



FOCUS IRAQ



**Between boycott and benchmarks:
The Council of Representatives in Baghdad and
current parliamentary work in Iraq.**

By Michael Bröning, Dominik Heck and Matthias S. Klein

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There was much celebration in the Iraqi Parliament on 11th February 2008: parliamentarians, full of jubilation, gave free rein to their delight about the successful adoption of three bills, which even just before being promulgated had looked likely to face rejection despite weeks of negotiations. Just one day before the successful vote on the 2008 Budget Bill, an Amnesty Bill and a Bill on the Competences of the Provinces, Shiite and Sunni members of parliament had stormed out of the parliament in irritation at the *Democratic Patriotic Alliance of Kurdistan*¹ and had called for new elections.²

A majority subsequently became possible through the classical parliamentary method of establishing a compromise, allowing the bills to be adopted as a package, which required each block to make concessions yet also offered scope for each of the groupings to announce a successful conclusion to negotiations. The Speaker of Parliament, *Mahmoud al-Mashadani*, heaped praise on the successful vote as the foundation stone for a “Parliament of National Unity”. As he put it, this would make it possible to overcome social divisions in the country and to take decisions for the well-being of all Iraqis.³ Along with a new Debaathification Bill adopted in January, the provisions adopted are seen as a further step on the path to reconciliation between ethnic and religious factions in Iraq.

In the light of this apparent success, it seems appropriate to ask a number of questions about the general context in which this vote took place, and take stock of developments so far in parliamentary activities nowadays. What are the problems facing the parliament? To what extent can it currently handle the tasks that arise? Which issues are on the agenda? And: what are the conflict lines that shape work on forthcoming decisions?

The parliament after Saddam: the country’s problems through a magnifying glass

The relaxed mood in the plenary hall on 11th February was entirely comprehensible. Although the Iraqi parliament has adopted a whole host of bills over the last few years, these

¹ The *Democratic Patriotic Alliance of Kurdistan* is an alliance between the two most important Kurdish parties, the *Patriotic Union of Kurdistan* (PUK) and the *Kurdish Democratic Party* (KDP) together with several small Kurdish parties. A list of the various parties involved can be found at: <http://www.puk.org/web/htm/news/nws/730.pdf>, 28th February 2008.

² C.f. Rasheed, Ahmed: Parliament row sparks calls for dissolution. *Reuters*, 12th February 2008.

³ C.f. Rubin, Alissa J.: Iraqi lawmakers pass 3 divisive bills. In: *International Herald Tribune*, 14th February 2008.



successes were almost exclusively in areas that are unproblematic, at least by Iraqi standards, such as pension reform or questions of the successors to individual members of parliament. In contrast, progress on adopting more politically controversial draft legislation, of greater importance for the conflict resolution process in the country, has on the whole been stagnating. This is the case despite increasing pressure from the US government, which is seeking to implement its *benchmarks*, a process that has already fallen behind schedule.⁴

Power struggle in the country = power struggle in the plenary chamber.

In Iraq, as elsewhere, parliamentary work does not occur in a vacuum, but instead against the backdrop of real political conflicts. Over and over again, these filter through to influence the parliamentary process. In the past, boycotts by entire parliamentary groups have blocked decisions in parliament.⁵ In some cases these blockades were upheld for months on end.⁶

This type of rejection by political groups or individual deputies of the fundamental consensus underpinning parliamentary activities demonstrates that no cross-party agreement on political fundamentals has been established to date. Members of parliament do not (yet) agree in principle on a basic consensus-based societal model. Parliamentary groups struggle to acquire influence, not merely in respect of legislative details, but even more so when it comes to reaching decisions on vitally significant issues, such as the question of “central state vs. federation” or the role religion should play in the administration of justice.

This situation has been exacerbated by the well-documented fragmentation of Iraqi society into ethnic and religious groups, which is reflected in the composition of the parliament. At present, parliamentary boycotts in Iraq are in many cases a continuation of street violence by other – political – means, and thus serve as an instrument to exert pressure in political power struggles and as an effective means to strengthen negotiating positions vis-à-vis public opinion. In these cases the parliament serves as a forum in which to combat one's political opponents rather than as a possible arena in which to establish a compromise.

