

Note from the editor- Chibli Mallat, lawyer and law professor, founded with Hoshyar Zebari and other Iraqi and international personalities the International Committee for a Free Iraq in 1991. These are excerpts from a letter sent to Zebari on the occasion of the discussion over the draft UN SC

HE Hoshyar Zebari
Foreign Minister of Iraq

June 3, 2004

My dear Hoshyar,

It has been fifteen years ago now since we first met in that obscure room of London University as guests of our London colleague, Sami Zubeida – another great Iraqi talent that brutal intolerance lost to the West. We were heartened that day to discover that more people cared for the fundamental rights of Iraqis than transpired on decision-making during the Gulf War. Against realpolitik, we have since doggedly worked for a federal, democratic Iraq, in a long, painful effort that has taken us to Vienna, Iraqi Kurdistan, New York, London, and so many other places, and which has now brought you as the foreign minister for the most sensitive country in earth.

The journey towards Iraqi democracy may have just started with, at last, an Iraqi democrat making his voice heard in the making of the next UN resolution. This is an occasion for which it is difficult to conceive a more important responsibility, and it will be useful to expose again -- as you did to much effect earlier this year -- some of those leaders in the UN and on the Security Council who are trying to claw back their role in Iraq on the setbacks of US policy: they should be openly reminded how they supported, until the last minute, the dictator in power.

.... Now to the long-winded, arrogant current UN draft. Being in the trade, you and I know that diplomats and lawyers are verbose, and you must ensure that this ridiculously long resolution is pared down to what is essential. You recall our distress with Resolution 687 of 3 April 1988 which, despite remaining the longest in the history of the UN, managed to keep Saddam Hussein in power after the liberation of Kuwait.

How should the Resolution be reduced to what is essential to enhancing the chances for Iraqi democracy ? Let me suggest you restrict it to four key thoughts: withdrawal of foreign troops, common sense, federalism, and human rights monitors, and four simple clauses.

Withdrawal of foreign troops. By suggesting that the Iraqi government can request the withdrawal of the occupying armies, be they UN or multinational, an improvement of sorts has been achieved in the current, second, draft. But you know how weak the present government is, which does not even include the two historic Kurdish leaders in positions of responsibility. Something more convincing is needed, which is a timetable for effective withdrawal of non-Iraqi troops over a period of months. Such withdrawal can be achieved in stages, with the proper surrendering of power to the

Iraqi authorities as fits the situation in the various regions. There is a risk for redoubled violence being meted out by all kinds of bloodthirsty and immoral factions to prevent normalization. If that happens, there is no harm in coming back to the Security Council to ask for a different arrangement. But it is imperative that Iraqis start seeing foreign soldiers withdrawing, and not more boots on the ground which keep sovereignty as a sham. You have already done it in Kurdistan, where I understand less than 300 soldiers remain to support the local authorities. This should be your model, and here is your first clause: "Withdrawal of non-Iraqi troops will start at once, according to a timetable agreed with the Iraqi government, to be completed within two years..."

Common sense about elections. While the new condition of the second draft of the UN resolution under discussion – achievement of the political process – may appear at first as a good idea, the reason why elections have not taken place yet in Iraq is because of brutal factions who do not want a new, peaceful Iraq to emerge. These people, the Zarqawis, Muqtada Sadrs and Duris will continue to kill indiscriminately, you can be sure. Still, you will not be able to convince your people, let alone the world, that the presence of foreign troops is transitional if one does not see a tangible process that starts immediately in consonance with everyone's hopes, including for US soldiers who should never have been asked to sacrifice their lives for the sake of Iraqi democracy.

Now much has been vested over the past year in the electoral process, and the draft text (and the interim constitution) insist on elections taking place before January 2005. That would be great, but here is where commonsense is needed. Let us be serious: how can you conduct national elections in Najaf or Kufa today, or in Falluja? The same groups which have committed all these killings will not stop, in their search to restore the old order or some sectarian, messianic concept of Iraq. They must be not be given dates to tamper with. The electoral system should be severed from any other contingency, and more flexibility built into it. This is your business, not that of the UN. Let them just acknowledge your interim arrangements, and we can help you conduct free elections in Kurdish Iraq as we did in May 1992 in the teeth of the US government and all regional actors, as a model for the rest of the country to follow. So clause 2 of the SC resolution consists in ridding it from most clauses linking elections to 'Iraqi sovereignty' and/or 'military arrangements'. You just need to have it declare that the occupation is over, and that Iraqis are in charge of their democratic destiny. And while you are paring down the verbosity of lawyers and diplomats, please make sure that "the leading role" ascribed to the UN and its representative disappears from the text.

Federalism. Only through a federal system can the various sections that compose Iraq be offered some protection. It is unfortunate not to see a Kurd as the president of Iraq, or as Prime Minister. You know the argument emphatically put to Masoud Barzani and Jalal Talibani since our early encounters in London in 1990: unless Kurds are secured a serious say in decision-making *in Baghdad*, there will be no end to their marginality and oppression. This is what federalism means: an effective participation in decision-making at the centre. This active participation in central decision-making is more important than the rights of Kurds in Kurdistan, which even Saddam could only dispute by the use of chemical weapons and systematic fear. We must not shy

before this word, either for our peoples in Iraq and the Middle East at large, or internationally. Defend its inclusion in the Security Council Resolution.

Human rights monitors. All the above is secondary to the deployment of human rights monitors in Iraq. You know how much we fought for that, the support to Max van der Stoel, the UN special representative for human rights in the wake of our joint demands, and the resistance of Boutros-Boutros Ghali and then Kofi Annan to the idea. We shared, time and again, the efforts at the UN and elsewhere, especially during the terrible days of the Kurdish civil war, to have human right observers on the ground. You should convey to a world eager to hear what you will request openly from that resolution, that human rights should be monitored, especially after Abou Ghreib and the continued violence by brutal factions in Iraq against everyone: passers by, foreign soldiers, Governing Council members, let alone systematic sabotage to prevent a modicum of daily security. The whole role of the UN is superfluous, including all the monies promised, without a rule of law emerging in Iraq. Get rule of law in Baghdad, and everything, including foreign investment, will follow. So one short final clause: human rights observers in Iraq. Again, they could be deployed in Kurdish Iraq as soon as tomorrow morning.

Good luck. Your success in New York will determine also our future.

Yours in all seasons,