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## A City of Two Tales

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## Book Reviews

### A City of Two Tales

Review Article by Feisal Amin Rasoul al-Istrabadi

**The Struggle for Iraq's Future: How Corruption, Incompetence and Sectarianism Have Undermined Democracy**, by Zaid Al-Ali. New Haven, CT: Yale University Press, 2014. 304 pages. \$35.

**Negotiating in Civil Conflict: Constitutional Construction and Imperfect Bargaining in Iraq**, by Haider Ala Hamoudi. Chicago: Chicago University Press, 2013. 328 pages. \$95 cloth; \$35 paper.

Neither author of these two books would argue that the times through which Iraq has been passing over the past ten years constitute the best of times. Still, for Haider Ala Hamoudi, a professor of law at the University of Pittsburgh and former legal advisor to the Iraqi parliamentary Constitutional Review Committee, the constitutional glass in Iraq is half full. For Zaid Al-Ali, a former legal advisor to the United Nations Assistance Mission in Iraq (UNAMI), the glass — in this case representing all of Iraq — is and always has been at best fractured and now may well be totally shattered. Given the state in which Iraq finds itself, there will be a natural tendency for Al-Ali to appear to be correct in this latter judgment.

Hamoudi's book has the narrower focus of the two. He examines in detail the experience of constitution-drafting in Iraq commencing principally in 2005, and assesses that experience in the light of the political controversies that arose thereafter. Hamoudi asserts that what others, including Al-Ali and this reviewer, have criticized as a rushed and ill-drafted permanent constitution has in fact served Iraq well. Given the lack of political accommodation and agreement in 2005, the drafters composed a "capacious" — a word that recurs frequently — text that allows the political class to fill in lacunae in the form of "super-statutes" as consensus coalesces respecting highly disputed issues: federalism, control over Iraq's oil wealth, and the contours of Islam in the constitutional and legal life of the country, among others.

First and foremost, Professor Hamoudi's book provides a perspective that has been wholly absent, now nearly a decade after the events he describes. Until the publication of *Negotiating in Civil Conflict*, no legal analysis of the Iraqi constitutional process of 2005 had appeared that focused on the Iraqi narrative. Rather, such accounts, written by US participants in the process or American academics, focused on the American response to the process.<sup>1</sup> Such accounts, while no doubt valuable, can sometimes give the false impression that the Iraqi interlocutors were not actors in the constitutional process, but were only being acted upon. Hamoudi's masterful treatment of his subject successfully dispenses with any such notion, making it clear that the true picture of what occurred is far, far more complex than has hitherto been documented.<sup>2</sup> For some of the major and most contentious clauses, Hamoudi takes the

1. See, for example, Noah Feldman and Roman Martinez, "Constitutional Politics and Text in the New Iraq: An Experiment in Islamic Democracy," *Fordham Law Review*, Vol. 75, No. 2 (2006), p. 883; Ashley Deeks and Matthew D. Burton, "Iraq's Constitution: A Drafting History," *Cornell International Law Journal*, Vol. 40, No. 1 (2007).

2. One cannot help but wonder if the same is not largely true of the drafting of Iraq's first constitution, the Basic Law of 1925, whose history has largely if not exclusively been written from the vantage point of the British archives of the period.

reader through the evolution of the texts proposed by various participants, combing through the word-by-word permutations until a final text is agreed. No future scholar dealing with the drafting of Iraq's permanent constitution in 2005 can be taken seriously if s/he neglects to engage Hamoudi's work. For Iraqi constitutional scholars, the book is that important.

Hamoudi had unprecedented access to the drafting history of Iraq's constitution. His paternal uncle, Shaykh Humam Hamudi, was the chairman both of the initial Constitutional Drafting Committee and of the Constitutional Review Committee. The folders containing the drafting history upon which the book relies are contained in Shaykh Humam's office, quite literally under lock and key. Strict rules were imposed on Hamoudi, whereby he was not allowed to take any of the documents out of the offices where they are kept, but he appears to have had otherwise unfettered access to all documents. It is to be hoped that the original, raw documents will one day themselves be collected and published, and that the originals will be appropriately archived as valuable state historic records, rather than remain locked in a parliamentary office.