For the time being, attempts to reinforce national unity through a multi-party coalition cutting across ethnic and religious affiliations seem to have failed. The government of Shiite Prime

⁴ The *benchmarks* are a catalogue of goals drawn up by the US government; attaining these was the prerequisite for approval of further funding from the US Congress. Karon, Tony: The trouble with benchmarks in Iraq. In: *Time*, 4. Mai 2007.

⁵ C.f. Rasheed, Ahmed: op. cit.; Associated Press: Sunni lawmakers walk out of Iraqi parliament to protest leader's house arrest, In: *International Herald Tribune*, 1st December 2007.

⁶ C.f. al-Tamimi, Muhammad: The accord front's project to reform parliament in February 2008. *www.niqash.org*, 26th November 2007.



Minister Nuri al-Maliki is currently supported only by the *United Iraqi Alliance*⁷ (UIA) and the *Democratic Patriotic Alliance of Kurdistan*, after the Sunni block in the *Iraqi Accord Front*⁸ (IAF) withdrew their six ministers in protest at the dominance of Shiite and Kurdish interests in government policy.

⁷ Information on the *United Iraqi Alliance*: Shadid, Anthony/Vick, Karl: Candidate Slate Shows Shiites Closing Ranks. In: *Washington Post*, 7th December 2004.

⁸ The *Iraqi Accord Front* is a coalition comprising three parties: Mohsen Abd al-Hamid's *Iraqi Islamic Party*, the *General Council for the People of Iraq* headed by the Sunni cleric Adnan al-Dulaimi and Khalaf al-Ulawayyan's party, the *Iraqi National Dialogue Council*. C.f. http://news.bbc.co.uk/1/hi/world/middle_east/4511450.stm#iaf, 28th February 2008.



The parliament today: somewhat isolated and scarcely representative

The Iraqi parliament has only rarely been able to make its mark as a nerve centre for political decision-making. The main reasons for this are as follows:

- The partial boycott of the parliamentary elections in autumn 2005 by numerous Sunni voters led to significant social groups either not being represented at all in parliament or being under-represented. By vetoing decisions in parliament, groups outside the legislative assembly can have an indirect influence on decisions taken there, although they are not per se integrated into the parliamentary decision-making process. The government and parliament therefore need to integrate these groups indirectly into decision-making processes or run the risk that decisions will only be partly implemented outside the *Green Zone*. The *Maliki* government has therefore been endeavouring for months to establish a political consensus on involvement of the *Presidency Council*. In this context the parliament is often sidelined.
- The body representing the people does not have any real powers to ensure implementation of decisions outside the *Green Zone*, as the judiciary, the military and the police are *de facto* controlled by various political groups. Instead the parliament tends to have to rely on cooperation between the central and provincial governments, which in many cases only partly apply legislation, if indeed they implement it at all.

A parliament without parliamentarians?

Poor attendance by members of parliament has now become a serious problem in Iraq. Often the lack of a quorum (50 per cent of parliamentarians + 1) impedes adoption of draft legislation. Only 206 of the 275 deputies were present for the important vote on the bills mentioned at the start of this essay. What are the reasons for this development?

- Against the backdrop of the ongoing violence in Baghdad and relative freedom to travel in the context of parliamentary missions, Iraqi members of parliament often stay in the regional capitals. However, this is often detrimental to the real work of parliament, which is done in Baghdad.
- Deputies from the Iraqi provinces are often reluctant to take part in meetings in the capital. Despite pressure from the party chairmen, in the light of the security situation, attending sessions in Baghdad seems to be risky and arduous.⁹ This sense of

⁹C.f. Cave, Damien: Iraq parliament finds a quorum hard to come by. In: *International Herald Tribune*, 23. Januar 2008.



- insecurity was exacerbated still further by the bomb attack on parliament on 12th April 2007.
- Amongst the parliamentarians with a poor attendance record are some members who were largely unknown candidates, elected on the strength of political lists, and who were quite probably not especially motivated even when they were elected.
- Given parliament's limited power, many deputies take little interest in parliamentary work. In this respect, part of the problem lies in the fact that positions of political leadership outside the parliament continue to have greater clout than a seat in parliament or even a role in government. A parliamentary mandate sometimes serves more than anything as formal proof that one is taking part in "the political game". However, a seat in parliament can serve this formal function even if a deputy does not take part in working group or committee meetings.¹⁰

There is currently discussion of the extent to which parliamentarians could be obliged to attend meetings in the assembly through legislation, which would exclude members if they failed to attend more than 30 per cent of meetings. However, it is debatable whether a bill of this kind could attain a majority, given that it would need to find support from the very parliamentarians it would ultimately be targeting.

