. I agree that Iran supports one side more than others; this is a fact that cannot be denied. But it has been able to deal with all of us, while Arab countries could not". Crisis Group interview, Sami al-Atroushi, council of representatives member (Kurdistan Islamic Union), Baghdad, 24 January 2010. Iran, Syria and Saudi Arabia all have been accused of supporting violent groups in Iraq or facilitating their transit, charges that are difficult to verify but have huge traction among Iraqis. A Sadrist lawmaker claimed: "Neighbouring states have three different agendas, and they each have internal Iraqi actors to implement them: The Saudis have the Sunni extremists and Salafists, the Iranians have what is called the special groups, and the Syrians have the Baathists". Crisis Group interview,

The commission's primary targets appeared to be secular parties. To the extent that members of such parties identify themselves as either Sunni or Shiite (they tend to reject such designations), they represented a mix. The three coalitions that suffered the most, Iyad Allawi's Iraqiya Alliance (72 candidates affected), Jawad al-Bolani's Unity of Iraq Alliance (67 candidates) and Iyad Jamal al-Din's Liberals (Ahrar) list (twenty candidates), comprise both Sunnis and Shiites and are all three led by secular Shiites. As for individual candidates, the three most prominent were Sunnis: Saleh al-Mutlaq (and his National Dialogue Front), Dhafer al-Ani and, in a choice full of irony, Defence Minister Abd-al-Qader al-Obeidi (also known as al-Mufraji), a candidate on Maliki's list who may have been targeted in an attempt to weaken the prime minister.

Because the commission went after these high-level Sunni Arabs, some politicians saw its ruling as having sectarian roots.[183] The Shiite parties almost routinely equate the Baath with Sunni Arabism, ignoring the party's significant Shiite membership.

The targets' predominantly secular character hinted at something else as well: a concern that religious parties might be on the defensive following the provincial elections and that secularism was re-emerging as a potent force in politics. One way to attack secular coalitions is to tar them with the Baath brush, just as Sunni Arabs have been; this is even easier when these coalitions comprise prominent Sunni Arabs, such as Saleh al-Mutlaq, who are one-time Baath members and have made favourable comments about the party since 2003.

The commission's actions were well-timed: they came in an environment in which the government had whipped up fear of a return of the former regime via a violence-

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Saleh al-Jazaeri, chairman of the Independent List of Liberals (Sadrists) in the Baghdad provincial council, Baghdad, 22 May 2009. Such support, if true, would be these countries' hard power, but where Iran stands out from the others is its use of soft power: diplomacy, trade, gas sales, reconstruction aid, religious donations and so forth. There is no convincing evidence, however, that Iran has tried to influence specific events or trigger particular actions, such as the disqualification of candidates for alleged Baathist ties.

[183] Crisis Group interview, Sunni politician on Allawi's list, Washington DC, 1 February 2010. Other Sunni politicians, however, refused to rally to Mutlaq's support, probably because they belonged to a rival list. One said, "since we are close to the commission, I can say that a lot of the decisions didn't come out of nothing; they weren't baseless. There might be some overreaching in the accusations in some of the cases but generally the decisions were based on genuine facts". Crisis Group interview, Saleem al-Jbouri, council of representatives member (Tawafuq – IIP) standing on the IIP list, Baghdad, 22 January 2010.

triggered coup, rumours of which have been swirling for at least a year,[184] and in which several massive bomb attacks occurred that it blamed on Baathist elements. The Shiite public, at least, could be expected to support a de-Baathification campaign in these circumstances even if it carried the whiff of political competition. The overall result was that whatever the commission's original motivation and regardless of targeting both Sunni and Shiite secular politicians, the decision raised the sectarian spectre by eliminating several prominent Sunni Arab candidates.

Al-Lami and his colleagues have flatly denied that politics were behind the de-Baathification drive or that it would torpedo what efforts at reconciliation have taken place since 2007. Falah Shanshal, a Sadrist who heads the parliamentary oversight committee, asserted:

> Reconciliation is a slogan raised to build bridges of trust between political entities. The Baath party was banned, however. The Saddamist Baathists were banned, and the law has targeted only those who were high-ranking Baath party members, such as officers in the repressive institutions who made fortunes stealing the people's money and who committed crimes. Those people are not included in national reconciliation. The commission acted simply according to procedures of law and the constitution, so it won't affect national reconciliation in any way.[185]

The main Shiite blocs embraced the commission's decision as the legitimate action of a body that was implementing a just law.[186] While Maliki does not appear to have initiated the commission's action, he seized on it with the fervour of a committed anti-Baathist and a politician who saw an opportunity to shore up his popularity and make inroads on any electoral advantage the INA might have hoped to gain from the de-Baathification drive. He publicly supported the rulings on the 511 candidates "without exception", despite the fact that his own defence minister and political ally would be disqualified, and warned against the commission's "politicisation".[187] Maliki then challenged the appeal panel's ruling to defer scrutiny of the candidates until after the elections (see below).

