



Iraq on the Way to Its New Constitution

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IN LATE MARCH, 2004, Bilkent University, a private university in Ankara, and the Turkish Foreign Policy Institute hosted a conference titled, "Iraq on the Way to Its New Constitution." About half of the participants were from Iraq – including several from Iraqi universities, a few members of the Constitutional Committee involved with Iraq's new draft constitution, and representatives of private, nongovernmental organizations from Iraq. Most of the rest were from Turkey, with a few British participants, one of whom lived among the Kurds of northern Iraq for four years, advising them how to build a government when the British-U.S. no-fly zone protected them. I was one of two American lawyers invited to participate. The other was Bruce Fein, a former Associate Deputy Attorney General in the Department of Justice and adjunct scholar and general counsel with the Assembly of the Turkish American Association. The conference participants numbered about 25 in total.

The entire conference was conducted in

English, although there were simultaneous translators for those who felt more comfortable in Arabic. At one dinner, the Turkish Foreign Minister, along with others, spoke only in English. English is the *lingua franca* of Europe, even in this Eurasian country. Turkish television provided live coverage.

The Conference and the views of some of the Iraqi participants give us reason to dampen optimism as to the future of Iraq and democracy in that troubled region of the world.

The Turkish Foreign Policy Institute has been in existence for many years, but Bilkent University, the other host, was founded only recently, in 1984. Its first students entered in 1986. It has about 10,000 students and all instruction is in English. The name is an acronym of "bilim kenti," which is Turkish for "city of science and knowledge." The name reflects what universities do: they are centers that produce or create knowledge (the research), they preserve it (via the library), and they distribute it (by teaching the students).

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About 25% of the students at Bilkent are on scholarship. They pay no tuition and the University gives them a stipend to boot. Bilkent instituted, in the second year of instruction, the practice of student evaluation of courses and instructors, which was not a common practice in Turkey at the time. The faculty comes from 43 different countries. English is the only language of instruction.

The founder, İhsan Dođramacı, is now president of the university's board of trustees. He is a pediatrician married to a pediatrician. He turned 89 a few days after the conference ended. He is very alert, active, and old enough to remember rule under the Ottoman Empire. I had dinner and lunch with him, and he has interesting stories to tell of life in those times. He inherited money, and he used it to found two universities. He was born a Turk within the borders of what is now modern-day Iraq. Professor Ali Dođramacı, his son, is now the rector of Bilkent University. Both have a natural interest in Iraq, the land of their ancestry.

My travel to Ankara started with luxury. I was told that tickets would be waiting for me in the first class section, and there they were. The Turkish Airlines' ticket agent said that he knew it was me when I walked up because he had been "warned."

When the flight attendants served our meals on the New York-to-Istanbul route, they gave us real metal flatware except for the knife, which was plastic. It was a little reminder of how terrorists have changed our lives. While we all had dull plastic butter knives to cut the steak, we had real metal forks, the tines of which were very pointy, much more dangerous than a metal butter knife. Oddly enough, on the Istanbul-to-Ankara leg of the journey, the flight attendants gave us metal knives as well as metal forks. Go figure.

Another reminder of our post-9/11 world

is the airport security. My baggage and I were searched once in New York. When I arrived in Istanbul, I was searched two more times, although I had never left airport security. One guard in particular took me aside and patted me down, extensively, with his hands. He was quite young, and when he touched my private parts, I quickly moved back and was about to protest when he stopped. I was glad that was over.

When I was in Istanbul over 20 years ago as a Fulbright Lecturer, the toilets in the airport were merely holes in the ground. The airport restrooms in Ankara gave you a choice of what to use: there were American-style toilets and also some holes in the ground. Perhaps some people prefer the old way.

When I arrived at customs in Ankara, I noticed the security police all over, as one would expect in the capital city of a country that has seen more than its share of terrorist acts. There was also a prominent sign that declared, "no smoking," in English and Turkish. That is remarkable for a land that is the Mecca of tobacco. Right next to the sign was a security officer ... smoking.

Recall that I had a first-class flight from New York. There were minor problems: the overhead light on my airline seat did not work – the only seat in the plane with that problem, so it was hard to read when the flight attendants turned out the lights. I decided, given the lack of light, to see a movie, but my stereo headphones only broadcast to my left ear.