Confusing complexity and a lack of transparency

A further problem, which makes work in parliament more difficult, lies in the fact that parliamentary culture is not yet fully developed in Iraq. As a result, even people in positions of responsibility in large parties repeatedly confuse political and personal objectives. Here again attention should be drawn to the proximity of various parties to violent militias, which sometimes means that parliamentary procedures appear to be a merely theoretical superstructure imposed upon the struggle for resources and influence "out there in the country". The explosives cache found in the vehicle of the bodyguard of *Adnan al-Dulaimi*, leader of the largest Sunni block, is a threatening indicator of this development.¹¹

This widespread intermingling of leadership positions based on religious, tribal and political affiliations encourages a parliamentary culture strongly coloured by personal loyalties. For

¹⁰C.f. *ibid.*

¹¹C.f. Associated Press: *op. cit.*, 1st December 2007.



example, attempts to replace the Speaker, *Mahmoud al-Mashhadani*, failed, although his bodyguards had physically attacked a Shiite member of parliament.

The lack of clarity in this situation is exacerbated by a pronounced lack of transparency in the parliament, which makes it virtually impossible for observers to follow the decision-making process. Isolated press releases from the various parties and groupings only rarely provide information on specific positions. The passage of legislation from draft status to examination in the plenary chamber is lengthy and virtually impossible to comprehend. Key decisions are frequently not taken in the competent forum but instead in what is often dubbed the “*political kitchen*” of Baghdad, i.e. in murky leadership circles. As a result, it is often impossible for political observers or the electorate to ascribe political responsibilities clearly.



Outcome of parliamentary work: mixed results

Despite the problems in the parliament described above and the notoriously catastrophic security situation, a political process is underway in Iraq. Whilst the parliament does not play the most important role within this process, it should nonetheless not be underestimated as a political player. Over the last few years a number of bills have been drafted and adopted (Table 1).

Table 1: Selection of various bills adopted between late 2005 and late 2007

Date	Title of legislation
November 2005	Unified Retirement Law
	Law on the Foundation of Political Prisoners
January 2006	Law on the Commission for the Solution of Real Estate Disputes
April 2006	Law on the Protection of Mass Graves
October 2006	Liability Law
	Law to amend Public Prosecution Law No 159 / 1979
June 2007	Fifth Amendment on Execution Law No 45 / 1980
	Law to amend Civil Service Law No 24 / 1960
	Law on Iraq joining the United Nations Convention against Transnational Organized Crime and its Protocols
	First Amendment of CPA Order 38 / 2003
	Law to Accede to the Optional Protocols of the Convention on the Rights of the Child
	Law on the Accession of the Republic of Iraq to the International Agreement on Olive Oil and Table Olives of 2005
August 2007	Law on the Replacement of Members of the Iraqi Parliament
October 2007	Law on the Ratification of the Financial Agreement between the Government of the Republic of Iraq and the Foundation for International Development of the World Bank
	Law on the Amendment of the Civil Service Act No 24 / 1960
	Law on the Accession of the Republic of Iraq to the Convention on the Prohibition of the Development, Production and Stockpiling of Chemical Weapons
November 2007	First Amendment to the Law of the Central Bank of Iraq
December 2007	Law on Investment in Oil Refining
	First Amendment to the Unified Retirement Law

In addition to these bills, adopted without any particular difficulty, over the past few months the parliament has also adopted highly controversial bills that have only partly promoted resolution of the conflict upon their entry into force. In this context, four bills triggered particularly vigorous discussions; each of these bills can be seen as symptomatic and sheds light on the problems encountered in current parliamentary work. The bills sketched out below focus attention in particular on:



- problems due to excessively hasty work in parliament as a result of external pressure
- the current impossibility of devising durable solutions to problems
- partial or selective implementation of bills adopted
- subsequent blocking of bills adopted in parliament by the *Presidency Council*.¹²

¹² In Iraq there are two deputies to the President. Working in conjunction with the President, these deputies guarantee that all Iraqi ethnic groups are represented. Together the President plus the deputies form the *Presidency Council*, which is responsible for the ratification of bills adopted by parliament. Current members: President *Jalal Talabani*, Vice-President *Adel Abdul-Mahdi*, and Vice-President *Tariq al-Hashemi*.