Media outlets of Chalabi's allies in the INA, the Sadrists and ISCI, also supported the ban wholeheartedly. None of these parties could afford to be seen as defending the Baath party or people accused of Baathist ties, even if some officials privately criticised the commission's excesses and disregard of procedure. Moreover, they had invested too much in the broad de-Baathification strategy to quibble over incidental excesses and thus potentially harm not only the commission's standing but the overall effort. Stoking popular fears about the former regime's return also could be seen as a useful means to entrench their hold on power.[188]

Privately, senior politicians, including members of ruling parties, indicated that the commission might have been overly zealous. Some stressed that only those who had committed crimes should be subject to de-Baathification[189]

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[184] While Baathist ideology is still alive and retains a degree of popularity in certain quarters, the party's organisational capacity is dead and buried along with its leaders. The fear many still have that the former regime could return appears genuine, but it is exploited by political parties bent on furthering their electoral prospects.

[185] Crisis Group interview, Falah Shanshal, accountability and justice committee chairman in the council of representatives (Sadrist trend), Baghdad, 25 January 2010. Shanshal and other Sadrists have a very limited view of reconciliation and who should be included and an expansive view of who should be targeted under de-Baathification. One of those disqualified took the opposite view: "Reconciliation was harmed greatly. The Accountability and Justice Commission didn't only stage a coup against national reconciliation, it actually deepened the wound, which has led to increased pain and bleeding. We do believe in reconciliation, though, and it can't be killed easily". Crisis Group interview, Gen. Nabil Khalil Saeed, member of Jawad Bolani's Unity of Iraq list, Baghdad, 16 February 2010.

[186] A senior Maliki advisor said, "we are eager to implement the constitution, but at the same time, it should be done fairly and without politicisation. This implementation does not target any sect or any ethnic group or any specific political bloc. From the beginning, we have been eager to implement the law, far

removed from any political pressures. The appeals committee should make its decision according to the law, rather than from political calculation". Crisis Group interview, Sadeq al-Rikabi, Baghdad, 15 February 2010.

[187] Public statement by Nouri al-Maliki cited in *The Los Angeles Times*, 16 January 2010.

[188] A secular politician said, "the political process has been built on a sectarian basis since the establishment of the governing council in 2003. Since then, many political parties have promoted sectarianism. For example, Maliki embraced the de-Baathification committee's step to exclude hundreds of candidates. He knows that the Sunnis will react antagonistically to this campaign. In that case, Shiites will respond, and both sides will be polarised. In other words, Maliki is using sectarianism for his own political interest". Crisis Group interview, Jamal al-Bateekh, council of representatives member (Iraqiya), Baghdad, 23 January 2010.

[189] "I am in favour of all efforts to de-Baathify the criminal Baathists. Indeed I support any steps to bring to justice all criminals, regardless of whether they are Baathists. However, it is not acceptable to remove or convict Baathists on the basis of party membership alone. It is unfair to hold them to account for their rank. Many low-ranked Baathists committed crimes, and many high-rank party members were professional and clean". Crisis Group interview, Izzat Shahbandar, council of representatives member (Iraqiya – Allawi) standing on Maliki's State of Law list, Baghdad, 27 January 2010. Mahmoud

and defended Mutlaq, in particular, as a person who was neither a Baathist nor guilty of a crime.[190] Some proposed political solutions to what was a political problem: postpone implementation until after the elections, or allow at least those who enjoy support across the political spectrum to participate, and/or generally reduce the number of those affected.[191] Others suggested the appeal panel should overturn the decision on procedural grounds.[192] President Jalal Talabani openly denounced the decision and questioned the commission's legal standing and authority.[193] These critics – who for the most part expressed views in private – appeared driven by the need to please their principal patron, the U.S., with which they want a strategic relationship lasting well beyond the troop withdrawal.[194]

The haste with which U.S. Vice President Joseph Biden travelled to Iraq suggests the depth of the Obama administration's fears that the crisis could upend its withdrawal plans. Biden arrived in Baghdad on 22 January, claiming to be in listening mode but proposing that any efforts at de-Baathification be postponed until after the elections. His message was fortified by an EU threat that it might withhold both financial support and recognition of the elections' outcome, as well as by a statement from the UN Secretary-General's special representative, Ad Melkert, that disqualified candidates have the right to have their appeal "carefully considered and to remain a candidate until such an appeal has been dealt with appropriately".[195]

International pressure led Iraqi political blocs and institutions to take the first step toward resolving the crisis, albeit at an uncertain price. On 3 February, the panel ruled that there was insufficient time (most urgently, before the ballots had to be printed) to review all the files and that such a review should, therefore, be postponed until after the elections; at that point, the winning

candidates would not be allowed to assume any official post until the appeal panel had cleared them.[196] While this appeared to defuse the immediate crisis, it threatened to create a potentially bigger one after the elections. If the attempt to disqualify candidates had caused an outcry among those who felt targeted, blocking these same candidates from taking positions in government after winning votes in an open election could prompt a major backlash from constituencies that would see their votes go to waste.[197]

Things did not reach this point, however. In a stunning example of political interference, Maliki persuaded the appeal panel to reverse its decision to delay its review and agree to an immediate scrutiny of the files of those 171 candidates who had lodged an appeal. Within days, the panel notified the Independent High Electoral Commission (IHEC) that it had reversed 26 disqualifications and upheld 145 others, including Mutlaq and al-Ani; Defence Minister Abd-al-Qader al-Obeidi's appeal was accepted, however.[198] Maliki's action, the panel's review and IHEC's subsequent acceptance of the results all undermined the credibility of nominally independent institutions. This augurs very badly for the country's post-election future.

