

From zero-sum conflicts to federalism: Iraqis offer the international community a road forward

By Hiram Chodosh

From Xinjiang to Quebec, from Johannesburg to Jerusalem, from Kashmir to Kirkuk, our civilization faces a crossroads of historic magnitude. As a common, universal, social condition, we live in close proximity with peoples of diverse language, culture, religion, power over resources and identity, often shaped by powerful historical narrative or recent experience of victimization by the other. We gain a sense of inspiration, place and purpose from these identities; however, they also carry a zero sum logic in which the mightier wins, and in which empathy for the other is viewed as a betrayal of oneself and one's own kind.

What are our options?

Conquest through violence. Historically, conflicts create justifications for the elimination of one people by another. Raphael Lemkin coined a phrase for this after WWII: genocide. Even though we have achieved normative agreement that genocide is a crime against our common humanity, legal commitments are weak against the underlying grammar of deep-seated conflict that has no political outlet or constructive form of expression through a shared political system. Without the creation of the latter, we can sadly expect the next Rwanda or Darfur to emerge, and we can hardly continue to sit on the sidelines or even rely solely on military interventions to put a stop to it.

Maintain the status quo. As in physics, in the realm of seemingly irreconcilable conflicts, inertia is a powerful law, and we must recognize its force to minimize the effect of weak interventions and merely rhetorical commitments to justice, human rights and peace. Yet the self-sustaining logic of conflict for groups who see killing the other as their only option, combined with disturbing availability of devastating military technologies, can only lead to catastrophe. As the means of destruction become more powerful, the likelihood of self-destruction in the futile attempt to maintain the status quo becomes only greater. In this sense, survival of the mightiest is a formula for mutual self-destruction. From the vantage point of Israelis, is it safe to assume that over time the Qassam rocket will remain the most advanced weapon of destruction to penetrate the Southern border? And from the Iranian point of view, is it reassuring to predict that Israel will sit back and merely observe passively the technological development of what it views as an existential threat?

Separation through partition. From the schoolyard to the battle zone, the temporal truce and division of enemies are attractive alternatives to the brutality of conflict. The more ambitious jurisdictional notion of dividing intermixed peoples into territorial units, however, is demonstrably flawed and ultimately no solution at all. Dislocation through partition has a disturbing past of immense violence, from Native American history to the Jewish ghettos, from the balkanization of the former Yugoslavia to the subcontinent's partition of India and Pakistan. The separation of Israelis and Palestinians into hermetically sealed states or the break-up of Iraq into three separate nations may seem an attractive path to peace because this approach holds the theoretical promise of separating those engaged in heated conflict. However, partition does nothing to resolve the cycles of violence – at best, it merely suspends them for another opportunity to advance an unmet historical claim from forced dislocation. Partition ignores overlapping and intermixed conditions of identity and territory. The division of Iraq into three nations would hardly resolve the problem of Kirkuk, oil and gas, water, the rights of minorities, or who would control Baghdad, all central issues for peace in the country. And the two-state solution, while now nearly a conventional wisdom, does not alone determine civil and human rights for Arab Israelis in Israel or Jewish settlers in the West Bank. Partition is more likely to exacerbate historical conflicts than resolve them.

Political condominium of shared powers: federalism

Normative commitments to human and civil rights, peace and prosperity are necessary, but completely insufficient. Jean Monnet, the founder of the European Union, said that every new idea is a bad idea before it can be implemented through an elaborating institution. From the differentiation of the township to the county or state, from the distinction between the province and the nation, the notion of federalism in the United States and the concept of subsidiarity in the economic and the political unification of Europe reflect attempts to capture these vertical political strategies. Through these means, an Italian can be a European, a Quebecois can be a Canadian, and a Kurd can be an Iraqi.

For those who are skeptical of this approach working in the context of highest conflicts, let's take the inspirational, though fragile, example of Iraq. Iraq presents the contemporary laboratory for the examination of pressing alternatives: conquest through violence or occupation, chronic sectarian violence and civil war among Kurds, Sunnis and Shiites, proposed political partition, and yes, implementation of vertically differentiated institutions under the rubric of federalism.

This is not just a fanciful notion in Iraq today. Remarkably, the Iraqi Constitution considers the country to be a Federation. Both the Preamble and Article 1 of the 2005 Constitution underline this fundamental characteristic; and the constitutional text refers to federation and federalism extensively in three of its six chapters.

The process is far from complete: the second chamber of the legislative branch (a Federation Council) has not yet been developed, and without a Federation Council, the country cannot fulfill its own definition as a federal system as constitutionally mandated under Article 48: "The federal legislative power shall consist of the Council of Representatives and the Federation Council."

This is at the heart of the discussion in Iraq, within the current constitutional revision process and in the country at large.

By offering a territorial (and arguably sectarian and ethnic) balance to central power, federalism provides the most sophisticated constitutional instrument to hold the country together. Federalism is arguably the best institutional tool to reach solutions to hitherto intractable problems such as Kirkuk and oil, in addition to likely problems of water distribution and family law. A working federalism, advanced in part through the Federation Council, can resolve present and future constitutional issues of great importance to the country and in an institutional and systematic manner, rather than as an ad hoc political arrangement that renders most solutions, if reached, constantly elusive.

The future of federalism in Iraq is not only important to the peoples of that country who have struggled over so many decades for human rights and peace. It is an experiment of consequential interest to all of us, from North America to Europe, from Asia to the Middle East, to see if a society riddled by sectarian violence can reject the hideous alternatives of conquest, genocide, and partition in favor of a vertical political strategy and institution that accommodates self-determination with shared values and purpose.

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