One step forward, two steps back? Over hasty reform of debaathification

In many respects, the *Justice and Accountability Law*, which replaces the Debaathification Bill drawn up under *Paul Bremer*, can serve as an example of current legislative practice. The bill, which was given high priority on the Americans' *benchmark* list as part of the "National Reconciliation" project, was originally supposed to be adopted in March 2007. After the US government brought considerable pressure to bear, it was finally adopted unanimously on 12th January 2008. The necessary quorum for the vote was only just scraped together, with 143 deputies present.

The bill aimed to facilitate re-integration into the civil service for former members of the Baath Party if they had not been directly involved in crimes and were not amongst the highest ranking elite of leaders. The former Debaathification Committee was replaced by a new body, with members appointed by the parliament, in order to ensure equitable examination of those people considered as suspect. Appeals against decisions taken by the committee may be submitted to the Ministry of Justice.

At the time the parliamentary groups did not agree upon the benefits and impact of these provisions and this continues to be the case. Whilst Shiite and Kurdish parliamentarians fear that the amendment to the bill does not go far enough in calling criminals from the old regime to account, Sunni members in particular welcome some of the measures, such as the extension for pension entitlements of former Baath members. However, it seems at present that the fears of some Sunni politicians are turning out to be well-founded, for they criticised the ban on employing former party members in the Ministry of Justice, the Ministry of the Interior, the Defence Ministry, Ministry of Finance and the Foreign Office, claiming that the number of former Baath members driven out of their jobs by this measure is higher than the number of former party members it serves to re-integrate.¹³

Tentative efforts by Sunni forces to go through Vice-President *Tariq Hashemi* to prevent ratification of the bill by the *Presidency Council* at the last minute proved unsuccessful.¹⁴ A month after the bill's adoption, the Americans in Iraq admitted that they had made mistakes in assessing its impact: according to Ambassador *Ryan Crocker* and General *David Petraeus* the way in which the bill will be implemented remains unclear.¹⁵ In this context, from the American perspective one of the problematic points is that the bill cannot on the whole be

¹³ C.f. Moore, Solomon: Ex-Baathists get a break. Or do they? In: *The New York Times*, 14th January 2008.

¹⁴ C.f. Rubin, Allisa J.: Sunnis say law to aid Ex-Baathist may backfire. In: *The New York Times*, 3rd February 2008.

¹⁵ C.f. Rubin, Allisa J.: Iraqi lawmakers pass 3 divisive bills. In: *International Herald Tribune*, 14th February 2008.



reconciled with the concerns of US forces; the latter would be keen to ensure the Sunni *Awakening Councils* they have called for are at least partly integrated into Iraqi security organs. Activists on the *Councils* with a Baath past are prevented from entering the security apparatus of the Ministry of the Interior or the Ministry of Defence.

Postponed, not revoked: the budgetary decision

As was already the case for the vote to adopt the constitution in 2005, a compromise could only be achieved in negotiations on the 2008 budget by deferring a definitive decision. In the run-up to drafting of the budget, the provinces clashed over the allocation of funding. Kurdish demands were the main point of contention between the parliamentary groups. They demanded 17 per cent of the budget for their northern region, as was the case in the previous budget, and at the same time insisted on funding for their regional forces. Non-Kurdish deputies considered this sum to be inappropriate in the light of the need to devise a proportional budget and offered 14.5 per cent for the Kurdish region in northern Iraq.¹⁶ In order to be able to conclude on the budget at all, it was decided that the demands from the provinces would be renegotiated anew in the following year. The discussion on a new Iraqi national flag took a similar course in early February 2008.

A watered-down amnesty?

Adoption of the Amnesty Bill was a priority for both the US government and the *IAF*. The US government hoped to gain new impetus for the process of national reconciliation through the decision, whilst the *IAF* flagged this as a precondition for possibly returning to the government fold. In keeping with this, *IAF* spokesman *Salim Jubouri* commented on a positive note on the draft legislation.¹⁷ The bill aimed to ensure that thousands of prisoners, mainly with a Sunni background, who had not been tried due to limited resources in the judicial system, could be released from the overfilled prisons.¹⁸ Shiite and Kurdish parties shared the positive appraisal of the bill. Observers in Iraq nevertheless criticised the Iraqi

¹⁶ C.f. Rubin, Allisa J.: Disagreement persists as Iraqi Parliament debates budget. In: *International Herald Tribune*, 8th February 2008.