Reading *Negotiating in Civil Conflict*, it appears that the author had two overarching goals. The first is to set the record on the imperatives and multifarious agendas that drove the Iraqi negotiators, the perspective of the American participants having largely been previously told. As noted above, he is unquestionably successful in that endeavor. The second goal is to contradict critiques that the constitutional process was rushed, resulting in a defective and vague constitutional draft (very much the opinion held by Al-Ali). Here, in the opinion of this reviewer, Hamoudi is more convincing on some points, less so on others.

There is no doubt that significant and fundamentally important provisions of the Constitution are vague, and Hamoudi does not argue otherwise. Instead, he opines that the drafters *intended* to posit a capacious text, to allow future politics to occur and let the parties arrive at a consensus of how to interpret and apply the text. In this view, the Iraqi drafters did not simply run out of time in the rush to get a draft concluded while the American ambassador in Baghdad held a stopwatch like a stern schoolmaster. There is a difference in which state of nature prevailed at the time the text was drafted. If the silences were strategic — a tacit or express understanding that it was better to defer issues for another time when wise counsel might prevail or tensions were decreased — that could be a sign of a mature sort of nascent politics, a hopeful sign for the future. On the other hand, if there was simply no time to consider compromise in an acrimonious atmosphere driven more by the clock than calmer imperatives, there would be very little hope for such optimism.

Hamoudi claims, rather generously, that the drafters had three months to author a draft constitution. Others have pointed out that, in fact they had six weeks or even less. Leaving that dispute aside, it must be noted that even the six-month drafting period posited in Iraq's interim constitution, the Transitional Administrative Law (TAL), was hopelessly too little. This reviewer can attest that this timeline was certainly informed by an American interest in being seen as "getting on with it" rather than by any rational thought that six months was nearly enough time to draft a national compact.

Hamoudi is excellent in setting forth the different positions of the various parties to the constitutional negotiations. Too often, authors, including this reviewer, out of a need for brevity have referred to a "Shi'i position" or a "Sunni position," knowing that such terms are generalizations of such great magnitude as to be virtually useless.<sup>3</sup> Thus Hamoudi discusses broadly the differences within the Shi'i alliance concerning such basic issues as the nature of a federated state. The issue of federalism is illustrative. The Supreme Council of the Islamic Revolution in Iraq (SCIRI; known since 2007 as the Islamic Supreme Council of Iraq, or ISCI), formed and based in Iran for decades, in an alliance with the Kurdish bloc, demanded a regionalist,

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3. This reviewer has acknowledged as much, while still using the broad designations, no matter how unsatisfactory, as a shorthand. See Feisal Amin Rasoul al-Istrabadi, "Sectarian Visions of the Iraqi State: Irreconcilable Differences?" in *Social Difference and Constitutionalism in Pan-Asia*, ed. Susan H. Williams (New York: Cambridge University Press, 2014), p. 196n4.

effectively consociational arrangement, with the residuum of power in the hands of regional governments and a weak Baghdad government acting as little more than a cash register, if that. By contrast, the Sadrists — whose leadership had never left Iraq — wanted a strong central government in Baghdad. Other Shi'i parties, including the Islamic Da'wa Party, which gave Iraq each of its three elected prime ministers since 2004, also wanted a stronger government in Baghdad. Yet the SCIRI/Kurdish view largely prevailed.<sup>4</sup> There are myriad other such issues.

The provisions relating to federalism constitute an example of “capacious drafting” in Hamoudi's view. He describes the prevailing SCIRI/Kurdish view set forth in the preceding paragraph, and contrasts it with the “Sunni” view in favor of a strong central government, and concludes that only a “capacious and contradictory text could bridge this very significant divide” (p. 64). As an example, he cites the highly controversial provisions dealing with Iraq's oil and gas wealth. Article 111 states that oil and gas are the property of “all the people of Iraq,” and Article 112 states that the federal government has the authority to manage the oil and gas produced from “present fields.” New fields are left unmentioned, giving rise to an ambiguity as to whether they are to be managed by Baghdad, as centralizers claim, or by the regional/provincial governments, as regionalizers claim. Similar ambiguities arise as to the manner in which Iraq's wealth was to be distributed.