While Iraqiya leader Iyad Allawi initially appeared to toy with the idea of boycotting the elections, and Saleh al-Mutlaq openly called for a boycott,[199] it looked as if the polls would not be marred by broad Sunni Arab opposition as had the January 2005 elections. Allawi and Mutlaq were uneasy partners at best in the Iraqiya coalition. Moreover, Allawi's chance to head the winning list, while possibly diminished, was by no means eliminated. Deputy Prime Minister Rafea al-Issawi, a Sunni Arab Iraqiya member from Ramadi, indicated he regretted the developments but opposed a boycott: "We have advised people so many times not to boycott the elections. We think the solution lies in stabilising democracy and encouraging political reform through broad participation".[200]

Othman made the same point before the commission issued its decision. Crisis Group interview, Baghdad, 29 December 2009.

[190] Crisis Group interview, senior ISCI official, Baghdad, 20 January 2010.

[191] Crisis Group interview, Abd-al-Khaleq Zangana, council of representatives member (Kurdistan Coalition Bloc – KDP), Baghdad, 23 January 2010.

[192] Crisis Group interview, senior ISCI official, Baghdad, 20 January 2010.

[193] *The Los Angeles Times*, 22 January 2010.

[194] Crisis Group interviews, Iraqi politicians, Washington DC, January 2010.

[195] Ad Melkert said, "it is not up to the UN to make specific political requests or to advise on how the Iraqi courts should resolve pending judicial cases. What matters is a proper legal basis for decisions, including the right for candidates that their appeal is carefully considered and to remain a candidate until such an appeal has been dealt with appropriately". UNAMI press release, 2 February 2010.

[196] Agence France-Presse, 3 February 2010.

[197] An analyst noted, rather than a victory for Biden, the appeal board's decision made matters worse. "Biden acted like [former U.S. Ambassador] Zalmay Khalilzad used to do. He told them: 'Sign now, talk later'. But once a man like Mutlaq has collected half a million votes, it will become very dangerous politically to remove him, or to find someone else willing to take his place". Crisis Group telephone interview, Iraqi election expert, 3 February 2010.

[198] *The New York Times*, 14 February 2010. The remaining candidates – of the original 511 or more; the numbers were never clear – had not appealed the decision and had withdrawn from the race; they were immediately replaced by their parties.

[199] *The New York Times*, 21 February 2010.

[200] Crisis Group interview, Rafea al-Issawi, deputy prime minister, standing on Iraqiya list, Baghdad, 21 February 2010.

In the meantime, candidates and other politicians of all persuasions faced intimidation in the form of violence – a violence that has been persistent and largely invisible to the international media, and is all the more pernicious because of this. Between 1 January and 15 February 2010, more than a hundred persons known in their communities – local council members, awakening members, police and army officers, as well as an Iraqiya candidate – were shot to death or killed by bombs attached to their vehicles ("sticky bombs"). This phenomenon has been prominent especially in Baghdad, Ninewa and Diyala. In Sadr City, several local council members who had joined Maliki's list were forced to go underground for fear of reprisal by the Sadrist Mahdi army.[201] In Suleimaniya, security forces reportedly attacked supporters of the Goran movement during rallies on 16 February.[202] Such violence around Iraq could depress campaigning and thus narrow voters' view of candidates; it might also adversely affect voter turnout.

To address violence and intimidation, as well attempts by candidates currently holding government positions to use these positions and state resources to aid their campaigns, the principal blocs signed an electoral code of conduct in mid-February. An initiative of Deputy Prime Minister Rafea al-Issawi, who is an Iraqiya candidate in the elections, it invoked the need for free, fair, transparent and inclusive elections, echoing a UN call for the same. This was an encouraging sign, given that an earlier attempt to turn such a code into law had faltered in parliament over a provision that would have converted the government into a caretaker.[203] At the least, it could add a measure of oversight over the parties during the campaign and on election day, even if it has no enforcement mechanism.[204]

Nevertheless, it is difficult to be hopeful, given that spoilers remain on the prowl. In a stark reminder that political manipulation could continue right up to election day and even beyond, the Accountability and Justice Commission's director, Ali Feisal al-Lami, threatened:

> We informed IHEC of the banned candidates. This doesn't mean the remaining candidates are okay and can't be banned; it just means that right now we have no solid evidence against them. We could still ban them in the future, and we told IHEC so. We deal with candidates depending on what evidence we have in our hands at the time. If we obtain further evidence later on, we will ban more candidates later. There are hundreds of others who are running in the elections who should be banned. I can tell you they are Baathists, but the commission doesn't have the evidence yet to show it. We have no option but to let them run. However, once we get the evidence, the commission will do its work and announce it. Even after the elections, if they win and become members of parliament, we will act once new evidence emerges. We keep getting new evidence; the latest case was just yesterday. The commission may finish its work during the next four years, using the same standards. After the commission's work is over, it can give the database to all the ministries and institutions. IHEC could then do the commission's work instead. I think four years will be enough to finish the job.[205]

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[201] See the website of the Iraqi non-governmental organisation Monitor of Constitutional Freedom and Bill of Rights, at: www.iraqimrfc.org/innerpage.php?name=taqareer&x=67.
[202] Agence France-Presse, 19 February 2010.
[203] The draft bill was promoted by Iraq's two vice presidents, apparently to curb any ambition the prime minister might have to use state funds and institutions to further his own chances at the polls, just as he had been accused of doing in the provincial elections, including via tribal support (*isnad*) councils. Moreover, it aimed to turn the Maliki government into a caretaker government following the elections to prevent it from taking decisions on major issues. Maliki responded by blocking the law in parliament and appealing to the supreme court to rule on its constitutionality. A Kurdish lawmaker explained: "[The two vice presidents] say that in the provincial elections the prime minister interfered and received a lot of votes, and they say he used his powers in order to accomplish this. That's why this time they say they should limit his authority, his power, his financing – everything – through this new law. So now the prime minister goes to the high court and says, 'I think this is not constitutional'". Crisis Group interview, Mahmoud Othman, Baghdad, 29 December 2009.