Compare my travails with the journey of Iraqi conferees; they had to take a bus from Baghdad to the Turkish border, where they finally were able to catch a plane. They could not use the Baghdad airport, which is not quite ready for prime-time because of the fear that SAM missiles will hit commercial jets. The Iraqis suffered no jet lag from their 18-hour bus trip, but I would not have want-

ed to trade places.

When I arrived in Ankara, I noticed that many of the houses and apartment buildings are modest. Some are in need of repair. Yet, all over, I saw satellite tv dishes. Some places are unpretentious on the outside but have beautiful marble on the floors and walls on the inside. One does not need to read the guide books to know that Turkey is famous for its marble.

My plane had left Washington, D.C. at 12:30 p.m. on Saturday, Eastern time, and I arrived at my Ankara hotel about 5 p.m. on Sunday, Turkish time. Turkey is 7 hours ahead of my body time and I did not sleep much on the plane, so I was tired, but I wanted to stay awake to make the adjustment to the new time zone. So, before the dinner my first evening, I took a long walk (about 30 minutes each way) to a well-known shopping center to search for postcards. The hotel did not appear to have the entrepreneurial spirit, for it offered no postcards. Oddly enough, neither did this massive shopping center.

At the shopping center, I promptly saw huge electric signs advertising *Burger King*, *Toys "R" Us*, and other American brands. People in the United States often express fear about foreign competition. The xenophobes have not traveled abroad, and do not appreciate how ubiquitous are American products. In Turkey, like every other country, most things exude Americanism – American goods, American music, American language. Many Turks speak English. If you ask someone if they speak English, a typical answer is, "But of course." American dollars are the universal currency. I gave the bellhop a one-dollar tip (worth about 1.35 million Turkish Lira at the time of my visit) and he became my instant best friend for my entire trip.

When I walked to and from this major shopping center, it was quite dark: there are very few street lights here, and those that ex-

ist are of very low wattage, because of the energy shortage. I could see the stars clearly; I even saw, faintly, the Milky Way, which one would never see in any large American city because of light pollution. Even though Ankara has over 1.5 million people, there is less evening light there than in any a town of 100,000 people in the United States.

The energy shortage was also reflected in the obligatory electricity conservation in my hotel room, which was set up so that the electricity would only work when I placed my electronic key in a special holder. Whenever I left the room, I had to take my key with me in order to secure readmittance, and, when I did that, the lights would then automatically turn off. This mandatory conservation hit home when I left my laptop on and plugged in so that it could recharge. Instead, when I returned I found that it had discharged because all the electric lines were dead. Several times during my short trip the lights flickered and went off in the hotel, during the conference, and in a private home.

I got lost walking back to the hotel from the shopping center. But the people were quite friendly and the few I met gave me directions. At one lonely stretch of the road, a truck stopped and the driver just wanted to ask if I was all right.

We had a small, informal dinner my first evening with a few of the participants. I asked the conference organizer privately why there were no French or German participants: "We thought they would not be helpful," he simply said.

The conference started the next morning, about 16 hours after I had arrived in Ankara. It was hard to get used to the 7-hour time change. I managed, however, with a combination of coffee and natural adrenaline, which kicked in when someone called on me and the television camera turned my way. Consequently, I adjusted a bit faster than I

would have if I had been a tourist on a less-demanding schedule. Of course, that meant that when I returned home late Wednesday night five days later, it was a lot harder to teach my Thursday evening class the next day.

When our conference began, one of the first issues concerned the Kurds. While some Turks referred to “our Kurdish brothers and sisters,” others were fearful that an independent Kurdistan might seek territorial expansion into present-day Turkey. They also wanted protection for Turkish-speaking Iraqis, and were concerned that Kurdistan would be unsympathetic to their plight. Turks and Kurds have a history of not getting along, and Turkey has not always been sympathetic to the Kurds.

The non-Kurdish Iraqis wanted to make sure that the central government would control the oil in Northern Iraq (Kurdistan) to discourage Kurdish secession. The draft constitution provides that “the natural resources of Iraq” belong “to all the people of all the regions” of Iraq. One Iraqi – an Islamic fundamentalist who opposed women’s rights and argued that “all of the problems of Iraq are caused by the American troops” – was vehement that the central government, not a regional government such as Kurdistan, should control the oil, in order to keep Iraq whole.

The secular Turks and the Iraqi fundamentalists differ on many things, but not about this issue. A Turkish participant quickly agreed, and argued that the central government’s control of the oil wealth will make it less likely that the Kurds would seek to leave Iraq and create their own state.

