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DECENTRALIZATION IN IRAQ

CHALLENGES AND SOLUTIONS
FOR THE FEDERAL AND LOCAL GOVERNMENTS

UN**HABITAT**
FOR A BETTER URBAN FUTURE

DECENTRALIZATION IN IRAQ
CHALLENGES AND SOLUTIONS
FOR THE FEDERAL AND LOCAL GOVERNMENTS

INTERNATIONAL CONFERENCE ON DECENTRALIZATION,
LOCAL GOVERNANCE AND SERVICE DELIVERY:
SHARING EXPERIENCE AND SUSTAINING PROGRESS IN URBAN IRAQ
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MESSAGE FROM THE EXECUTIVE DIRECTOR

This report presents the outcomes of UN-HABITAT's *International Conference on Decentralization, Local Governance and Service Delivery: Sharing Experience and Sustaining Progress in Urban Iraq*, which took place in Amman, Jordan from 8-10 May 2011.

Decentralization has been gaining increasing attention as a means of improving the provision of public goods and services as the importance of reforming public-service delivery has moved to the forefront of the current policy agenda. For many years, local governments have been recognized as key actors in the economic and social development of any society and also as the starting point for democratic expression. Local authorities can be representative, legitimate and efficient in steering local urban development.

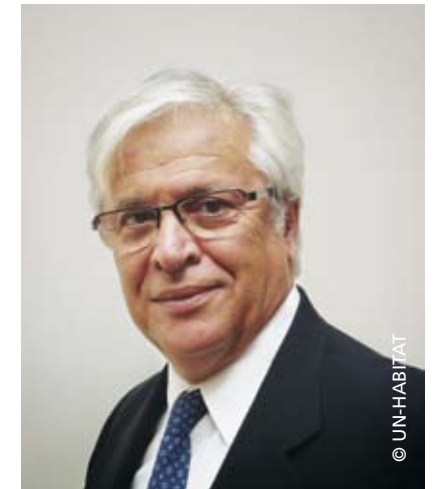
UN-HABITAT is committed to supporting the process of decentralization in many countries across the world, highlighted in 2007 and 2009, when the Governing Council of UN-HABITAT approved two sets of guidelines, where member states of the United Nations committed themselves to the promotion of decentralization and strengthening of local authorities, and to providing access to basic services for all. The guidelines were designed to assist policy reforms and legislative action at the country level in two complementary areas of UN-HABITAT's mandate. They were prepared through an intensive consultative and participatory process involving many partners, including UN agencies as well as national and local governments.

In developing countries, governments have experimented with different forms of decentralization to bring service delivery closer to the people. National governments are increasingly sharing the responsibility for service provision with the local governments in a variety of public arrangements that aim to increase the accountability and responsiveness of service delivery. It has been widely observed that decentralized service delivery can result in quicker gains than with a centralized system.

This is especially important in a country like Iraq where 70 percent of the population is now living in cities, which are in a state of post-conflict reconstruction. The displacement of citizens and fragmentation of the city through conflict has left Baghdad with 10 percent of its citizens in unacceptable conditions with limited access to basic services.

Decentralization is one process to help improve access to services for the urban population. The 2005 Constitution of Iraq advanced the reform process by establishing a model of decentralized political and administrative government through devolution of authority to the governorates. In March 2008, the Provincial Powers Law defined the roles and responsibilities of both the elected local bodies and the associated administrative units at governorate, district and sub-district levels.

At both the political and administrative levels, the law directs towards greater decentralization, which represents a profound transformation from the way government decision-making process operated under the



previous totalitarian regime. But while this law provides a strong basis for the empowerment of local governments, it does not provide a comprehensive insight to establish an effective and efficient decentralized system in the country.

The conference sought to address such challenges and provide a focused practical perspective on how decentralization in urban areas promotes local government as an effective tool for service delivery. I hope this report can advance the cause of decentralization to the benefit of Iraq's federal and local governments, its citizens, its non-governmental organizations, civil society and all international partners and stakeholders working to develop urban policies for Iraq.

Dr. Joan Clos
Executive Director, UN-HABITAT



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FOREWORD

The famous French historian and political thinker Alexis de Tocqueville noted that “Decentralization has, not only an administrative value, but also a civic dimension, since it increases the opportunities for citizens to take interest in public affairs; it makes them get accustomed to using freedom”.

This conference report presents an objective analysis and way forward specific to the context of Iraq, while also drawing on the expertise and best practices of an international cadre of decentralization specialists. It provides valuable insights into the interconnected challenges that face Iraq’s public service delivery mechanisms, together with concrete recommendations for both political and fiscal decentralization efforts.

The United Nations has long been at the forefront of supporting Iraq’s efforts towards improved governance at the local level and the delivery of quality services to its people. This exercise on furthering decentralization-inspired reforms will make a significant contribution to the UN’s broader Iraq Public Sector Modernisation programme. The work of this programme is guided by the international consensus that good governance and sustainable human development are inseparable.

It is my hope that by engaging with local officials from all of Iraq’s eighteen governorates as well as representatives of the federal government, this report will contribute to countrywide reforms geared at delivering on past promises of decentralized service delivery. It should also prove particularly useful for government officials, policy makers, and those working to support and enhance good local governance practices in the region and beyond.

A great deal of effort went into the preparation of this conference and its report, and on behalf of the United Nations Development Programme for Iraq, I would like to thank UN-HABITAT for such an important contribution to the UN’s work in Iraq. It is inclusive and forward-thinking contributions like this that will ultimately define this momentous time in Iraq’s history.

Peter Batchelor
Country Director
UNDP Iraq

“There is a gap between the theory of decentralization and the practice which explains the weakness in the delivery of services in Iraq.”

Wafa'a Fadhil, chair of the Iraq Local Government Association speaking at the International Conference on Decentralization, Amman, May 8 2011.



Iraqi local government officials were able to meet with decentralization experts during the three-day conference

From 8 to 10 May 2011, UN-HABITAT hosted a three-day conference in Amman, Jordan to set out a roadmap for Iraq to move towards a system of effective decentralized government.

The conference aimed to outline what those reforms should be and to provide recommendations for further progress on decentralization in Iraq.

“The objective of this conference was to provide an opportunity for Iraq Local Government Association representatives to learn, experience and benefit from the process of decentralization, local government building and service delivery practised in several neighbouring and selected countries,” said Suman Kumar Karna, Local Governance and Decentralization Specialist with the UN-HABITAT Iraq Programme in Amman. “The conference aimed to provide a focused practical perspective on how decentralization in urban areas promotes local government as an effective tool for service delivery.”

UN-HABITAT has been a key agency in promoting the benefits of good governance, which can be achieved through decentralization. As the United Nations agency for human settlements, it is mandated by the UN General Assembly to promote socially and environmentally sustainable towns and cities with the goal of providing

The conference brought together eminent speakers from the World Bank, OECD, and United Nations Development Programme together with experienced practitioners in the field of local governance (for a full list of speakers, see Appendix 1).

Key representatives of the Iraqi government including Mr. Istabraq Al Shouk, Senior Deputy Minister for Housing, Mr. Kamil Chadirchi, Deputy Minister for Administrative Affairs, and Mr. Ayad Al Safy, Deputy Minister for Technical Affairs, were joined by representatives from all 18 of Iraq's local provinces.

As Wafa'a Fadhil, the chair of the Iraq Local Government Association noted in her presentation, while Iraq has set out its intention to move towards a decentralized form of

government in its constitution of 2005, the reality is that further legal and administrative reforms are needed, driven by the necessary political will and public support, before the country can move towards a genuine form of decentralized local government.