[204] Its initiator, Rafea al-Issawi, said, "We covered the main principles. The code starts with a commitment to the principle that people have the right to vote and ends with establishing a follow-up committee to see to its implementation. The code prevents politicisation of the security forces, politically-motivated detentions and use of state financial and human resources in electoral campaigns, as well as much else constituting common ground among the alliances concerning what they consider free and fair". Crisis Group interview, Rafea al-Issawi, deputy prime minister, Baghdad, 21 February 2010.
[205] Crisis Group interview, Ali Feisal al-Lami, executive director, Accountability and Justice Commission, Baghdad, 29 January 2010.

IV. FORMING A GOVERNMENT

Within fifteen days after the Supreme Court has certified the elections, the outgoing president must convene the new parliament. The council will first elect its new speaker and two deputies and then, by a two-thirds majority of its members, a president.[206] In turn, the president will have fifteen days to charge the person nominated by the winning list with forming the next government, a task to be accomplished within thirty days. If the prime minister-designate fails in this task, the president should charge "a new nominee" with standing up a new government.[207] The prime minister-designate will have to stitch together a ruling alliance from the many parties and individuals who will have entered parliament – and, as he does so, navigate through the many issues that have bedevilled national politics so far and accommodate competing parties that will be seeking to maximise gains before a new government is seated.

None of this will be easy. Indeed, while the effort to form a government will not start formally until there is a president, the winning parties may start bargaining over the shape of that government as they seek agreement over who should be president. This means that all the conflicts involved in creating a ruling coalition might emerge at an even earlier stage.

While the outcome of the elections is highly unpredictable, some things appear fairly certain. First, no single list will obtain a simple majority. As a result, it will be necessary to forge a post-election governing coalition. Moreover, alliances formed before the elections could well lose their relevance afterward; the winners will struggle to find the minimum number of allies needed, at the lowest possible political cost, to appoint a new government and its leaders.

All else is speculation. Will Sunni Arab parties fragment further? Much will depend on the impact of the de-Baathification campaign. Will the INA survive the elections? Signs are that it may not, as frictions have mounted.[208] ISCI, in particular, is trying to seize control of the alliance and centralise its leadership in order to avoid endless bargaining after the elections.[209] Will Maliki team up with the INA to form a ruling coalition?[210] The

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[206] Article 70 of the constitution states: "First: The Council of Representatives shall elect from the nominees a President of the Republic by a two-thirds majority of its members. Second: If none of the candidates obtains the required majority, the two candidates with the most votes shall perform a run-off, and the one who receives the plurality of votes in the second ballot shall be declared President". (Because there is no official English translation of the constitution, and existing translations are very poor, all translations in this report are Crisis Group's.)

[207] Article 76(3) fails to specify whether this "new nominee" should be from the same winning list or could come from another list; absent an explicit provision, the reasonable assumption has to be that the nominee could come from any list seated in parliament. Iraqi politicians are interpreting the article in both ways, however. Crisis Group interviews, Baghdad, February 2010.

[208] Ibrahim al-Jaafari, prime minister of the first elected government (2005-2006), strongly criticised ISCI leader Ammar al-Hakim for his visit to the Kurdistan region in January 2010 and warned that no concessions should be made to the KRG on Kirkuk. He has also criticised al-Hakim for discussing the possibility of a post-election alliance with Maliki. Moreover, Jaafari and the Sadrists reportedly were angered when ISCI announced that two of its senior officials, Vice President Adel Abd-al-Mahdi and Finance Minister Bayan Jaber Solagh, would be its candidates within the INA for the prime minister post. *Al-Hayat*, 4 February 2010.

[209] ISCI has been trying to impose order and discipline through the adoption of internal regulations subjecting the future government to periodic oversight by the INA's main decision-making body (*al-hay'a al-aama*). This body is highly centralised to the benefit of the INA's largest components, ISCI and the Sadrists, via the provision that to obtain a seat in it, claimants must have won at least seven seats in the parliamentary elections. Crisis Group interview, Nassar al-Rubaie, head of the Sadrist bloc in parliament, Baghdad, 7 February 2010. ISCI has learned from the post-2006 experience: It wants to prevent the emergence of a compromise INA candidate from outside ISCI, who then charts his own independent course, like Maliki. Humam Hamoudi discussed these matters in an interview, *Al-Hayat*, 7 February 2010. Muqtada Sadr's differences with ISCI leader Ammar al-Hakim have already surfaced with regard to both the legitimacy of Iraqi resistance against the occupation and whether former Baathists ought to be allowed to stand in elections. See "Sayid Muqtada answers a question regarding Sayid Ammar al-Hakim's declarations on the Iraqi resistance", media release, 21 January 2010, at: http://pc-sader.com/news. php?action=view&id=430. Taking issue with Sadr, al-Hakim argued: "We appreciate the resistance in Lebanon and Palestine, but the problem in Iraq is that the resistance has no clear symbols. In Lebanon, for example, you can find a person who speaks on behalf of the resistance. In Iraq, they are people who kill innocent people. We are not against the principle of resistance, but we have not found an entity that highlights the role and is associated with the resistance". Interview with Ammar al-Hakim on the Lebanese "New TV" channel quoted by Agence France-Presse, 22 January 2010. Both Sadr and al-Hakim favour de-Baathification, but al-Hakim has been less strident and called for the reintegration of those who have "clean hands".