To Professor Hamoudi, these ambiguities are “clearly . . . deliberate, intended to defer difficult questions about oil to another time” (p. 72). He argues elsewhere that such issues can be deferred to a later “constitutional moment” in Bruce Ackerman's famous formulation. Such constitutional moments arise, for instance, through the American New Deal, where more or less universal acquiescence takes place to governments exercising powers that the drafters of the original constitutional text could not have imagined. But is there evidence that such lacunae in the Iraqi constitutional text were deliberate? Hamoudi presents no direct evidence, but perhaps in the case of an issue such as allocation of the proceeds of the country's resources it is fair enough to conclude that the drafters *must have* intended the political process to fill in their silence.

Yet as the number of such issues mounts and as the gravity of each such issue strains the very foundations of the constitutional order, one is left with the impression that *all* the important issues were left for a later constitutional moment or a series of such moments. Yes, an agreement to divide the spoils such that the Kurdistan Regional Government (KRG) nominally receives 17% of oil and gas revenues was reached. But is that truly a constitutional moment? An agreement over 17% rather than, say, the 13% that the UN Oil-for-Food Programme distributed to the KRG? Even if it is taken at face value that this is a minor, but nonetheless, a constitutional moment, there are issues of momentous weight that have driven Iraq over the brink of another sectarian civil war.

If the agreement to share 17% of Iraq's wealth with the KRG was a constitutional moment, what is one to make of the decision of the Baghdad government to cut off those payments in December 2013 as a punishment for the KRG signing contracts with oil companies to develop new (as opposed to “present”) oil fields and for building a pipeline to Turkey that bypasses Baghdad's controls? What then of the KRG's response, which was, in defiance of Baghdad, to pump oil directly through this new pipeline, and to sell that oil on the world's markets? Given that 97% of Iraq's revenues are from its sales of oil (a higher proportion than the other major producers in its class), the lack of agreement on this issue, eight years after ratification of the Constitution, indicates a deep flaw in the constitutional arrangement itself. Has that constitutional moment evanesced? Or is it more likely, as it seems to this reviewer, that a temporary and fleeting political stopgap was applied, without a true underlying consensus amongst the political elites. Hamoudi does not consider this latter possibility.

Other issues of basic, indeed, fundamental import, also come to mind. Hamoudi is right to note that in 2005, the Sunnis of Iraq generally opposed federalism, at least outside of Iraqi

4. For a discussion of why the SCIRI's view prevailed in the Shi'a alliance notwithstanding that it constituted a minority view, see al-Istrabadi, “Sectarian Visions of the Iraqi State,” pp. 207–9.

Kurdistan, while the Shi'i parties favored it at least through the drafting and the referendum. But he does not take note of the fact that the two interlocutors have in fact switched sides over the intervening years, with the ruling Da'wa Party, at least, in favor of a stronger centralized state and at least some Sunnis demanding federated regions.<sup>5</sup> Here Hamoudi is too dismissive of Sunnis' demands for regionalist separation from Baghdad. He acknowledges a rise of the issue of *whether* the same three Sunni provinces that had rejected the regionalist constitution in 2005 had by 2012 demanded a referendum on creating such regions. The governorates argued they had voted to hold such a referendum, while the Baghdad government maintained they had not. Hamoudi does not recognize that the dispute itself is emblematic of a receding, not a dawning, constitutional consensus. Having initially created a weak central government with presumptively strong regional governments and forcing the regionalist constitution upon Sunnis, the Shi'i polity was now renegeing on the deal that the Sunnis had initially rejected, and were forcing Sunnis to remain in a state the incumbent prime minister was seeking to re-centralize.

Article 1 of the Constitution begins with the words "The Republic of Iraq is one federal state." If there was one principle of the Constitution that was absolutely clear, it was that the drafters intended to create a federal entity, even if they failed to define in minute detail what that principle would entail. It is the principle *par excellence* that both the Shi'i and Kurdish drafters of the text agreed upon, even if some of the Shi'i parties had been skeptical. That the Shi'a-led government in Baghdad would then expend no small effort to frustrate the Sunni effort at creating federated regions represents from the majority's perspective perhaps a "constitutional moment," but from the minority's perspective, it was a clear trammeling of a clearly-stated constitutional right.