The conference addressed five topics:

- Cities—Why are they important?
- The context and challenges of decentralization in Iraq
- Decentralized urban governance
- Fiscal decentralization
- Decentralized service delivery and financing

adequate shelter for all. The agency's work on decentralization culminated in the *International Guidelines on Decentralization and the Strengthening of Local Authorities*, which were approved by the UN-HABITAT Governing Council in April 2007.

Decentralization of defined services can assist in improving service delivery in Iraq's local communities and UN-HABITAT identified the conference as a tool to assist Iraq's urban development. Iraq needs to build and improve its urban infrastructure to reduce poverty and stimulate social and economic development. It is a highly urbanized country with 66 percent of the population residing in cities and as the country experiences strong urban growth, that growth is putting increased pressure on the delivery of local services. The three-day event allowed delegates to discuss best international practices in the context of the special characteristics of Iraq, which is in post-conflict rehabilitation with a government that relies on oil revenues for 90 percent of its GDP.

The experience of decentralized governance in Iraq has so far been minimal. After adopting a federal system in 2003 following the invasion by the US-led coalition, the Republic of Iraq's Constitution of 2005 and Law 21 of 2008 furthered the reform process by establishing a model of decentralized political and administrative government through devolution of power to eighteen provinces (governorates). But many challenges remain, in particular, the devolution of authority for the delivery of services and an inter-governmental policy on the transfer of revenues to local governments from oil and other resources.

"The legal framework set by Law 21 provided an important first step in the decentralization process but the details of the functional and territorial assignments between central and local government still need to be agreed," said Fiona McCluney, Programme Manager for the UN-HABITAT Iraq Programme.

This report aims to address these challenges through a presentation of the views, advice and opinions of

the conference participants. We are grateful in particular to those speakers who conducted interviews following the conference. Speakers' papers submitted for the conference can be accessed at the UN-HABITAT website: www.unhabitat.org. The sections that follow highlight the challenges facing Iraq's move to a system of decentralized government and a list of recommendations, which can be applied to assist Iraqi representatives in the field.

To continue its mission to promote good governance and sustainable development of Iraq's cities, UN-HABITAT plans to bring together conference participants for two days of field tours outside Iraq, where participants will have the opportunity to see the results of the decentralization process on the ground.

Richard Forster
Nick Mitchell
June 2011



All eighteen governorates were represented at the conference

“The delegating of responsibilities to regions and governorates is the main goal in achieving sustainable development in Iraq and the creation of better civilized cities.”

Mr. Istabraq al-Shouk, Deputy Minister of Construction and Housing, in his opening address, International Conference on Decentralization, May 8 2011, Amman

By 2030, it is expected that more than 60 percent of the world population will live in urban areas.¹ The Arab region is projected to see its urban population more than double, increasing by 251 million between 2010 and 2050.² Iraq is no stranger to this rapid urbanization. Sixty-six percent of its population already resides in cities with the urban population set to more than double from 20.4 million in 2010 to 48.2 million in 2050.³

Such urban growth, if managed properly, can bring benefits to Iraq. Historically cities have been engines of growth and in his conference presentation⁴, Jamie Simpson indicated that a 10 percent increase in urban population can correlate to a 30 percent increase in GDP. But as Mr. Simpson emphasized, for cities to be a force for good they must be managed properly. Cities do not work automatically and good urban governance is critical for Iraq given its rapid urbanization. The key is to get the new decentralization framework to function to provide adequate local services, to harness civic creativity, and to match fiscal arrangements to delegated responsibility.

“If Iraq is to move from being solely dependent on oil as the main source of revenue, how cities function and are being managed is going to be a key issue and considering this in the context of where functional responsibilities lie is the major theme we need to work on,” said Fiona McCluney of UN-HABITAT in her closing comments at the conference.

Dr. Anwar Shah of the World Bank in his presentation on urban governance emphasized how China is a good example of how a country can achieve impressive economic growth and poverty reduction in its cities through strong local government (see Figure 1.1).

“Even in the absence of political democratization [in China], decentralization has delivered, in terms of uplifting peoples’ lives as well as giving a sense of participation in the affairs of the state,” said Dr. Shah. “China has very strong local governments and local governance has acted as a catalyst for economic development and economic growth.”⁵

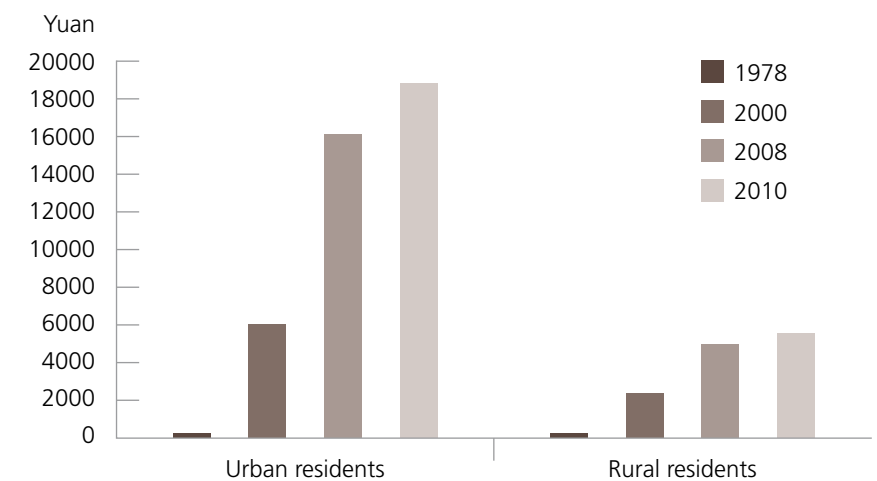
But such growth needs proper management in cities. The movement from rural to urban populations by necessity shifts political and administrative responsibility from central governments to municipal, regional and local governments. The challenge here is also for authorities and governments to adopt decentralization policies that maximize the benefits of urbanization.⁶

“The first challenge, that I can perceive from the discussions during the conference, is that there isn’t a national

consensus for decentralization,” said Jonas Rabinovitch, senior adviser at UNDESA, who chaired the conference session on Decentralized Urban Governance. “Different institutions in Iraq at different levels have different views. So on the one hand there is a legal framework supporting decentralization but in my view, from what I’ve seen, the national consensus is not in place yet.”

The lack of consensus is not surprising. As Dr. G. Shabbir Cheema, director of the Asia-Pacific Governance and Democracy Initiative at the University of Hawaii, explained in his presentation, in the developing world every political system has some elements of centralization and some elements of decentralization. Some countries have more administrative decentralization while others have more political and fiscal decentralization.

Figure 1.1 China’s impressive growth in per capita income for urban residents



Source: Presentation by Anwar Shah at the UN-HABITAT International Conference on Decentralization, Amman, May 2011

¹ UN-HABITAT: Urbanization, Facts and Figures

² Conference paper prepared by Dr. G. Shabbir Cheema for the UN-HABITAT International Conference on Decentralization (Amman, 8 May 2011)

³ Conference presentation by Professor Om Prakash Mathur (Amman, 9 May 2011)

⁴ Conference presentation by Jamie Simpson of GHK Consultants (Amman, 8 May 2011)

⁵ See Appendix II

⁶ Conference paper prepared by Dr. G. Shabbir Cheema for the UN-HABITAT International Conference on Decentralization (Amman, 8 May 2011)

The key issue in the discussion on decentralization is about the right mix of centralization and decentralization in the socio-political, economic and cultural context of the country in question. And different levels of government will have very different views. This report seeks to distil the discussions at the conference into recommendations to assist the development of decentralization in Iraq.