[210] Speculation is rife that the INA and State of Law coalitions will realign after the elections as part of an Iranian plan to reconstruct the old UIA as the largest partner in any ruling coalition. A Kurdish lawmaker said, "in this next stage, Iranian intervention will take a different form. I suspect that all these disagreements between the Alliance [INA] and the State of Law are just a ruse to get as many votes as possible for the

prime minister has suggested he might, but this would not come to pass if he lost, nor would he want to if he won a significant plurality.

From its side, the INA might prove resistant to the idea of joining Maliki if it meant playing junior partner in a governing coalition. Rumours are rife of a post-election anti-Maliki front, even if its members describe it in other ways.[211] A coalition of the INA, the Kurds and Iraqiya could make some sense; they are united in their dislike of Maliki and what they perceive as his dictatorial tendencies. Even if the State of Law wins and Maliki is given the first chance to form a government, he might well fail because of the strength of anti-Maliki feelings among the other parties.[212] That said, it is not clear that it would be easy to bring the Kurds into an anti-Maliki alliance.

Will the Kurds reprise their kingmaker role as "eggs on the scale" (*beidhat al-qubban*),[213] and will their parties reunify in an attempt to re-elect a Kurd as president of the republic and press for advantage on issues of Kurdish national concern such as Kirkuk? It is hard to conceive of a coalition government that would not include the Kurds. The Kurds want to be in the federal government to secure the Kurdistan region's powers and very existence. The Shiite Islamist parties, fearful of the former regime's return, feel they need them as allies against Sunni Arab parties they suspect of maintaining links with former regime elements. Mahmoud Othman said he believed that the Shiite lists, even if reunified, would not be able to build a government without the Kurdistani Alliance if Iraq's precarious post-2003 balance is to survive: "The winners will need the Kurds, because politically they cannot afford to have a strictly Shiite government".[214]

Even so, intra-Kurdish divisions could thwart any attempt at maximising Kurdish leverage.

This may become an issue especially when it comes to parliament's election of a president. In the two previous national elections, it was understood (although the constitution does not mention it) that the largest community would fill the prime minister position, the second-largest would get the presidency and the third would choose a parliament speaker. Two things could happen this time: Sunni Arab parties could realign after the elections to form a unified bloc in parliament and demand the presidency;[215] if, in addition, Goran opposes Talabani's candidacy (as it has said it will),[216] the Kurds might have to give up the presidency. Alternatively, or at the same time, President Talabani could make good on his promise not to stand for re-election;[217] in that case, the Kurds would face difficulty in finding a replacement of similar stature (assuming that Masoud Barzani has no appetite for relocating from his mountain refuge to Baghdad). Fuad Masoum commented in September 2009: "President Talabani has said he would not be [a] candidate for the presidency again. The Kurdish parties have put pressure on him to reconsider, as we face a sensitive period. There is no other Kurd who could take that position. He should change his mind but he has not given an indication that he has".[218]

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two of them. In 2005, there was one national coalition for Shiites; it won, because it was supported by Sistani. This time it is different. Some think that people won't vote for religious parties, because they did badly in the provincial elections. So then the parties created these two main Shiite lists. Those who dislike religious parties can give their vote to the side they think is nationalist or will enforce the law, and those who hate the government can vote for the other side. It's all a big game. After the elections they will join in one big coalition". Crisis Group interview, Sami al-Atroushi, council of representatives member (Kurdistan Islamic Union), Baghdad, 24 January 2010.

[211] Crisis Group interview, Qasem Daoud, council of representatives member (UIA) standing as an independent for the INA, Baghdad, 29 September 2009.

[212] In 2006, the Kurdish parties in effect vetoed Ibrahim al-Jaafari as prime minister for his perceived obstruction in implementing constitutional provisions on Kirkuk. Maliki became the compromise alternative.

[213] Traditionally, an egg-shaped object was used to bring both sides of a scale in balance.

[214] Crisis Group interview, Mahmoud Othman, council of representatives member (Kurdistan Coalition List – independent),

Baghdad, 27 September 2009.

[215] Usama al-Nujayfi said, "the next president should be Arab. Having a Kurd in the presidency is a huge strategic mistake. It doesn't make sense to have a Kurdish president when 80 per cent of Iraqis are Arab. Moreover, the current president [Talabani] has shown that he works for the interest of Kurds, not Iraq's. Iraq has always been considered an Arab country. Having a Kurdish president defames that image". Crisis Group interview, Usama al-Nujayfi, council of representatives member (Iraqiya), Baghdad, 26 July 2009. Another Sunni Arab politician, however, said Sunni Arabs are too divided to make a claim to the presidency and that Talabani was a suitable president because of his sense of humour, likeability and aversion to taking strong political positions. Crisis Group interview, Maysoun Damlouji, council of representatives member for Iraqiya (Iyad Allawi), Baghdad, 9 September 2009.