¹⁷ Reuters: Lawmakers pass key budget, amnesty laws. In: *The Jordan Times*, 14th February 2008.

¹⁸ C.f. Rubin, Allisa J.: Disagreement persists as Iraqi Parliament debates budget. In: *International Herald Tribune*, 8th February 2008.



government's undertaking.¹⁹ In this context the way in which the bill was implemented was called into question: allegedly a disproportionately high number of Shiites were to be released from prison. This is seen as further evidence that even a cross-party consensus within the legislative body is no guarantee of unbiased implementation by the executive bodies.

Still unclear: autonomy of the provinces and the date of the elections

Legally binding provisions on the provinces' spheres of responsibility were to be established in a bill to be adopted on 13th February. The bill made the federal structure of the state more concrete *inter alia* through provisions on the powers and responsibilities of the governorates.

Adoption of this legislation had become essential to make it possible to hold regional elections, which the USA and many others had been urging for some time as a crucial part of the national reconciliation process. Numerous Sunni politicians and parties had boycotted the elections in 2005 and had thus accepted that the provincial governments would not be fully representative. On 13th February the parliament reached a cross-party agreement on a deadline: the regional elections were to be held by 1st October. Here again the parliament had given in to pressure from the US government.

In the run-up to adoption of this decision, the focus had been on disagreements between those in favour of adopting a system with as much federalism as possible (*Supreme Islamic Iraqi Council (SIIC)*²⁰ and *Kurdistan Alliance*) and advocates of strong central government (inter alia *Moqtada al-Sadr*). Disagreements centred on arrangements for the central government to appoint and dismiss governors, the general rules and conditions for elections to the regional parliaments, plus provisions for merging individual governorates into provinces. Although the bill as such had enjoyed cross-party support, observers assumed further problems would arise. Even during negotiations on the bill there were accusations that positions in the electoral commission (*Independent High Electoral Commission, IHEC*) had not been fairly allocated to all parties and that in these circumstances it would be impossible to hold free and transparent elections. Against the backdrop of these disagreements, the *Presidency Council* refused to ratify the bill: one of the three members rejected the provision on the authority of the governors and the mechanisms envisaged for

¹⁹ Moore, Solomon: Thousands of new prisoners overwhelm Iraqi system. In: *International Herald Tribune*, 14th February 2008.

²⁰ The *Supreme Islamic Iraqi Council* is the strongest Shiite political party within the *ULA*. For detailed information, see: ICG: Shiite Politics in Iraq: The role of the Supreme Council. In: *Middle East Report* No.70, November 2007.



their dismissal. There was no official announcement indicating which of the Council members had brought about the downfall of the bill in its current form.²¹ However, numerous observers assume that it was Adel Abdul-Mahdi. The bill must now be examined in parliament once again.

Parliamentary work in the future: what is on the agenda?

After successful adoption of the bills mentioned earlier, the Iraqi parliament has been facing further key decisions since the start of the new session week on 21st March:

Exclusion of parties with militias from regional elections

In the light of the planned regional elections, the Iraqi parliament submitted a draft bill to parliament in mid-April, aiming to exclude parties with close contacts to the militia from the elections.²² The draft bill primarily targets Moqtada al-Sadr and his Mahdi army, and slots into ongoing efforts by the Maliki government to ensure the power struggle over the country's federal future, which is currently being waged in the Shiite community and pits al-Dawa and SIIC on the one hand against al-Sadr on the other hand, will be decided in the government's favour.

After the Iraqi security forces' violent attacks on the Sadrists in Basra and Sadr City in late March and early April failed on the whole to achieve their goals, the government coalition is now striving to eliminate al-Sadr from the political scene by excluding him from the planned regional elections. Al-Sadr controls a respectable proportion of votes in parliament, holding 30 seats, although he would not be able to block the legislative process – even with a quorum of only 50 per cent + 1. A date for the vote has not yet been established, but it is already clear that pushing the Sadrists out of the political equation is not tantamount to actually eliminating the Sadrists as political players.

The Oil and Gas Bill: the struggle between federalists and centralists

The most significant legislative issue in post-Saddam Iraq is quite rightly considered to be regulation of the Iraqi oil and gas sector: the bill also has an international component, over and above its significance for Iraq's economy. After all, Iraq has the third largest oil reserves

²¹ C.f. The Associated Press: Iraqi panel rejects elections measure seen as crucial to reconciliation. In: *International Herald Tribune*, 28th February 2008.