The issue is not whether Sunnis do or do not wish to create a federated region, although Professors Hamoudi is far too easily dismissive of the possibility that they do. The issue is whether they have a *right to vote* in a referendum to express their view democratically, for it is this right which the government of Prime Minister Nuri al-Maliki denied them. Hamoudi may be right that Sunni demonstrators were carrying Iraqi flags in Falluja and Ramadi (before Maliki moved troops in to break up what had been largely peaceful demonstrations), but at least a few were carrying not the current flag, devoid of stars and with the words *Allahu Akbar* (God is greater) in Kufic script, but the flag with the three stars and the *takbir* written in former president Saddam Husayn's hand. Whatever other symbolism these demonstrations may have had, separation from Baghdad was palpably on the mind of at least some of the demonstrators. He also overlooks what Zaid Al-Ali points out, that then-Vice President Tariq al-Hashimi and then-Speaker (now Vice President) Usama al-Nujayfi, both of them Sunnis, endorsed the right of Iraq's Sunnis to hold referenda on regions. That Hashimi did so did not escape Prime Minister Maliki's attention, as he began proceedings to prosecute Hashimi for alleged terrorism within a day or two of his endorsement of the protesters' demands.

Equally telling is the issue of the treatment of minorities more generally. Hamoudi acknowledges repeatedly that the Iraqi system is strictly majoritarian. The issue arose with respect to the establishment of a second parliamentary chamber, the Federation Council, provided for, though not actually established, in Article 65. The function of this chamber is to represent the regions and governorates. Proposals were made giving these subnational governing units equal representation in the chamber, along the model of the US Senate. Yet that notion was strictly anathema to the Shi'i negotiators, as it was to Najaf's senior cleric, Grand Ayatollah 'Ali Sistani. Indeed, Hamoudi notes that Sistani has been "far more flexible on the role of *Islam* in the nation-state, and yet would brook no compromise on the means by which minority communities might be able to enjoy disproportionate representation" in the second chamber (p. 117, emphasis in original). Even in one-half of one-third of

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5. See al-Istrabadi, "Sectarian Visions of the Iraqi State," pp. 222–26, asserting that in a then-nascent civil war, the Sunnis were now fighting for their regional rights, while the Shi'a were fighting to keep the state centralized. It is to be noted that the text was finished in 2013, and the book published in February 2014, before the events of June 2014.

the governmental structures, the Ayatollah insists on strictly proportional representation. It is not a formula for reassuring minorities — whether ethno-confessional or political — that they will have institutional protections beyond the hoped-for goodwill of the majority.

Indeed the deadlock in the negotiations over this chamber were so contentious that Article 65 leaves it to the other chamber, the Council of Representatives, to establish the Federation Council and set its parameters by legislation requiring a two-thirds majority. The two-thirds requirement is noteworthy, as it is impossible to conceive any bill passing by such a margin without the consent of at least some of the Shi'i religious parties. Again, majoritarian control over the organs of the state is paramount. Such an arrangement will predictably never be one that causes a “constitutional moment” to obtain, as the Sunnis would lock themselves into a permanent second class of citizenship.

Haider Hamoudi is quite sanguine about statutes affecting basic arrangements even where such statutes contradict provisions of the Constitution. He refers to these statutes as “super-statutes,”<sup>6</sup> statutes that “establish new normative or institutional” frameworks, in particular those statutes whose passage is called for in the Constitution (p. 29). The statute on the establishment of regions is one such example. The problem is that the statute makes the laws passed by the federal parliament supreme, while Article 115 of the Constitution gives legislation of governorate councils ultimate supremacy except on a very narrow range of issues. Hamoudi concedes that the statute “sounds the death knell for Article 115 of the Iraqi Constitution” (p. 170).