[216] Goran leader Nowshirwan Mustafa Amin has made clear he does not want Talabani as president, because he sees him using that position against Goran's interests. Awena.com (independent Kurdish news outlet), 4 October 2009.

[217] Talabani has repeatedly said that his priority is rebuilding the PUK and that he would like to write his memoirs. At the same time, he has been coy about the possibility of standing as candidate for the presidency again, if asked. See, for example, Awena (independent Kurdish newsweekly), 29 September 2009.

[218] Crisis Group interview, Fuad Masoum, council of representatives member (Kurdistan Coalition List – PUK), Baghdad, 29 September 2009.

If the Kurds are divided on Talabani, they are bound to show a common front on Kirkuk. The question is, what terms will they seek as a condition for their participation in a government? In 2005 and 2006, successive ruling coalitions' constituent parties each time signed a governing accord in which they solemnly pledged to implement constitutional provisions on Kirkuk. Dismayed by lack of progress after 2006, the Kurds blocked Ibrahim al-Jaafari's attempt to stay on as prime minister in the second elected government. Today, they are more than dismayed that the Maliki government has made no progress on implementing Article 140 of the constitution and, worse, that it has actively worked to push back the Kurds on a number of fronts.

Depending on the election outcome, the Kurds therefore could well veto Maliki's return as prime minister and try to extract more than idle promises from their future coalition partners. For now, they remain coy on what precisely they will seek. Fuad Masoum has said that implementation of Article 140 will be a "fundamental" issue in forming the new government and that he and his colleagues will demand "completion of constitutional procedures". He also said they want free elections in Kirkuk (where provincial elections have yet to be held) and a power-sharing arrangement, whereby the winners would get the governor's post, the runners-up the provincial council leadership and those coming in third the position of deputy governor.[219] Another Kurdish parliamentarian, Abd-al-Khaleq Zangana, said:

> The Kurds have non-negotiable points. They are not just participants but partners in the government. The Kurds feel strongly about federalism, about what they have achieved since 1991, and about what is written in the constitution and cannot be abandoned. They will ally themselves with those who agree and will shun those who disagree. We consider the constitution sacrosanct.[220]

Anticipating a post-election crisis over Kirkuk, the Kurds' rivals have issued veiled warnings that it would not be in the Kurds' best interest to prove recalcitrant on Kirkuk. A senior advisor to Maliki said he expected the Kurdish alliance to be "more realistic than four years ago",[221] while a senior official of ISCI, the Shiite party historically the closest to the Kurds, suggested that "the Kurds will be wiser now than they have been in the past. If they ruin the democratic project [by staying out of an anti-

Maliki governing coalition], there will be a return to dictatorship, and this will bring war to the north".[222] ISCI's Hadi al-Amiry, the powerful chairman of the defence committee in parliament, emphasised:

> The only way forward on Kirkuk is through dialogue, based on wisdom. Those who say Kirkuk should be Arab will fail. Saddam Hussein did everything to make that happen via Arabisation and he did not succeed. The same will be true for those who say Kirkuk should be Kurdish and want to remove the Arabs. This will not work. And it's also true for those in Turkey who argue Kirkuk should be Turkoman. It is delusional. Kirkuk should be a stand-alone region in which its three ethnic groups share power.[223]

An independent INA member put it the most graphically: "The Kurds need a strong Shiite bloc to rule Iraq [to protect them from a Sunni Arab dictatorship]. I don't they think they would be so stupid to ruin an alliance by pressing on Kirkuk".[224]

Over the past four years, the Kurds have accumulated significant ill will among other Iraqis. For example, an independent Shiite politician complained that Masoud Barzani was acting like a head of state and that Kurdish legislators were blocking all laws except those that benefit the Kurdistan region. "This is wrong", he said. This is not what federalism is all about. What this is is confederalism, which means one state living off the other".[225]

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[219] Ibid.
[220] Crisis Group interview, Abd-al-Khaleq Zangana, council of representatives member (Kurdistan Coalition Bloc – KDP), Baghdad, 23 January 2010.
[221] Crisis Group interview, Sadeq al-Rikabi, senior adviser to Prime Minister Nouri al-Maliki, Baghdad, 28 September 2009.

[222] Crisis Group interview, Humam Hamoudi, foreign affairs committee chairman in the council of representatives (ISCI), Baghdad, 28 September 2009.
[223] Crisis Group interview, Hadi al-Amiry, defence committee chairman in the council of representatives (ISCI), Baghdad, 29 September 2009.
[224] Crisis Group interview, Qasem Daoud, council of representatives member (UIA) standing as an independent for the INA, Baghdad, 29 September 2009.
[225] He said in September 2009, "the Kurds freeze all attempts at passing laws. The Kurdistan Alliance is blocking the electoral law because of Kirkuk, as well as the hydrocarbon law. Many laws face the same fate. If the laws aren't in their perceived best interest, the Kurds will vote against them, not caring about the central government. The Kurds have become a disabling force hindering the political process. Much of the achievement of the past five years concerns Kurdistan only. Masoud Barzani deals with the central government as if he is the president of a state, while the governors of the rest of the provinces are valued less than a minister". Crisis Group interview, Wael Abd-al-Latif, council of representatives member (Iraqiya) standing for the INA, Baghdad, 16 September 2009. Another independent politician noted: "Mr Barzani behaves as if he is the head of a neighbouring state. I said to him one day, 'I wish the day won't come when the Arabs get fed up with the Kurds and will throw them out of Baghdad'. This logic of saying 'what is ours is ours, and we'll take a share also of what is