²² Cabinet bars parties with militia from elections, In: *The Jordan Times*, 14th April 2008.



in the world. In addition to a legal framework for foreign investments, the bill also encompasses provisions on control of oil reserves and equitable revenue-sharing.

As the issue of allocation of resources is so significant, this bill numbers among the Bush government's *benchmarks* and should have already been adopted and implemented last year. Due to constantly growing demand for oil and the associated increase in prices, the global economy is hoping to see increased production in Iraq. There is a correspondingly high degree of pressure from the US government to ensure the parties to the conflict reach a compromise on this issue. The response to an Iraqi government draft bill from February 2007 demonstrates how carefully the American government must proceed in this respect. After 400 Iraqi oil experts signed an open letter to the parliament, a decision was taken not to examine this draft legislation in parliament. This open letter picked up on earlier accusations that the Oil Bill was dictated by the White House and lambasted the legislation as a tool of occupation, claiming it allows international oil companies to plunder Iraqi resources.²³

The legislation known as the Oil Bill, which actually comprises a host of different bills, addresses legal provisions on administration and revenue distribution, redevelopment of the Oil Ministry and establishment of a state oil company. Over the last two years, the individual bills have developed into the focal point of a conflict between proponents of more strongly federalist control and supporters of more pronounced centralised control of resources. Since July 2006, four draft bills have been tabled. The Parliamentary Committee on Oil and Gas has so far failed in its attempts to reach a compromise solution. Proponents of a federal structure for the oil sector are to be found among the Kurds in the north and (to a lesser degree) *SIIC*, both in favour of establishing a Shiite region in the south. The shared goal is to strengthen the financial position of these regions through control of oil reserves within the territories in question.

Opponents of a bill with a federal slant include both Sunni parties and parliamentary groupings and the movement headed by Shiite cleric *Moqtada al-Sadr*. However, the strong oil workers trade union should also not be forgotten in this context. A "unity alliance" calling for national reconciliation and central government management of mineral resources was set up in the middle of January 2008, cutting across religious affiliations. The alliance emphasises that this is the only way to extract Iraq's mineral resources in a way that respects the country's national interests. The platform, estimated to comprise approximately

²³ Partlow, Joshua: Missteps and Mistrust Mark the Push for Legislation. In: *Washington Post*, 5th September 2007.



100 of the 275 members of parliament, initially left the issue of a possible parliamentary coalition unresolved.²⁴ The unity alliance is not motivated primarily by the desire for national unity but rather by the lack of oil resources in the parts of the country dominated by these particular groups.

The current conflicts have been exacerbated by the adoption of a regional oil bill in the *Autonomous Region of Kurdistan* in August 2007, as well as by the mining contracts being concluded between the Kurdish regional government and international oil firms.²⁵ The Kurds consider natural resources in their region to be their property, as the national constitution only comprises legal provision on reserves that are already being exploited. They reject the re-establishment of an Oil Ministry with far-reaching powers to monitor contracts with foreign investors and companies drilling for oil - an option precluded due to pronounced fears that central government might abuse its powers to serve the interests of the central state. The most recent reports of an imminent agreement – to cite the deputy chairman of the parliamentary committee, the central government and the government of Kurdistan have apparently reached an agreement and will table a joint draft bill – should therefore be viewed with a degree of scepticism.²⁶

Cabinet reshuffles as a solution?

At present, the various factions in the government coalition are also working on a cabinet reshuffle and a structural reform. As was announced back in January 2008,²⁷ an initiative headed by *Massoud Barzanis*, Chairman of the *Patriotic Union of Kurdistan (PUK)* as well as President of the Kurdish region, had made efforts to move towards government reform as early as December 2007 and had threatened to oust *Nuri al-Maliki*. The Kurdish regional government has expressed its discontent with political developments, as decisions taken on issues such as the new Oil Bill or the referendum on the future of the city of Kirkuk have not been put into practice, despite the promises made by *al-Maliki* in summer 2007 and the deadlines enshrined in the Iraqi constitution.²⁸

²⁴ Agence France-Presse: Shiite and Sunni MPs sign new 'unity' pact. In: *Jordan Times*, 14th January 2008.