In a nascent constitutional order, the difficulty becomes in identifying precisely when a “constitutional moment” or a super-statute has created a new, and perhaps reasonably consensual, constitutional reality versus when there is a violation of the constitution plain and simple. A proponent of Hamoudi's view might say that denying the Sunni governorates the right to vote in referenda on new regions might be strictly a violation of the Constitution, but it represents a constitutional moment in that the Shi'i parties have now adopted the previously held Sunni position on centralization at least of Arab Iraq. What is one to make, however, of the fact that, within two years of that supposed constitutional moment, the entire constitutional order nearly collapsed as whole parts of the country fell to a Sunni insurgency? There can be no doubt at this point that those Sunnis who made alliances of convenience with the terrorist group the Islamic State in Iraq and al-Sham (ISIS) were at the least seeking to remove themselves from Maliki's dispensation in Baghdad. It is far too easy to be lulled into believing that a constitutional violation has constituted some larger consensus simply because there has not been an immediate and raucous reaction.

There is another point to be mentioned in this regard, and it is not mere pettifoggery. Iraq's legal system is strictly positivist. Reaching back into Ottoman days, it has required clear constitutional and legislative authority as the basis for legal activity. The relatively looser textual constitutionalism that the United States might enjoy, being as it is a common-law jurisdiction, may well be inappropriate for Iraq, where straying from the text has historically been considered a lawless act. Again, in a new constitutional state, one devoid of the institutional structures of a mature democracy, it is difficult to argue that making constitutional changes on an ad hoc basis is a salutary development.

Obviously, the drafters of the Iraqi constitution had deep disputes and were wholly unable to reach compromise on fundamental issues. They have failed, since the ratification of the Constitution, to agree respecting fundamental issues of federalism or regionalism or consociationalism that purport to be at the heart of the “New Iraq.” These disagreements have encompassed the lifeblood of the country, its oil and gas reserves. It is not that there has been some consensus on these and other issues at the moment of drafting, but time and experience has moved that consensus in a different direction. It is that there was no agreement on these fundamental issues in 2005, there is no agreement now, and whatever modus

6. Quoting William N. Eskridge Jr. and John Ferejohn, “Super-Statutes,” *Duke Law Journal*, Vol. 50 (2001), p. 1217.



vivendi the actors had achieved between 2005 and June 2014, it too had broken down, perhaps irreparably, by June 10, 2014. The question now is far more basic than whether Iraq has achieved constitutionalism of a fashion. It is an existential one of “To be, or not to be,” precisely because of the ad hoc approach to basic constitutional questions.

And here is where Al-Ali’s book comes in. In this telling of the tale, Iraq had become an incoherent, ungovernable mess long before the events of June 2014. Indeed, the story is in the subtitle: *How Corruption, Incompetence and Sectarianism Have Undermined Democracy*. Unlike Hamoudi’s clinical account, Al-Ali’s is often deeply personal:

I was involved in the effort to rebuild the state — not for professional or financial reasons, academic interest or curiosity, not as a stepping stone to other opportunities, nor to kill time while I waited for something else to do. I left a promising career elsewhere in the hope of rediscovering a country that I could call home without feeling out of place, and of putting the experience that I had gained in my professional capacity to some useful social purpose. However, after years of negotiations, meetings, agreement, and drafting sessions with counterparts in the Iraqi state and the international community, I finally wrapped up my involvement, frustrated by the impossibility of life in Baghdad and the absence of progress at every level (p. 6).

Al-Ali may have tried in good faith longer than most, but he is certainly not alone in the above sentiments.

Al-Ali has written a book that takes a more comprehensive look at the problems of Iraq. He, too, is highly qualified in law, with degrees in the field from London, the Sorbonne, and Harvard. In this study, he documents failures in Iraqi governance across a wide breadth of issues. One in particular bears close examination: his penultimate chapter tackles issues few others have. It documents the degradation of the environment since 2003, drawing a link between agricultural “reforms,” introduced by the US occupation authority and maintained by successive Iraqi governments, and the continued desertification of the country.

American officials, introducing free-market principles overnight, slashed import duties on, *inter alia*, agricultural products. In the meantime, Iraq was forced to cut state subsidies for domestic industries, including agriculture, as a condition of reducing its massive sovereign debts. This made imported fruits and vegetables much cheaper than local produce, because the neighboring states subsidize their farmers heavily. As a consequence, farms were abandoned, and significant tracts of land have fallen to the desert, above and beyond the desertification that had occurred under Saddam’s malfeasance (e.g., intentionally drying the marshes). This situation, in turn, has contributed to ever greater sandstorms that have begun to affect neighboring states, especially Iran.