BENEFITS OF DECENTRALIZATION

What is important before discussing the grounds to establish consensus, is to stress that decentralization can bring key benefits to an urbanizing Iraq.

One benefit of decentralizing government is that delivery of services can be carried out more effectively. Despite the relatively high incomes in Iraq's cities⁷, the increasing populations in cities are putting a major burden on the delivery of services, and service delivery is regarded as weak in urban areas. Ninety-four percent of citizens interviewed said they found services weak in Hilla.⁸

Decentralization can make for better service provision by providing greater opportunities for community-based groups to lobby for greater access to services such as primary health care, education and low-income housing. Proximity to demand base for a service renders response more effective and promotes a more rationalized use of resources and this proximity also allows for closer monitoring by the beneficiary population of projects intended to serve them.⁹

"In the majority of the cases decentralization has led to improved service delivery at the local level, so although the evidence is mixed, it is

overwhelmingly in favour of decentralized service provision," said Dr. Shah.

Service delivery in Iraq is discussed in section II.D and is one of the main drivers for the Iraqi local governments in seeking effective devolution of powers.

"Our main objective is to offer quality services to citizens, which should be the duty of any government, whether local or central," commented Wafa'a Fadhil, Chair of the Iraq Local Government Association during her conference presentation.

A second benefit conferred by decentralization is the element of community participation, which can be encouraged by devolved powers. Decentralization can lead to an institutional framework through which various political, religious, social and ethnic groups at multi-levels, including in cities and towns, can participate in making decisions affecting them. This is clearly benefitting a region like Kurdistan, which has an autonomous government within the federation. It helps the development of democratic values and skills among citizens,



Dr. Shabbir Cheema, Director, Asia-Pacific Governance and Democracy Initiative, East-West Center, Honolulu, USA

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Iraq needs to improve the delivery of urban services to reduce poverty and stimulate social and economic development

© UN Photo-Bikem Ekberzade

thereby promoting the sustainability of the democratic process and also ensures accountability of political leaders and government officials. It facilitates the exchange of information and promotes checks and balances between the centre and sub-national/local units of government and administration – one of the key ingredients of good governance.¹⁰ Community participation as a pillar of Iraqi decentralization is discussed in section II.C.

Decentralized decision-making can also provide a better framework for poverty reduction provided it is accompanied by appropriate fiscal and administrative devolution of powers to local governments so that they can deliver services at the same

level as the central government does. This is a key issue for Iraq given the dependency on oil revenues, as is the need for equitable redistributions of resources between different local governments (see section II.B).

Decentralization can accelerate economic development through active engagement of regional and local government units and local enterprises in economic activities. The transfer of authority and resources to local units of government and administration to design and implement development programmes provides more opportunities to local citizens to play a more direct role in the development process. As catalysts for development and local change

agents, they can make decisions about location of services and determine local priorities.¹¹

"Decentralization is not just a means to an end, it is an end itself as well, because the people empowerment is the key issue here," said Dr. Shah. "By moving the governments closer to the people you empower them to take decision making in their own hands, to decide their own well-being and you have an uplift of local economic development issues." Dr. Shah revealed empirical evidence to show how decentralization can lead to higher GDP per capita (see figure 1.2, page 14), lower central government debt, lower corruption, more accountable and responsive governance (see figure 1.3, page 14) and a more durable political system.

⁷ The average monthly income for a family in Hilla district in Babil governorate in 2007 was about one-million Iraqi Dinars (USD 858.36) per month. Source: UNOPS, Assessment of Local Governance in Iraq: Report on the District of Hilla Babil Governorate (2010)

⁸ UNOPS, Assessment of Local Governance in Iraq: Report on the District of Hilla Babil Governorate (2010)

⁹ Conference paper prepared by Dr G. Shabbir Cheema for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

¹⁰ Idem

¹¹ Idem

Figure 1.2 Higher GDP per capita with strong local governments

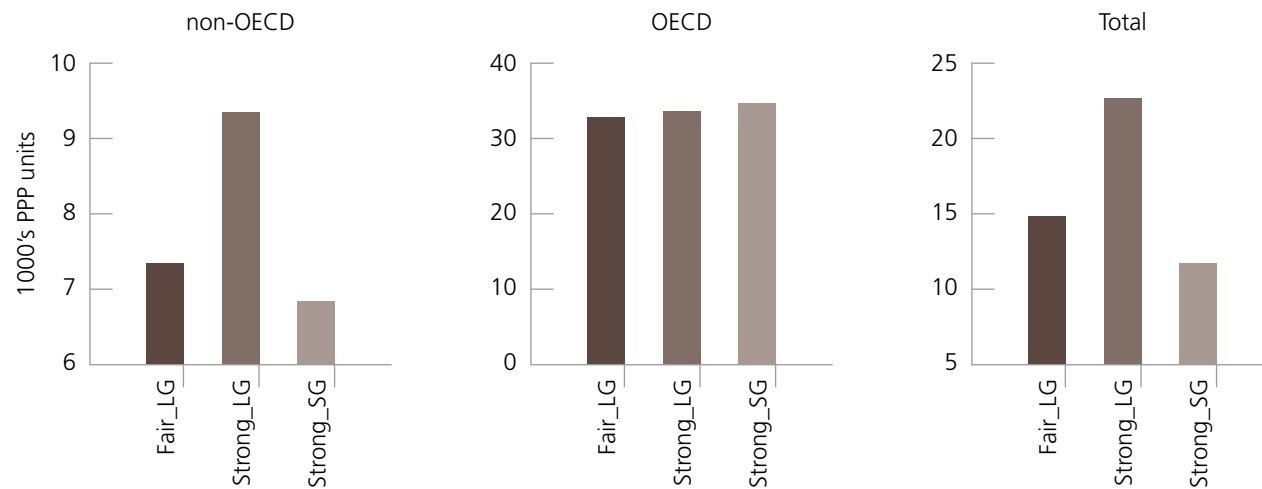
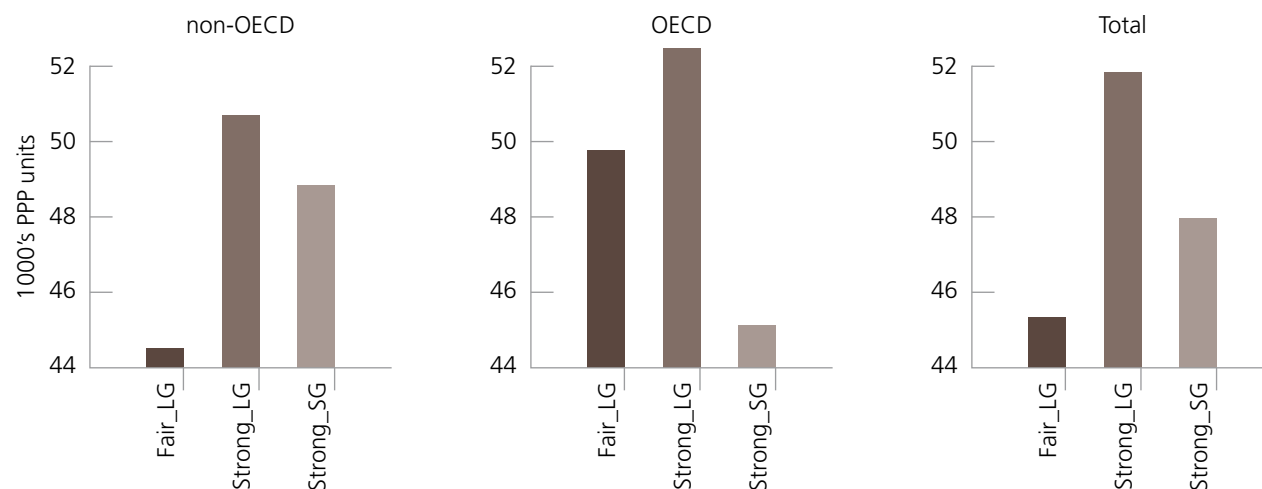