²⁵ The Associated Press: Iraqi Kurds approve regional oil law while federal version still stalled. In: *International Herald Tribune*, 7th August 2007.

²⁶ UPI: Iraq moves on oil, graft laws. 3rd April 2008.

²⁷ Ignatius, David: A surge against Maliki. In: *Washington Post*, 9th January 2008.

²⁸ As early as November 2007 the Sunni IAF had announced parliamentary reform for February 2008 out of dissatisfaction with the drafting of an Amnesty Bill. The first step in the reform, which would aim to enable more effective parliamentary work, would be, accorded to IAF, to reform the *Presidency Council* by altering its



Conversely however *al-Maliki* was backed up by spiritual leaders, primarily Grand Ayatollah *Ali as-Sistani*, who expressed his confidence in the Prime Minister during a meeting with President *Jalal Talabani*. Rather than replacing the Prime Minister, according to *Talabani*, an agreement was reached to reduce the number of ministries and replace certain ministers.²⁹ This may well also be in the interest of the USA, which has certainly called for the *Maliki* cabinet to work more effectively, but is opposed to replacing the entire government.³⁰ The most recent developments now suggest the Prime Minister's position is likely to be reinforced alongside moves to reduce the number of ministers to 22. In the future he will have powers to select ministers personally and will only need to have his cabinet approved by parliament *in toto*.

Bills implementing the Iraqi constitution

The Iraqi constitution – as is also the case for other constitutions – leaves scope for the parliament to stipulate the precise details of the principles it enunciates in a number of articles. On the whole the formulation of these implementing bills is highly politically sensitive, as the future constitutional reality of the country will depend enormously upon the implementing bills adopted (overview in table 2). Just like the parliamentary mechanism of *constitutional reviews*, the details formulated in these implementing bills are a political powder-keg. However, at the same time these bills make it possible to integrate previously renegade forces into the political process. This kind of integration could offer considerable political potential for conflict resolution if serious endeavours were undertaken to ensure comprehensive integration of a diverse range of forces.

membership. C.f. al-Tamimi, Muhammad: 'The accord front's project to reform parliament in February 2008. www.niqash.org, 26th November 2008.

²⁹ *United Press International*: Talabani: No plans to oust Maliki. 9th February 2008.

³⁰ Ignatius, David: A surge against Maliki. In: *Washington Post*, 9th January 2008.



Table 2: Implementing provisions for the Iraqi constitution to be adopted by parliament

Article	To be determined in more precise detail through a decision by the parliament
§ 7	Any entity or programme that adopts, incites, facilitates, glorifies, promotes, or justifies racism or terrorism or accusations of being an infidel (takfir) or ethnic cleansing, especially the Saddamist Ba'ath in Iraq and its symbols, under any name whatsoever, shall be prohibited. [...] <u>This shall be regulated by law.</u>
§ 38	The State shall guarantee in a way that does not violate public order and morality: A. Freedom of expression using all means. B. Freedom of press, printing, advertisement, media and publication. C. Freedom of assembly and peaceful demonstration, and <u>this shall be regulated by law.</u>
§ 39	First: The freedom to form and join associations and political parties shall be guaranteed, and <u>this shall be regulated by law.</u>
§ 41	Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices, and <u>this shall be regulated by law.</u>
§ 43	First: The followers of all religions and sects are free in the: A. Practice of religious rites, including the Hussein rituals. B. Management of religious endowments (waqf), their affairs, and their religious institutions, and <u>this shall be regulated by law.</u>
§ 45	First: The State shall seek to strengthen the role of civil society institutions, and to support, develop and preserve their independence in a way that is consistent with peaceful means to achieve their legitimate goals, and <u>this shall be regulated by law.</u> Second: The State shall seek the advancement of the Iraqi clans and tribes, shall attend to their affairs in a manner that is <u>consistent with religion and the law</u> [...].
§ 46	Restricting or limiting the practice of any of the rights or liberties stipulated in this Constitution is prohibited, <u>except by a law or on the basis of a law</u> , [...].
§ 65	<u>A law, enacted by a two-thirds majority of the members of the Council of Representatives, shall regulate the formation of the Federation Council, its membership conditions, its competencies</u>
§ 84	<u>A law shall regulate the work and define the duties and authorities of the security institutions and the National Intelligence Service</u>
§ 92	The work of the Federal Supreme Court <u>shall be determined by a law</u> [...].
§ 101	A State Council may be established representing the State before the courts <u>except those exempted by law.</u>
§ 105	A public commission shall be established to guarantee the rights of the regions and governorates [...]. The commission shall be [...] <u>regulated by a law.</u>
§ 106	A public commission <u>shall be established by a law</u> to audit and appropriate federal revenues.
§ 123	Powers exercised by the federal government can be delegated to the governorates or vice versa, with the consent of both governments, and <u>this shall be regulated by law.</u>
§ 125	This Constitution shall guarantee the administrative, political, cultural, and educational rights of the various nationalities [...] and <u>this shall be regulated by law.</u>