I responded that the *citizens* of Iraq should own the means of production – not in a Marxist sense, where it is really the politicians who own the companies – but in the capitalist sense, where the people own

the shares directly. The government could create 10 oil companies, each with oil wells throughout the state. The government could then distribute shares of each of these companies to each of the Iraqi citizens. Because the citizens are not used to capitalism, the government might impose a few restrictions, such as forbidding Iraqis from selling the shares for a certain number of years.

These companies could start paying dividends immediately, to pump money into the economy and to give the Iraqis a concrete sense of what capitalism is all about. Because each oil company would own oil wells throughout the country, citizens in the South would have an economic interest in the North being prosperous. Ditto for citizens in the North. Economic interdependence promotes peace.

The government could raise the funds for operating expenses by imposing a withholding tax on the dividends, so that the people would appreciate first, that government services cost money, and second, that money really comes from each of them individually. The Iraqi government should secure its funds the way other capitalist governments raise money, by taxes, not by running a monopoly.

With such a system, each Iraqi citizen would end up with an equal share of the oil wealth. Eventually, these shares should be fully marketable, so that any Iraqi could choose to utilize these shares to raise capital to open up a business or to establish some other commercial operation.

One person said that I was “flamboyant” and “colorful.” I asked if he was talking about my bright pink bowtie. “That too,” he said, “but I’m really talking about your proposal.” Another said that it just could not happen. Yet another Iraqi said, “How could the people own the wells if they do not already own the wells?” Margaret Thatcher found a way. The government can simply create the shares

and distribute them, give them away, to the people to own directly.

As for the Islamic speaker who claimed that "all" of Iraq's problems were caused by the presence of American troops, I said that I hoped he was right, for it meant that Iraq would have no problems when the troops left. He looked at me in stony silence and did not respond.

Sadly, it seemed that many Iraqis just do not understand how capitalism works, and why a market economy can make the poor people much better off than they ever were when Saddam controlled the oil wealth and doled out perks to the Iraqis like a stern parent rewards small children for being seen and not heard.

If the Iraqis do not understand capitalism, they cannot be capitalists, just as they cannot be democrats if they do not understand minority rights. Giving them shares would be the first important step in understanding how a market economy works and the benefits it can offer.

There are many reasons for pessimism regarding the future of Iraq. A Kurdish-speaking participant privately told me that Grand Ayatollah Ali al-Sistani, a leading religious figure in Iraq, really is a moderate and rejects Iran's theory of clerical rule. But in the next few months, one of his enemies is likely to have him assassinated. A likely suspect: the cleric, Moqtada al-Sadr, who is in his early 30s, has routinely denounced the occupation, is trying to raise his own militia, and incites violence against American troops. Al-Sadr likes and wants to run things. Shortly after my return, the Iraqi Coalition Authority announced that it would execute a months-old arrest warrant for al-Sadr for the murder of a rival cleric in 2003. One does not need the power to prophesize in order to put al-Sadr on any short list of suspects if al-Sistani is killed.

One of the Iraqis attending the conference lives in Baghdad but has a visa to the U.S., so he could leave Iraq whenever he wants. He told me that he follows American television and that life in Baghdad is much better and less violent than the U.S. media portrays it. He was optimistic and thought that the American media is too pessimistic. On the other hand, the comments of some of the other Iraqis at the conference suggest that the road to a peaceful, secular democracy that respects minority rights will be long and arduous.

Many of the conference members thought it was a mistake for the United States to disband the Iraqi army so quickly. It meant that, all at once, about 400,000 people were out of work and heavily armed. They had every incentive to sell themselves, or their weapons, to the highest bidder. Several speakers thought that the U.S. made another mistake by appearing to encourage sectarianism when it classified people as members of certain groups, such as Sunnis, Shia, Kurds, and Turkmen. There are Sunnis, for example, who are fundamentalist, but others are not observant Muslims and think of themselves foremost as doctors, or lawyers, or something else. One should not encourage people to think of themselves as belonging to groups with little common interest in each other except for religion and ethnic origins.

United States officials picked the Iraqi Governing Council, based in large part on ethnic and religious affiliations. There is, for example, one Turkmen who was picked because he is a Turkmen. Several Turks at the conference thought that there should be two Turkmen. At some point there will be a national convention of Iraqi delegates. Life there is too chaotic to have regular elections at this point, so State Department officials have said that the occupying powers will probably pick delegates to a national conven-

tion, and these delegates will be chosen along ethnic lines – yet another example of how we encourage people to think of themselves and organize their interests along divisive ethnic lines.