Figure 1.3 More accountable governance with strong local government



Source: Presentation by Anwar Shah at the UN-HABITAT International Conference on Decentralization, Amman, May 2011

- **Fair LG:** Fair local government refers to weak or moderate role of government in multi-order governance
- **Strong LG:** Strong local government refers to a strong, expansive and autonomous role of local government
- **Strong SG:** Stands for wider and stronger role of state and provincial governments (usually associated with weak local governments)

Finally, decentralization also facilitates the growth of civil society organizations and networks because it provides the greatest scope for

the establishment of civil society organizations around local issues that impact directly on the lives of the people.¹² Iraq has very few effective civil

society organizations in its communities, with the Hilla local government assessment indicating that civil society organizations were very weak.¹³

¹² Larry Diamond (1999) *Developing Democracy: Toward Consolidation*, Baltimore, Johns Hopkins University Press p. 123
¹³ UNOPS, *Assessment of Local Governance in Iraq: Report on the District of Hilla Babil Governorate (2010)*

GETTING THE MIX RIGHT

Experience in developing countries suggests that successful decentralization requires the right ingredients, appropriate timing, a large degree of patience and some degree of experimentation. It is not a straightforward process. As Wafa'a Fadhil, ILGA chair, said in her presentation: "Decentralization is a double edged sword: if we can use it properly it will lead to the required goals but if not, it will weaken the provision of services."

First Iraq needs the right ingredients: through strong and committed political leadership, central government officials must be willing and able to share power, authority, and financial resources. The transfer of functions and resources must be accompanied by training and local capacity development programmes so that local officials can effectively perform the decentralized functions.

But the ingredients are easy to state. "The challenge is not to design a decentralization programme, it is to breach the gap between theory and practice. Lots of governments have ambitious policies but nothing to show for it in the field," said Dr. Cheema

The difficult and key point is to find committed leadership. As one delegate asked: how do you make a government become "willing" to share power and resources?

"There must be enlightened self-interest on the part of the central government," said Dr. Cheema.

Through the conference and this report, the aim is to show the federal government of Iraq that the economic growth of the urbanizing country, the quality of service delivery, the support from empowered local governments and devolution of responsibility to those more suited to carry out the tasks, means that decentralization is key to the long-term interests of the



Jonas Rabinovitch, UNDESA

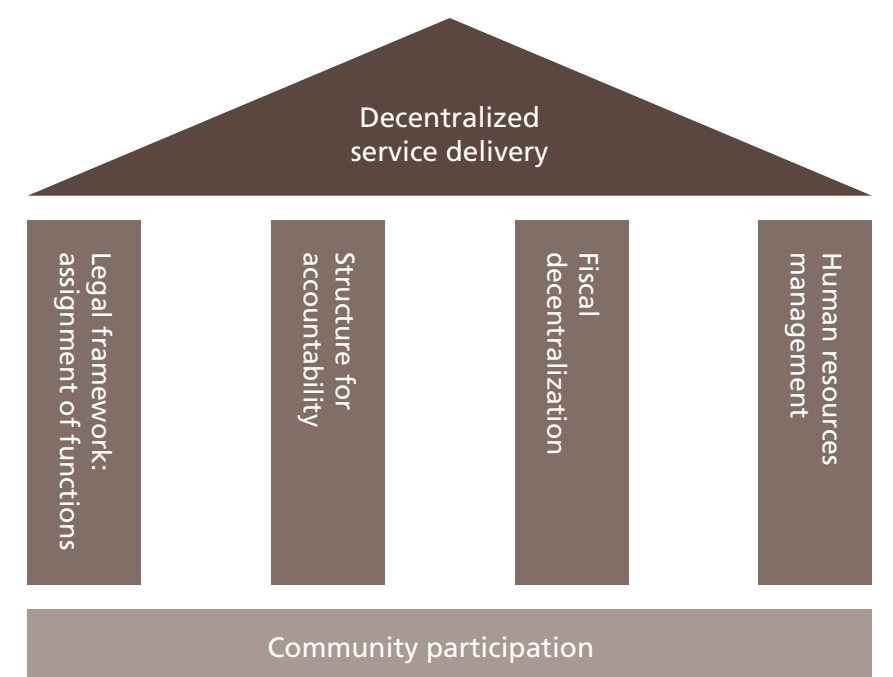
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federal government. Competition, innovation and cooperation at the local level will make Iraq's federal government stronger.

"We cannot do something that gives the impression to the [Iraqi] central

government that we are challenging their sovereignty," said Mr. Rabinovitch. "But we feel very comfortable now from the perspective of the UN secretariat, in sharing knowledge, information and experience with them, showing that decentralization can help."

Figure 1.4 The pillars of decentralization



Source: Presentation by Dinesh Mehta, CEPT University, Ahmedabad.

“Each of Iraq’s levels of governments is comprised of different governmental bodies with differing authority. It is the failure to understand these differences, and the absence of a way of analyzing them that is slowing Iraq’s progress towards achieving the promise of decentralization.”

Lamar Cravens, Chief of Party,
Iraq Local Governance Program–Phase III

A: Political decentralization and the legal framework: why reform is needed on the assignment of responsibilities between different levels of government

THE CURRENT LEGAL FRAMEWORK FOR DECENTRALIZATION

Iraq’s Constitution of 2005 established a parliamentary system of government with a two-tier system: a federal government headed by a Prime Minister and his cabinet of appointed ministers, and a system of local government through the eighteen governorates (provinces).

Three of the governorates have special status: Erbil, Sulaymaniyah and Duhok in Kurdistan have elected governors and councils (governing 60 municipalities each) and together form the Kurdistan Regional Government. Article 117 of the Constitution recognizes the Kurdish Regional Government (KRG) as autonomous and therefore entitled to have all of the hallmarks of a government: its own constitution, its own parliament and its own ministries. Its relationship to the central government in Baghdad is federal in nature, and as befits federal relationships is defined constitutionally. For instance, other than a few exclusive powers retained by the central government in Article 110 (like national security and foreign policy, see below), the KRG is expected to share policy-making authority with Baghdad with respect to water, education and health, but enjoys decentralized decision making with respect to all other public services.¹

“I think the biggest challenge in Iraq is they have opted for a model where they have given one province special status but the status of the other provinces are completely under the



Erbil city is capital of one of three governorates with special status under the Iraqi constitution

central government,” said Anwar Shah of the World Bank, who spoke on urban governance at the conference. “So the issue is more to decide whether they want to have a true federal system or a decentralized local governance system and in my view decentralized local governance works much better in the context of Iraq.”