Al-Ali narrates the tragicomedy that constitutes the response of the Iraqi government to these problems. It signed a number of international agreements to try to maintain top soils, but has failed to discharge any of the obligations it undertook in those treaties. Moreover, the government, in an attempt to stem the tide of the failure of Iraqi agriculture, raised import duties, but, just before the implementation date of those duties two years later, it had to delay implementation another three years, because it had to admit that the state lacked the expertise to collect the duties. And so on and on it goes. Ten years after the overthrow of Saddam’s heinous regime, there is not one area relating to citizen services that has been improved. As the narrative unfolds, one is left wondering how much more the country could have been further degraded had it been the intentional policy of the post-2003 dispensation to do so.

Al-Ali is quite harsh on the entire political class that now governs in Iraq, beginning his criticisms of their days in exile and opposition. Most Iraqis, he notes, refused to deal with these opposition politicians for many reasons, including the fact that these parties were largely perceived — quite correctly — as undemocratic. They were not, he notes, internally governed democratically. That was and is largely true. The leaderships of some of the par-

ties have quite literally passed between family members, inherited like a valuable jewel. Even the liberal parties that espouse the ideals of liberal democratic governance for the country were not and are not structured internally as democratic institutions.

Further, he notes that many rank-and-file exiles who returned to Iraq, whether with Iraqi political groups or with the United States occupying forces, had no real skills to offer the country. They were hangers on, some of whom had been largely unsuccessful in the countries of their exile, but who returned to lucrative jobs in the new Iraq. Comparatively very few Iraqis who were successful as professionals abroad returned to Iraq to resettle. Expatriate Iraqi businessmen, many of whom were successful in their fields, did, to be sure, return to Iraq to close on lucrative deals, but they then returned to their homes in California, Dubai, or London. This reviewer personally recalls one Iraqi-American professional who had spent his exile in California, saying to him, “I am in Baghdad to make money. If there’s no money to be made, I will return to the US.”

Thus the book documents the existence of a toxic mix of a self-centered upper echelon interested only in holding and wielding power, surrounded by third-rate personalities who occupy much of the senior positions in the new bureaucracy. The end result, of course, is the virtual rape of the country. Corruption is endemic, and Iraq consistently rates at the bottom of lists such as is compiled by Transparency International. Al-Ali’s deep distaste for these new elites is palpable throughout the narrative. One wishes that he could say Al-Ali is wrong, but, unfortunately, on the whole — individual cases aside — he is not.

Followers of Iraq news will know that one of the oft-repeated refrains of even the most senior US officials since 2005 has been that of the “democratically elected” leadership of Iraq. Both Presidents George W. Bush and Barack Obama have repeatedly hailed Maliki in those terms, for instance. And indeed, the UN has dutifully dubbed all elections that it has monitored “substantially free and fair” in the parlance of that institution (though it is to be noted that the first set of elections in January 2005, monitored by an international group that did not include the UN, was monitored from a vantage point—not in Iraq, but in Amman, Jordan). Noting that these elections have essentially returned mostly the same individuals initially anointed by the US in 2003, Al-Ali is willing to concede that the elections “have taken place regularly and have been fairly transparent” (p. 158). He notes, however, that they have been anything but free and fair, because the underlying electoral system fairly resembles the Wild West, as he describes it.

There are no meaningful rules in Iraq on *how* parties are allowed to raise funds. Nor are there meaningful rules on how such funds, once raised, may be spent. Al-Ali recounts an incident in which it was alleged that the ruling list headed by Maliki offering bribes in the form of golden revolvers to tribal shaykhs who could deliver their tribes’ votes, yet, after the elections, no investigations occurred into these allegations. Moreover, there is no distinction made between the electoral coffers of parties in power and the public purse: state assets are comingled freely to be used to enhance the electoral hopes of these parties. Parties that do not have access to this source of financing must rely on the largess of foreign governments if they are to contest elections. One wonders what ordinary Iraqis make of this unhealthy situation, and, having lived under a brutal dictatorship for so long, whether they realize that whatever word might describe this state of affairs, “democracy” is not it.