Oddly enough, we have very few hard facts about the demographics of Iraq. The last complete census was taken about 50 years ago. We now think that there are approximately 24.2 million Iraqis as of mid-2003. How many of these are Kurds or Turkmen? We do not know unless we ask people if they classify themselves as Kurd or Turkmen. We can speculate how many Turkmen there are now, by extrapolating from 50 years ago, but in that time frame, many of the Turkmen may have stopped using their Turkish language and given up their Turkish identity. The estimates of the number of Turkmen in Iraq today range from over 2 million (by the pro-Turkmen demographers) to a few hundred thousand from other commentators.

When Iraq conducts a new census, should the census questionnaire even ask people their religion or language of preference? If the basis for representation in a modern democracy is the number of adults voting (one person, one vote), should we even bother to ask people if they are Muslim, and, if so, what kind, and whether the person actually attends the mosque weekly? We can give people the right to vote without ever knowing their ethnic background or religious preferences. The purported leaders of the various factions want to know how many people are in “their group,” but that does not mean that the Coalition occupation must comply with their parochial interests.

About 47% of the people in Iraq are estimated to be less than 18 years of age. That gives us a reason for a little optimism. If the transition to democracy is successful – and that is a big “if” – in only two decades the great majority of the country will have known

only democracy as a form of government.

On our second night, we all had dinner with the foreign minister, who arrived late because he was working on the Cypriot problem. I suppose one could call Cyprus the never-ending problem. When we went to dinner, we had a police escort to and from our hotel to the government building. It seemed a bit pompous and unnecessary, but perhaps it reflected the importance of this conference to Turkey.

While I had no free time, I thought that I still might find a little time to buy an illustrated Koran as a souvenir. In all of Ankara, I was told, I was unlikely to find a Koran. I was told that I would have more success buying it in the United States. That little comment illustrates how secular Ankara has become. The skyline is dotted with mosques and people may call themselves Muslim, but that does not mean that all of them really are, or that they wish to dictate religious observance to nonbelievers. Like the secular Turks, there may be many secular, non-fundamentalist Iraqis, although they certainly are not the vocal ones.

It is much too early to reach a conclusion on the future of Iraqi democracy. There are certainly some reasons for optimism. Saddam is now in prison, both Iraq and Afghanistan have been liberated by a foreign military that seeks no booty or tribute. Libya is making gestures that seem designed to make it appear more moderate to the world stage. Oman has broadened its voting rights and Qatar has a new constitution.

On the other hand, the conference gives us many reasons to be pessimistic. Some of the Iraqis want no role for women. The draft constitution says that women are equal, but they are not equal in the eyes of the fundamentalists, who were not shy about expressing their opinion. Some speakers clearly did not believe in minority rights: if the major-

ity agrees to something, why, in their view, should a minority be able to stop action that discriminates against the minority?

Some speakers wanted Iraq to be an "Arab State," but those desires made the ethnic Kurds and ethnic Turks feel insecure. One participant went further and wanted to impose Islamic law.

Those speakers who participated in the conference and who opposed a modern democratic state learned, at least, that people can disagree without being disagreeable. The conference can claim this very modest success, but Iraq will need more than that to survive.

It is sometimes said that hypocrisy is the tribute that vice gives to virtue. If that is true, it is an inauspicious sign, for some speakers were not even hypocritical: they did not believe that it is a virtue to have a secular government that gives equal rights to women, promotes peace and prosperity, and has no pan-Arabic aspirations. They spoke openly about their desire to impose fundamentalist

religious views on their countrymen, about the importance of disenfranchising women, about the need to create an Arab Muslim state. They are not on the right side of history. Iraq needs a George Washington, or a Mustafa Kemal Ataturk, the founding father of the Turkish Republic, not aspiring tyrants.

On the other hand, other Iraqi speakers embraced more modern views and understood the need for compromise in order to create a democratic nation. All of them were weary of war and grateful to the American coalition for liberating their country. In this conference, even the most contentious saw that they and their opponents could speak their mind, freely during the day without fear, and still dine together without enmity at night. Even the hardline Iraqis saw people quarrel without becoming quarrelsome.

If the Iraqi experiment works and a free, democratic, and secular Iraq emerges in the Middle East, it will change the history of the world. *GB*