Law 21 of 2008 – the Law of Governorates Not Incorporated Into A Region – as its name implies is applicable to rest of the governorates which do not form part of the Kurdistan region. The exception is Kirkuk, which is awaiting a decision on whether it will form part of the Kurdistan region and so currently Law 21 applies to 14 governorates (provinces). This law sets out the procedures for the formation of local councils at the governorate level and at levels below (the *qada* and *nahiya* councils which function

as district councils) as well as defining the powers and duties of local councils. Law 21 provided for a major conceptual shift for Iraq with the character of governorate councils changing from a body composed of department heads, presided over by the governor, to an elected body, which itself chooses the governor. Lamar Cravens observed in his presentation paper for the conference that there is scope for further reform in this direction with the direct election of the governor and constituent-based election of council members. Anwar Shah also argued for provincial councils to comprise directly elected heads of local governments, which monitor and oversee a provincial governor who is also directly elected or appointed by the federal government subject to confirmation by the Provincial Council. Such reforms would need amendments to Law 21.

¹ Conference paper prepared by Lamar Cravens for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

While the Constitution and Law 21 form the main bulk of law governing the relationships between the different levels of government, ministerial regulations, Prime Minister decrees and Supreme Court opinions also form part of the legal framework. As Lamar Cravens emphasized, this is important because under the Constitution article 122 states that the governance of the provinces is to be determined by law so all of these items apply and bind the provincial councils, including regulations from local ministerial departments operating inside a province. Article 7, *Third* of Law 21 (see Appendix IV) specifically enjoins a governorate council against taking any action that contravenes the Constitution or other national law reinforcing that the councils are subject to the decision and opinions of law making institutions such as the courts, prime minister's office and the ministries.

CLARIFYING THE ASSIGNMENT OF RESPONSIBILITIES

Article 110 of the Constitution describes the areas of exclusive authority for the federal government. These include foreign policy, defence and citizenship (see Appendix III).

But for other matters such as the authority for health and education in the provinces, the Constitution does not indicate the current assignment of responsibilities between governments. There is only general language in article 115 that the powers not stipulated as exclusive powers of the federal government belong to the authorities of the regions and governorates (see Appendix III). This would appear to offer a wide power to local governments to assume authority over items not listed in article 110 but in fact there is clear intention by the draftsman that the governorates should exercise any such powers in subordination to the federal government.



Wafa'a Fadhil, Chair, Iraq Local Government Association

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Article 122, Second of the Constitution says governorates must manage their affairs in accordance with the principles of administrative decentralization and the same deliberate reference is made in Law 21 article 7, *Third* when referring to the powers of the provincial councils which must be exercised in accordance with principles of administrative decentralization and in a manner which does not contravene federal law.

This subordination is reflected in reality. In the 15 governorates, which do not have regional government, the major public functions are carried out by local departments of the central government. Staff are central government employees and budgets and expenditure are the decision of the federal government.² Although Article 115 reserves powers to the provinces, a provincial council is not a provincial government: no province has its own constitution or its own ministries or directorates and departments. Instead, a province is, in the words of the constitution, an administrative unit of the central government working alongside the local ministerial department of the federal government.³

The ministerial departments of the central government may share the same territorial jurisdiction as a provincial council but they have very different powers or subject matter under their control. "It is a grave error to equate a provincial council with provincial government because of jurisdiction," said Mr. Cravens.

In his conference presentation, Mr. Cravens cited the example of the Director General of Education with responsibility for the governorates of Babil, Karbala and Najaf. The head of the council in each of these provinces, the provincial governor, only has territorial jurisdiction within his province and has no jurisdiction over education in his province (subject matter jurisdiction). So while the governor shares territorial jurisdiction with the DG of Education, he does not share jurisdiction for education, the particular subject matter of that authority.

The local branches of the central government derive their authority and jurisdiction by law in the form of ministerial regulation.⁴ Law 21 grants powers to the councils but emphasizes that such powers should not encroach on the jurisdiction of the ministries, as they are "offices under federal jurisdiction" (see Article 7 Sixth in Appendix IV).

As Mr. Cravens pointed out, the importance of this is that, for the subject matter jurisdiction of the councils to be changed to that of a ministerial department, a change in the law would be necessary. The Constitution and legal framework as it stands does not allow for this even with the powers reserved by article 115 to local governments. The only way to clarify that the powers of the councils be changed to manage the functions of the local ministerial department is through the legislature.

Until such time as those changes occur, provincial councils are still very weak, as the majority of government decisions remain in the hands of appointed officials in departments, not elected ones.⁵

If as is necessary, Iraq undertakes the necessary legal reforms, it is important according to case law from 2011, that these are drafted by the Council of Ministers and not Parliament. Law 20 of 2010, which was approved by the Presidency Council in January 2011, purported to transfer staff, properties, budgets and responsibilities from the Ministry of Municipalities and Public Works to the provincial councils. Law 18 of 2010 aimed to do the same for the Ministry of Labour and Social Affairs. The Supreme Court declared both laws to be unconstitutional on the basis that the national parliament can only propose laws not draft them. Drafting must be done by the Council of Ministers for presentation to the parliament.⁶

NO PROVISION FOR DISPUTE RESOLUTION

Another weakness of the present legal system for decentralization is that there is no forum or body where disputes between the different levels of government can be heard to clarify or interpret the existing law. Unlike other neighbouring Arab countries, the ministry, which deals with local governance, the Ministry of State for Provincial Affairs, has no rulemaking authority to determine how the councils work and interact with the federal government. The lower house of Parliament, the Council of Representatives, is also not empowered to deal with conflicts between the ministerial departments and the provincial councils. Article 45 of Law 21 provides for the setting up of a High Commission for Coordination Among

the Provinces (HCCP) to be nominally authorized to resolve disputes as part of its charge to coordinate the provinces. Yet to date, the Commission has only met once (in 2009) and two more times since and has yet to form a secretariat or establish any independence from the Prime Minister, who chairs it.⁷

Additionally, the Supreme Court is not authorized under its statutes to hear cases from the provincial councils. Although Law 30 of 2005 permits the court to resolve disputes between the different levels of governments, the court has refused in several cases in 2010 (Cases 39, 54, 57, 61 and 63) to hear cases submitted by the provincial councils on the basis that it does not have jurisdiction. There is therefore no legislative, executive or judicial forum to resolve disputes between the different levels of government and there should be legal reforms to provide for this.

As article 116 of the Constitution recognizes, the federal government is committed to moving from a deconcentrated system of local branches of national government to a federation of decentralized local governments. To get there, Iraq first needs to undertake several legal reforms to provide clear assignment of responsibilities and to remove doubt over provisions in the current legal framework. Issues of capacity building and management of local budgets can only come into play if the country has a clear legal and political system for decentralization to proceed.

As well as reform of the actual legal provisions, Wafa'a Fadhil, chair of the Iraq Local Government Association, called at the conference for a mechanism for transfer of authority from the federal government. "We need a plan of action for transfer of the constitutional powers as well as coordination through an independent

committee made up of members of the Council of Representatives, the Council of Ministers and the Provinces to monitor if progress has been made on this," said Ms. Fadhil.

Recommendations and conclusions

- The power and authority of the provincial councils in matters other than those expressly reserved to the federal government needs to be clarified by law. The current constitution and Law 21 do not grant power to the councils to act independently of the local ministries of the federal government and specifically state that powers of the provincial councils must be exercised in accordance with principles of administrative decentralization.
- Despite article 122, Fifth, of the constitution providing that the governorate councils will not be subject to the control of any ministry, Law 21 clearly states that the powers of the elected councils must not encroach on those of unelected officials in local ministerial departments and most not contravene federal law. Such subordination means that provincial councils are very weak as decisions remain in the hands of unelected officials in local ministries rather than with elected member of the provincial council. This needs to be amended by law.
- An independent forum should be set up to resolve disputes between the different levels of government together with the establishment of an independent committee to oversee transfer of powers from the federal ministries to the provincial councils.