The stakes in Iraq are high, indeed, and much more so than only in terms of the fortunes that are being stolen at the expense of the public weal. Al-Ali narrates the story of one auditor from the Supreme Board of Audit investigating allegations of fraud at the Trade Ministry, who, having completed her audit, was getting into her car to leave. As she entered, someone tossed in a live grenade. Miraculously, though injured, she survived. She and her colleagues managed to gather sufficient evidence to cause the minister to resign and to be charged with corruption. Flush with this apparent success, parliament took the initiative and announced that it would conduct investigations into the alleged mismanagement of several other ministers. Not long after this incident, a parliamentarian close to the speaker was assassinated. No one quite knows who was responsible for the assassination, but the message was understood. Al-Ali wryly notes “the entire enterprise ground to a halt and no further ministers were called before parliament” (p. 205).



Al-Ali's narrative, too, is compelling. His book is an insider's account of the dysfunction of the Iraqi political class, one devoid of the hopeful optimism of Hamoudi's book. There is nothing sentimental in Al-Ali's diagnosis of the pathologies and their etiologies, though his particular criticism of the liberal bloc and its leader — Iyad 'Allawi — perhaps betokens the disappointment of one who hoped for better results from that quarter.

There are a few irritating, mostly minor mistakes in the book. For the most part, these may be attributed to generalizations, an attempt to shorten the text, or citing errors previous authors had made. One mistake, however, cannot go uncommented. Early in his book, Al-Ali, speaking with contempt of the monarchical period (he is, in fact, more or less contemptuous of each of the epochs of Iraq's modern history since World War I), asserts that the Iraqis allowed British interests to exploit Iraq's oil wealth "without having to pay any royalties for the first twenty years" (p. 22).

This error is not merely one of egregious proportion, it is a calumny upon the memory of one of the giants of the formation of the modern state of Iraq. Iraq's first minister of finance, Sassoon Eskell, was tasked with negotiating the first concession agreement with the British-led oil interests. Eskell insisted — successfully — that Iraq be paid in gold, rather than in pounds sterling. The difference between the two came into sharp focus during the Second World War, when the pound took a beating, but the British still had to pay for Iraqi oil in gold. The point is that this incident in Iraqi history is as well known to students of Iraqi history as George Washington crossing the Delaware River is to students of American history. The mistake is unworthy of Al-Ali.

In light of the events of the past several months, the two books are timely, as each sheds a light on what might have been. The tragic events that have been unfolding in Iraq since 2003 were not preordained. They are the result of affirmative decisions and actions taken. The Shi'i parties, after the traumas of the past decades, were in no mood to share power with the Sunnis of Iraq. They thus constructed a majoritarian constitutional order that could have had no appeal for the Sunnis, broadly speaking. If the latter had accepted the new, ethno-confessional, majoritarian dispensation, they would have condemned themselves to being a second-class minority for the foreseeable future. The new leadership of the country, certainly between 2006 and 2014, made it abundantly clear that it would not share power meaningfully with the Sunnis: They could have positions and the trappings of office, but no meaningful hand on the levers of power. For their part, many in the Sunni community embraced or accommodated an unconscionable insurgency that deliberately targeted not principally the security forces, but the weakest among the Shi'i population. Markets were targeted, even funerals. Sunni militias operated with, at the very least, a blind eye turned toward them by some in the Sunni community.

In the early days after the fall of the previous regime, in the summer of 2003, a demonstration took place in A'zamiyya, a predominately Sunni district in Baghdad. The demonstrators were chanting, "*la Shi'iyya wa-la Sunniyya, hukuma dimuqratiyya*" ("Neither Shi'i nor Sunni, a democratic government"). One cannot help but wonder what Iraq might be today if the new political elites, and their respective religious authorities, had heeded these words and engendered a nonsectarian, civil state. Like so many other opportunities missed in Iraq over the past 85 years, it is a rhetorical question that resonates not at all for the tortured victims of the violence and their families. And Iraqis may not yet have seen the worst.

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