Because of such perceptions and expressing a wider sentiment, a local Baghdad council member suggested that it would be political suicide for any Arab politician to make concessions to the Kurds on Kirkuk.[226] In the end, a senior Sunni Arab politician predicted, the Kurds would do no more in post-election negotiations than to make sure no option was closed on Kirkuk.[227]

The Arab-Kurdish conflict may be among the deepest in Iraq today and it may, therefore, have an inordinate influence on attempts to form a new government. All sides should aspire to find a formula to defer the Kirkuk question until after a government is formed and then seek to address it, and related issues, head-on before it can undermine a future government, the political process and the nation itself. Some outside observers are predicting that stalemate over Kirkuk will prevent formation of a new government and are calling for an external, senior mechanism above the ambassadorial level to mediate before security forces start fracturing along partisan lines.[228] At the least, for now, the international community should be at the ready to provide the necessary mediation and technical assistance if and when negotiations falter.

V. CONCLUSION

Iraq is at a pivotal moment. Thanks in part to the open-list system, the legislative elections carry the prospect of ushering in a new class of politicians, potentially transforming both the dominant parties and the way they govern. The January 2009 provincial elections demonstrated the power of ordinary people to replace unpopular legislators and administrators. What happened at a local level a year ago could happen in the national arena tomorrow.

Developments since those elections have not been encouraging, however. In their immediate aftermath, shaken by the verdict, ruling parties shed some encumbering traits, in particular the most acute forms of sectarian discourse. Still, politics remain infused with sectarianism. They likewise suffer from the absence of strong, impartial state institutions – and from the ruling parties' reckless use of existing institutions to further their goals.

Political leaders also have played on popular fears and anxieties. Vice President Tareq al-Hashimi may have vetoed the elections law because it was flawed; more likely he did because his own political future was in doubt, and he thought he could gather up a greater portion of the Sunni Arab vote. The disqualification of some of the 511 candidates might have been legally justified (although still procedurally flawed), but there is little doubt that Ahmad al-Chalabi and Ali Feisal al-Lami were primarily intent on eliminating political and ideological rivals and mobilising their Shiite constituency by raising the spectre of the Baath's return.

If the road to the elections was hard, the road after them could be harder. Even a freshened-up parliament will find it difficult to navigate through the thicket of unresolved conflicts in its effort to form a new government. The absence of genuine reconciliation and an enduring schism between Erbil and Baghdad over power, territory and resources augur a protracted slog to cobble together a governing coalition. It could take months, and the resulting coalition could prove very weak. The next prime minister might be well known but could just as easily be plucked from relative obscurity, just as Nouri al-Maliki was placed in his post in 2006 as a compromise between ISCI and the Sadrists). Who will govern while these negotiations take place is unclear.

This power vacuum will occur even as U.S. combat troops pull out, a process that the Obama administration has vowed to complete by the end of August. Many Iraqis are certain to cheer their departure, even those who greeted them in 2003 and were grateful for the successful removal of an odious regime. At the same time, however, many are privately expressing disquiet over their withdrawal,

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left' is not right and cannot continue". Crisis Group interview, Izzat Shahbandar, council of representatives member (Iraqiya), Beirut, 24 May 2009.
[226] Crisis Group interview, independent member of the Taji district council, Baghdad, 31 May 2009.
[227] Crisis Group interview, Sunni politician on Allawi's list, Washington DC, 1 February 2010.
[228] Crisis Group interview, Western diplomat, Baghdad, 24 September 2009.

even some of those who denounced the invasion and occupation most vociferously.

Some politicians have been thoroughly dependent on U.S. protection, diplomacy and funds to secure their own interests, even as they publicly denounce interference in Iraqi sovereignty whenever U.S. officials mediate between fractious parties incapable of closing a deal by themselves. Those who have opposed and even fought the U.S. presence may perceive a fresh opportunity to press old claims. The ranks of Sunni insurgents may fill again once frustration and resentment turn some away from the political process; Muqtada Sadr's Mahdi army could recover from its self-inflicted wounds and pursue violent confrontations with its Shiite rivals for control over Baghdad and the south.

How the coming period is managed by winners of the elections, international actors and the U.S. in particular will determine the shape of the future. Washington, UNAMI and others that have taken an active interest in Iraq should focus in the first instance on maximising prospects of elections that, if not truly inclusive (due to the disqualifications) at least are seen as credible. UN Security Council members put it this way:

> The members of the Council reiterate the importance for the Government of Iraq of preparing for and holding the elections in a free, fair, transparent, legitimate, and inclusive manner, with broad participation, so that the results reflect the will and enjoy the acceptance of the Iraqi people. The members of the Council stress the need to adhere to rule of law in the Iraqi Government's pursuit of consensus and reconciliation.[229]

Ideally, the Iraqi government would reinstate disqualified candidates ahead of the elections and then, after the vote, take steps to cure the de-Baathification process of its blatant politicisation. At a minimum, it should be put on notice that the international community will rigorously monitor the polling and assess the results' legitimacy – and that, once a new government is in place, the hard work of national reconciliation and of building credible institutions must begin in earnest.