² Conference paper prepared by Dr. Ehtisham Ahmad for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

³ Conference paper prepared by Lamar Cravens for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

⁴ Idem

⁵ Idem

⁶ Conference paper prepared by Lamar Cravens for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

⁷ Idem



Delegates heard that legal reforms are necessary before Iraq can move forward on the process of decentralization

“I think the biggest challenge is getting, what I would call, the devolution of funding from the [Iraqi] federal government down to the governorates: unless that happens one will never really have true decentralization.”

Professor Dinesh Mehta,
CEPT University, Ahmedabad

B: Effective strategies for fiscal decentralization and management of local budgets

CURRENT FRAMEWORK FOR FISCAL DECENTRALIZATION

Fiscal decentralization is characterized by local revenue generation by local officials, plus the collection, budgeting and expenditure of locally-sourced funds.¹

Article 44 of Law 21 provides for clear powers for the governorates to levy local taxes as well as rights to receive transfers from the federal government.

Despite the clear wording of Article 44, the Ministry of Finance and the courts have denied governorates the right to levy local taxes. In July 2010, the Council of Ministers challenged a surcharge being levied by Basrah provincial council on the issuance of passports on the basis that no new taxes can be imposed other than by law. The implication despite article 44 is that only national law can introduce new taxes: local provincial councils cannot themselves levy taxes unless those levies are provided for in national legislation.

“The Ministry of Finance has to be persuaded that there are some taxes that are best administered at the local level, the property tax for instance,” said Dr. Ehtisham Ahmad, senior fellow at the London School of Economics, who made his conference presentation on fiscal decentralization in Iraq.

Luiz de Mello, Counsellor to the Chief Economist at the OECD, who also presented on fiscal decentralization, agrees. “Of course, it is a country in reconstruction so it will take a while for Iraq to put together a register of properties and come up with the infrastructure and the know-how

to collect local taxes. This task is far from trivial but it should be no excuse for not doing anything at this stage,” said Mr. de Mello.

In the absence of local tax revenues, the reality is that almost all governorate money comes from transfers from the central government’s Ministry of Finance.²

And the government transfers of revenue referred to in article 44 amount to very small contributions from the national budget. Except in the case of the Kurdistan Regional Government, which received 17 percent of the national budget net of sovereign spending, the 15 governorates received together around 5 percent of the total budget.³ The practice has been for the amount

going to each governorate to depend generally on the size of the relative population, but more recently, there is an additional allocation of “petrodollars” to those governorates that either produce or process crude oil at the rate of USD 1 per barrel of oil. In 2011, the 15 governorates received IQD 5.111 trillion (USD 4.368 billion) including petrodollars of which IQD 0.497 trillion was for operating expenditures and IQD 4.355 trillion for investment expenditures.⁴ For a full list of budget estimates for the provinces see figure 2.1.

It is imperative for Iraq to move towards locally sourced revenues and equitable transfers of oil revenues if its proposed model of decentralized government is to take hold.



Professor Dinesh Mehta, CEPT University

¹ Conference paper prepared by Lamar Cravens for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

² Hilla does not have any internal income and is completely funded by central funding. The Ministry of Finance manages the state budget and allocates allowances to the governorates.

³ Paper prepared by Michel del Buono, senior economic adviser at UNAMI: Resources Assigned by Iraq’s Central Government to Regional and Provincial Governments

⁴ Idem

Figure 2.1 Budget Estimates for Provinces (in billion dinars).

Province	2009 (Revised)			2010 (Proposed)		
	Total	Projects and Reconstruction	Total Operating Expenditures	Total	Projects and Reconstruction	Total Operating Expenditures
Basra	309.6	237.2	72.5	305.4	220.0	84.4
Ninewa	355.2	278.0	77.2	448.6	287.5	161.1
Baghdad	840.9	650.3	190.7	937.1	637.5	299.6
Dhi Qar	257.7	168.3	89.4	228.0	165.0	63.0
Diyalah	158.8	122.4	36.4	261.2	122.5	138.7
Babil	205.5	158.1	47.4	229.2	152.5	76.7
Anbar	180.1	132.6	47.5	197.4	130.0	67.4
Maysan	126.7	94.4	32.4	128.4	90.0	38.4
Wasit	138.9	107.1	31.8	153.7	102.5	51.2
Kirkuk	159.2	117.3	41.9	186.5	115.0	71.5
Najaf	146.3	109.7	36.6	153.8	110.0	43.8
Diwaniyah	160.7	102.0	58.7	179.6	131.0	48.6
Muthanna	895.9	66.3	23.3	955.6	65.0	30.6
Karbala	201.3	91.8	109.5	642.1	90.0	552.1
Sala ad-Din	184.0	114.8	69.3	201.9	112.5	89.4
Total	3,514.5	2,550.0	964.5	4,348.5	2,531.0	1,817.5

Source: M Del Buono / Iraq Ministry of Finance

According to Dr. Shah: “One needs to think about how [Iraq’s] local governments can be empowered to raise some finance locally because without raising finances locally there will not be any accountability if they simply rely on transfers from the central government.”

But, to get to a stage where revenue sharing and intergovernmental transfers are effective in assisting the economic development of communities, Iraq needs to first implement transparent budgeting systems before it can proceed to the devolution of fiscal powers and provisions on sharing revenues.⁶

CREATION OF BUDGETING AND MANAGING CAPACITY

For transparent management of resources, Dr. Ahmad advised of the

need for uniform standards to be adopted for appropriating and spending resources at local and federal levels of government. With the Iraqi Ministry of Finance having made moves towards adopting international standards by adopting the IMF’s GFS2001 budget classification, Dr Ahmad stressed that this should be extended to all sub-national levels so that they use the same budget classifications for revenues and expenses as the federal government. It would also be helpful to have a government financial information management system that can facilitate the new budget classification. A further aid to transparency in dealing with funds from oil resources would be to set up a treasury single account as a replacement for the Development Fund for Iraq, which was put in place by the Coalition Provisional Authority to administer Iraq’s revenues.

DEVOLVING FISCAL POWER TO LOCAL GOVERNMENTS

As was seen in the previous section the devolution of responsibilities has to proceed step-by-step and requires the introduction of a legal framework defining, for each sector, the functions carried out by the federation and the regions/ governorates. In the constitution there is no clear assignment of taxation powers, the constitution mentioning that fiscal policy orientation is assigned to the federal government.⁷ As noted above, for such powers to be exercised by local councils, there is a requirement for an actual fiscal law granting specific tax raising powers to the provinces, as current provisions in Law 21 have not been upheld as sufficient to grant local powers of taxation.

The system of tax collection is very centralized with offices in Baghdad and field offices in each governorate, which collects taxes and transfers them to the central treasury. Dr Ahmad believes this should continue. Administration should remain central in the fields of revenue assessment and collection, and for joint management of the oil sector. In those fields the federal government can provide a service to all areas and citizens of Iraq, with likely efficiency gains deriving from economies of scale and coordination of effort, even where distribution of resulting revenues and transfers is governed by a transparent formula, and with oversight by an intergovernmental mechanism.⁸

OWN-SOURCE REVENUES

Even if there is a system of shared revenues with equalization transfers between provinces (see below), it is important to implement a system of local taxes over which the local government has some control over rates. Own-source revenues are necessary to ensure accountability of local governments. This is important in ensuring incentives for efficient use of the transfers and spending and that sanctions against sub-national default are credible.⁹

“The message I would underscore is that oil revenues are one source of revenue that they [local governments] have but should not be a substitute for other sources of revenue,” said Luiz de Mello. “What happens a lot, especially in many developing countries, is that, because it is so easy to collect oil money, these local governments don’t collect anything else, they just wait for the handouts. That’s what should be avoided in Iraq, because they have the opportunity to do so by setting up this system from scratch. There are, for instance, taxes, and sources of revenue



Chile is extremely dependent on natural resource revenue, particularly copper

that are ideal for local government, including property or sales taxes, that they should try and collect instead of just waiting for handouts from shared oil revenue from the centre.”