The outlook: US benchmarks vs. inner legitimacy?

The focus on violence in media reporting means that observers often lose sight of the fact that a political process is indeed underway in Iraq. In this context a whole series of “unspectacular” bills have been drawn up and adopted. These bills scarcely hit the headlines, yet constitute the bulk of all parliamentary work around the world. However, working on and addressing points of substance in Iraq runs up against numerous difficulties. At present, fundamental political opposition not only triggers violence in the country’s governorates, but also defines parliamentary work in Baghdad.

If we seek to take stock of the – political – decisions taken in parliament, the overall appraisal is of necessity somewhat mixed at present: adoption of the *Justice and Accountability Law*, celebrated as a success, proved subsequently to be of little practical use. The Amnesty Bill is apparently inadequately implemented and the Regional Elections Bill has been remitted to the parliament for further examination after having initially been passed by parliament. In principle the way in which these bills came into being and the final outcome of their enactment, as well as the on-going discussion of questions on the political agenda, demonstrate that a decisive mistake was made in the past:

Although it is clear that political decisions can only actually defuse conflicts if the majority of the electorate perceive them to be legitimate, the internal legitimacy of the political process in Iraq has been neglected for too long. Apparently there was often a greater focus on lauding political successes to secure *external* – ex post – legitimisation than on durable political successes in Iraq itself. From the US perspective, it makes sense to push for political *benchmarks* to be implemented and to a certain extent this is also necessary. However, in this context the need for the political process to reflect sentiment in Iraq itself should not be overlooked due to the increasing pace of political developments in Iraq. For the political process in the Iraqi parliament – as for other issues – backing from the Baghdad street might well prove to be more important than the mood in Washington’s ministries.

The following approaches are promising when it comes to fostering the parliamentary process in Iraq:

- Reducing the number of ministers would make competences and responsibilities in Iraq easier to identify. This also holds true to a large extent for members of the Iraqi parliament.
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- Steps must be taken to ensure more members attend sessions of parliament. Whilst it would be difficult to push through politically, the idea of stripping parliamentarians of their status if they attend less than 30 per cent of meetings would be a step in the right direction.
- The parliament's press office should intensify its work and support the parliament's work on a continuous basis, not just in the plenary chamber but also in meetings of political groups and committees. Periodic information on the activities of the various parliamentary commissions is urgently needed to make their work more transparent and at the same time to increase incentives for parliamentarians to participate.

In the light of these recommendations however it is important not to overlook the fact that competent and continuous work in the parliament alone cannot be expected to resolve the current situation more or less over night.

However, at the same time the evolution of parliamentary work over the last few months reveals that a political process and constructive political work with the cut-and-thrust of debate is certainly possible too - and in this respect Iraq has now and then even stood out as a positive example when compared with the work of other parliaments in the region. This process should be consolidated through transparency in Iraq and international support for the work of Iraqi parliamentarians. Despite all its urgency, the experience of parliamentary work also demonstrates that pressure brought to bear from the outside is often detrimental to the quality of political work and to a large extent also undermines the inherent legitimacy of the decisions taken. That legitimacy however is the real crux of the matter.



Authors:

Dr. Michael Bröning is an economist and political scientist and directs the Friedrich-Ebert Foundation's activities in Jordan and in Iraq from Amman.

Dominik Heck is studying Political Science, Jewish Studies and Islamic Studies at the FU Berlin and Copenhagen University.

Matthias S. Klein is a political scientist and expert on Islam based in Beirut. He was the editor of the Iraq portal Niqash for many years.

Contact information:

Friedrich-Ebert-Stiftung

Amman Office

P.O. Box 926238

Amman, Jordan#

Tel. ++962 6 5680810; Fax: ++962 6 569 64 78

Email: fes@fes-jordan.org