Baghdad/Washington/Brussels, 25 February 2010

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[229] Press statement by the president of the UN Security Council, 17 February 2010.

APPENDIX A

MAP OF IRAQ

APPENDIX B

GOVERNORATES AND DISTRICTS

The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

Produced by the Humanitarian Information Center (HIC). June 1, 2003. To download this map, visit the HIC website: www.humanitarianinfo.org

HIC Map Reference 103

This version adapted to portrait format and to reflect Crisis Group terminology.

01 - Anbar
02 - Basra
03 - Muthanna
04 - Qadissiya
05 - Suleimaniya
06 - Babil
07 - Baghdad
08 - Dohuk
09 - Thi-Qar
10 - Diyala
11 - Erbil
12 - Kerbala
13 - Kirkuk
14 - Missan
15 - Ninewa
16 - Waset
17 - Najaf
18 - Salah al-Din

ANBAR (01)
02 Abu Ghraib
13 Falluja
24 Al-Ka'im
25 Kadhimiya
45 Ramadi
48 Al-Rutba
59 Ana
72 Haditha
74 Heet

BABIL (06)
19 Hashimiya
22 Hilla
31 Al-Mada'in
32 Al-Mahawil
33 Mahmudiya
40 Al-Musayab

BAGHDAD (07)
06 Adhamiya

BASRA (02)
01 Abu Al-Khaseeb
09 Basrah
14 Fao
37 Al-Midaina
44 Al-Qurna
56 Al-Zubair
91 Shatt Al-Arab

DOHUK (08)
58 Amedi
69 Dahuk
96 Sumel
102 Zakho

DIYALA (10)
27 Al-Khalis
39 Al-Muqdadiya
60 Ba'quba
64 Baladrooz
77 Khanaqin
78 Kifri

ERBIL (11)
66 Choman
71 Erbil
80 Koisnjaq
81 Makhmur
83 Mergasur
89 Shaqlawa
94 Soran

KARBALA (12)
04 Ain Al-Tamur
23 Al-Hindiya
76 Karbala

KIRKUK (13)
21 Al-Hawiga
67 Daquq
79 Kirkuk
82 Dibis

MISSAN (14)
07 Amara
26 Al-Kahla
34 Al-Maimouna
36 Al-Mejar Al-Kabi
57 Ali Al-Gharbi
86 Qal'at Saleh

MUTHANNA (03)
28 Al-Khidhir
47 Al-Rumaitha
49 Al-Salman
50 Al-Samawa

NAJAF (17)
29 Kufa
35 Al-Manathera
42 Najaf

NINEWA (15)
05 Akre
08 Al-Ba'aj
17 Al-Hamdaniya
20 Hatra
38 Mosul
92 Shekhan
93 Sinjar
98 Telafar
100 Tilkaif

QADISSIYA (04)
03 Afaq
12 Diwaniya
18 Hamza
51 Al-Shamiya

SALAH AL-DIN (18)
11 Al-Daur
15 Al-Faris
54 Al-Shirqat
62 Baiji
63 Balad
88 Samarra
99 Tikrit
101 Tooz

SULEIMANIYA (05)
65 Chamchamal
68 Darbandihkan
70 Dokan
73 Halabja
75 Kalar
84 Penjwin
85 Pshdar
87 Rania
90 Sharbazher
95 Sulaymaniya

THI-QAR (09)
10 Al-Chibayish
43 Nassriya
46 Al-Rifa'i
52 Al-Shatra
97 Suq Al-Shoyokh

WASET (16)
16 Al-Hai
30 Kut
41 Al-Na'maniya
55 Al-Suwaira
61 Badra

APPENDIX C

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 130 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is co-chaired by the former European Commissioner for External Relations Christopher Patten and former U.S. Ambassador Thomas Pickering. Its President and Chief Executive since July 2009 has been Louise Arbour, former UN High Commissioner for Human Rights and Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

Crisis Group's international headquarters are in Brussels, with major advocacy offices in Washington DC (where it is based as a legal entity) and New York, a smaller one in London and liaison presences in Moscow and Beijing. The organisation currently operates nine regional offices (in Bishkek, Bogotá, Dakar, Islamabad, Istanbul, Jakarta, Nairobi, Pristina and Tbilisi) and has local field representation in fourteen additional locations (Baku, Bangkok, Beirut, Bujumbura, Damascus, Dili, Jerusalem, Kabul, Kathmandu, Kinshasa, Port-au-Prince, Pretoria, Sarajevo and Seoul). Crisis Group currently covers some 60 areas of actual or potential conflict across four continents. In Africa, this includes Burundi, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Guinea-Bissau,

Kenya, Liberia, Madagascar, Nigeria, Rwanda, Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Bangladesh, Burma/Myanmar, Indonesia, Kashmir, Kazakhstan, Kyrgyzstan, Nepal, North Korea, Pakistan, Philippines, Sri Lanka, Taiwan Strait, Tajikistan, Thailand, Timor-Leste, Turkmenistan and Uzbekistan; in Europe, Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Georgia, Kosovo, Macedonia, Russia (North Caucasus), Serbia and Turkey; in the Middle East and North Africa, Algeria, Egypt, Gulf States, Iran, Iraq, Israel-Palestine, Lebanon, Morocco, Saudi Arabia, Syria and Yemen; and in Latin America and the Caribbean, Bolivia, Colombia, Ecuador, Guatemala, Haiti and Venezuela.

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February 2010

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