Mr. de Mello cited Chile for example as another country that is dependent on natural resource revenue, in Chile’s case copper, and yet local governments there collect property taxes and other taxes. “Although you have to keep in mind that Chile is nowhere nearly as decentralized as I believe Iraq is likely to become,” said Mr. de Mello.

In his conference paper, Dr Ahmad advised of the need for national legislation to provide incentives to local governments to levy their own taxes and fees. Other conference participants agreed that incentivization is important in terms of locally raised revenues. “That [local taxation] is not going to happen unless strong devolution takes place,” said Anwar

Shah of the World Bank. “With strong devolution, people will say ‘Well we do have oil resources but we need more more money to carry out the following project for local people’s needs’. Local governments will not raise money locally even if they have the powers to in the absence of incentives.”

As well as incentivizing governorates to raise taxes, it is important to harmonize tax policies of sub-national units, by defining the number of these levies, their tax base and the bounds within which tax rates can be applied, to avoid excessive and uncontrolled proliferation of local taxes.¹⁰

A delegate from the Iraq Local Government Association asked whether it made sense to proceed to fiscal decentralization while corruption is rife in the country.

Luiz de Mello summarized the issue neatly. “If you look at what the

⁶ Conference paper prepared by Dr Etisham Ahmad and Giorgio Brosio for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)
⁷ Conference paper prepared by Dr Etisham Ahmad and Giorgio Brosio for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

⁸ Conference paper prepared by Dr Etisham Ahmad and Giorgio Brosio for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)
⁹ Idem
¹⁰ Idem



Dr. Ehtisham Ahmad, London School of Economics

appropriation and the ability to track monies and how it is accounted for. “All these are key elements of the budget law but it is not being followed in Iraq. If the budget law was properly implemented, it would be hard to misuse funds, not impossible, but it would minimize the possibility.”

TRANSFERRING MONEY TO LOCAL GOVERNMENTS: SHARED REVENUES AND INTERGOVERNMENTAL TRANSFERS

According to Dr. Ahmad, the expenditures of local governments in Iraq should be covered by a system of shared revenues from oil, complemented with a transfer system that includes special purpose transfers to meet central government objectives, such as minimum standards and reaching minorities, and an equalization systems to ensure buy-in from the poorer regions to assure similar levels of services could be provided for similar levels of tax effort.⁹

1. Shared revenues

At the conference Dr. Ahmad proposed several options for sharing oil revenue including: production royalties, production shares, sharing profits through shareholdings in national oil companies; and a share of a central revenues from current oil fields.

The constitution regulates only the sharing of oil revenue deriving from presently operating fields (article 112) stipulating that revenue be distributed in a fair manner and in proportion to population (see Appendix III).

Dr. Ahmad advised that the allocation of shared revenue among individual local governments be made according to a combination of the origin principle (ie. revenue is allocated to the jurisdiction where it is

literature says and if you look at the empirical evidence that is available, the message is pretty mixed. On the one hand you can argue that decentralization is a good instrument for fighting corruption because it brings the government closer to the people. This may in turn facilitate social control over what local governments do. One can think of examples in support of this idea. But on the other hand you could argue that, in fact no, if you decentralize it just makes it easy for the local elites to capture the government.”

Speakers agreed corruption was a risk but this faced every government, including central governments, and should not be a reason for holding back the benefits of fiscal decentralization.

“I think there is a risk but if everything is done transparently then that risk can be overcome, as local people will know how much

money has been received and where that money went and the risk is even there with the centralized regime and centralized government officials if there is no transparency in government operations,” commented Dr. Shah.

Iraq needs to put in place the budget management measures described above. “To come up with appropriate control mechanisms that would prevent decentralization from facilitating corruption, you could have a top-down approach based on transfers from the central government to the sub-national units coupled with appropriate expenditure management and accounting systems, as well as an effective supervisory body that could look into governmental transfers and monitor the use of funds,” explained Mr. de Mello.

According to Dr. Ahmad you need clear rules on no spending without



“The message I would underscore is that oil revenues are one source of revenue that they [local governments] have but should not be a substitute for other sources of revenue.”

Luiz de Mello, OECD

produced) because this will be attractive to the revenue-producing regions and may be needed as part of a political economy bargain to persuade such regions to participate in the federalism arrangement.¹⁰

Any provisions on sharing oil revenues will need amendments to the constitution. To bring about the necessary changes, a special committee, mandated by the constitution, will have to present amendment proposals. The parliament is called to approve or reject these proposals with a simplified procedure requiring the majority of its members.¹¹

2. Intergovernmental transfers

Transfers between the federal and local governments will play an important role in Iraq to fill the gaps in individual allocations of shared revenue and to implement national priorities in a highly decentralized expenditure framework.

For Dr. Ahmad equalization transfers can be the glue that holds the Iraqi federation together. The existing mechanism for sharing revenue on a per capita basis may not allow all regions the ability to finance similar levels of public services with a comparable own revenue effort. “Once you have decided what services each level of government is providing and once you know what your own sources of revenue are, you can move to a more advanced framework,” said Dr. Ahmad.

He proposed an equalization framework based on a combination of expenditure needs and revenue capacities. “In that way you can move away from populations in your equalization framework and the demands of Basrah or Kurdistan or western province can be met in a way which is consensual,” said Dr. Ahmad.

As the setting up of equalization systems is complex, Dr. Ahmad advised that the setting up of an independent intergovernmental commission would be a sensible innovation to include both members of the federal and local governments.¹² This commission would ensure the transparency of the revenues, which were being collected and distributed by the central government.

Dr Ahmad cites Brazil as an example of where transparent budgeting and management of resources is an essential component of fiscal decentralization. “In Brazil they have every single account, they have government financial information management systems, they can track what goes where and they have a budget framework. These are exactly the sorts of things that we said are necessary for Iraq,” said Dr. Ahmad.

Recommendations and conclusions

- It is imperative for Iraq to move towards locally-sourced taxes and to establish an equitable transfer of oil revenues if the model of decentralized government is to take hold. Without local revenues, there can be no accountability for local governments, which rely only on transfers from the federal government.
- Despite Article 44 of Law 21 granting the governorates the power to levy local taxes, this has been denied by the courts so new fiscal laws are needed to specify what types of tax can be raised at the local level (eg. property taxes) and to incentivize provincial councils to collect them.
- Local governments should receive a share of revenues from oil complemented by an equalization scheme based on expenditure needs and revenue capacities. To implement this will require amendments to the constitution.
- An independent commission containing members of the federal and provincial governments should be set up to monitor setting up of the equalization systems.
- Transparent budgeting and management of resources is key to effective fiscal decentralization and uniform standards based on the IMF’s budget classifications should be adopted by Iraq at both national and sub-national levels of government.

⁹ Conference paper prepared by Dr Ehtisham Ahmad and Giorgio Brosio for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

¹⁰ Conference paper prepared by Dr Ehtisham Ahmad and Giorgio Brosio for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

¹¹ Idem

¹² Conference paper prepared by Dr Ehtisham Ahmad and Giorgio Brosio for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

“When people feel engaged, they contribute better and it helps in post-conflict redevelopment.”

Jonas Rabinovitch,
Senior Adviser, UNDESA, New York

C: Bringing citizens into the democratic process: the value of community participation

Decentralization can bring the local community into the democratic process not only by granting voting rights for the election of local officials but through active participation of citizens in influencing the decision-making of local governments.

While admitting that each country has different challenges and make-up, Jonas Rabinovitch, in his conference presentation, said the lessons learned from community participation in governments of other post-conflict countries could be useful for possible adaptation in Iraq. The high level of civic engagement in Guatemala had led

to previously marginalized indigenous groups being brought into the local government decision-making. He also cited Rwanda where decentralization was part of the peace building process. There, through Community Development Committees, community members could submit proposals to the local government council and share responsibility for monitoring, evaluating and controlling development activities.

In South Africa, Mr. Rabinovitch referred to the legal frameworks set up in 1994 as part of the post-apartheid constitution whereby community

participation was encouraged in municipal development planning and so community members felt empowered to participate and influence social, economic and political decisions affecting them.¹

Unfortunately in Iraq's case, community participation has been limited at the most local level. The Hilla and Sulaymaniyah Local Government Assessments confirm at the district level the lack of female representation on the councils and the lack of consultation with citizens (see box). As Dr. Kawa Faraj pointed out during his conference presentation on Sulaymaniyah, there is

Local government assessment: community participation is very weak in Iraq

According to the findings² from reports in the Hilla and Sulaymaniyah regions presented by Dr. Ali Hadi Humaidi Al-Shokrawy and Dr. Kawa Mohammad Faraj:

- There are weak partnerships between the local government and citizens. Meetings and sessions are open to citizens and media, but citizens rarely attend
- The government's response to the needs of local citizens is weak. There is little transparency, trust, communication, and participation between the local government and the citizens
- In Hilla 83.5 percent of citizens view the level of effectiveness of local authorities' performance as weak
- Local government rarely consults with citizens and does not organize referenda to address issues pertaining to public policies in the region
- There are limited partnerships between private sector and civil society organizations
- There is an absence of special budgets for districts and the local authority does not have any financial independence with funding being 100 percent centralized
- There is a predominance of political and/or partisan power-sharing in choosing the leaders of local administrations
- Bodies and organizations of the local authority are subjected to the monitoring of the central authority
- There is a lack of female representatives within the local council
- There are not enough programmes aimed at reducing poverty and unemployment, or improving the status of women
- Despite mechanisms to prevent it, there is still endemic corruption

¹ Conference presentation by Jonas Rabinovitch at the International Conference on Decentralization, Local Governance and Service Delivery (Amman, May 8-10 2011)

² Conference presentation by Dr. Ali Hadi Humaidi Al-Shokrawy of the University of Babil and Dr. Kawa Faraj of the University of Sulaymaniyah (Amman, May 8 2011)



Participatory budgeting was pioneered in Brazilian cities such as Porto Alegre

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not just an absence of citizen participation in district administration meetings but there is a lack of awareness of most citizens of their right to attend meetings.

In order to drive community participation, Ed Cornies, Chief Technical Adviser at UNDP in Turkey, emphasized at the conference that it is necessary to develop a culture of dialogue between administrative authorities, politicians, citizens, social groups, associations, representatives of industry and other operators.

He cited several initiatives in European countries to empower citizens through community participation:

- Neighbourhood advisory councils;
- Advisory committees on selected technical issues;
- Referenda on major local issues;
- Involving community groups in the delivery of selected services;
- Participatory budgeting;
- Citizen panels/juries;
- Citizen participation awards;
- TV broadcasts of council meetings; and
- Question and answer sessions at council meetings.

Many of these do not exist in Iraq and some may not be appropriate though the lack of referenda on local issues was highlighted by the Hilla and Sulaymaniyah assessments.

Another item from Mr. Cornies' list formed part of a separate discussion – whether participatory budgeting was suitable for Iraq. Professor Giorgio Brosio's presentation explained how participatory budgeting has been implemented in other countries to allow non-elected citizens to participate in the decisions on where budget should be allocated for local projects and services. Participatory budgeting developed in Brazil in the 1980s as part of the establishment of democracy and civic participation in local government after decades of military dictatorship and has spread to other Latin American countries and many European ones. But while Iraq shares a common history of moving from military dictatorship to decentralized governance, conference participants were sceptical about the value of participatory budgeting for Iraq until it has first developed transparent budgeting systems and proper fiscal decentralization with own source revenues (see section II, B).

Professor Brosio³ explained that there are fundamental issues relating to Iraq's need to first implement transparent budgeting systems with tracking of all accounts and transfers as well as the need for hard budget constraints.

"If you go and do participatory budgeting without these preconditions you have a free for all, I mean it's disastrous, to put it mildly," said Dr. Ahmad, co-author of the presentation.

Luiz de Mello agreed. "You already need to have a very well developed system of budgeting at local level so that the local authorities can come up to the citizens and have a menu of options from which they can choose. They have to have a very careful cost benefit analysis of what they are proposing so that people know exactly what to choose from, and a good system of disseminating information on how local governments function and how they prioritize the plans that they are proposing for public choice."

Participatory budgeting is a possible future mechanism for Iraqi local governments but as this report has stated in previous sections, there are fundamental legal, political and administrative steps to be undertaken before moving to this type of engagement.

"There are huge risks with participatory budgeting and I think a country like Iraq should not experiment at the beginning," said Anwar Shah. "Iraq needs to build the foundations of local democracy and governance and once that foundation is built you can put all this icing on the cake, like participatory budgeting and various means of participation but not before."

THE ROLE OF E-GOVERNANCE

In his presentation, Jonas Rabinovitch also highlighted the benefits of the application of Information and Communications Technologies (ICT) to add transparency and accountability to the post-conflict reconstruction process. The impact of ICT in assisting in service delivery is considered in the next section but a second aspect to e-governance is the empowerment of citizens through enhanced civic participation.

As Ed Cornies revealed, local authorities in Europe are putting vast amounts of information regarding services and political issues on the web to ease access to information for citizens as well as to facilitate the payment of taxes

and utility charges through Internet banking. The Internet allows local governments to promote awareness of citizen participation opportunities including attendance at meetings and to receive feedback and establish grievance procedures. Among the

recommendations of the Hilla and Sulaymaniyah Local Government Assessments are the setting up of a local council website and even a possible private television channel to inform citizens and mobilize community participation.⁴

Recommendations and conclusions

- Community participation in Iraq's local councils has been limited with a lack of processes for consultation with citizens.
- To address this, councils need to develop dialogue with citizens through for example the development of Internet sites and media communications, through referenda on local issues and through citizens' attendance at council meetings.
- It is too early for Iraq to consider participatory budgeting, which should be implemented only when there is strong local governance in place.



Ed Cornies, UNDP, Ankara, Turkey

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³ Professor of Public Finance and Local Government, University of Turin, Italy

⁴ UNOPS, Assessment of Local Governance in Iraq: Reports on the District of Hilla, Babil Governorate and Sayd Sadiq & Sharazour Districts, Sulaymaniyah Governorate (2010)



“During the conference there was a lot of debate among the federal and local government officials, which was very interesting to see, with both clamouring for power. It is an issue that many countries face. Do you devolve power now and wait for the capacity, or do you build capacity first and then devolve more authority and power?”

Professor Dinesh Mehta,
CEPT University, Ahmedabad

D: Implementing structures for better delivery of services

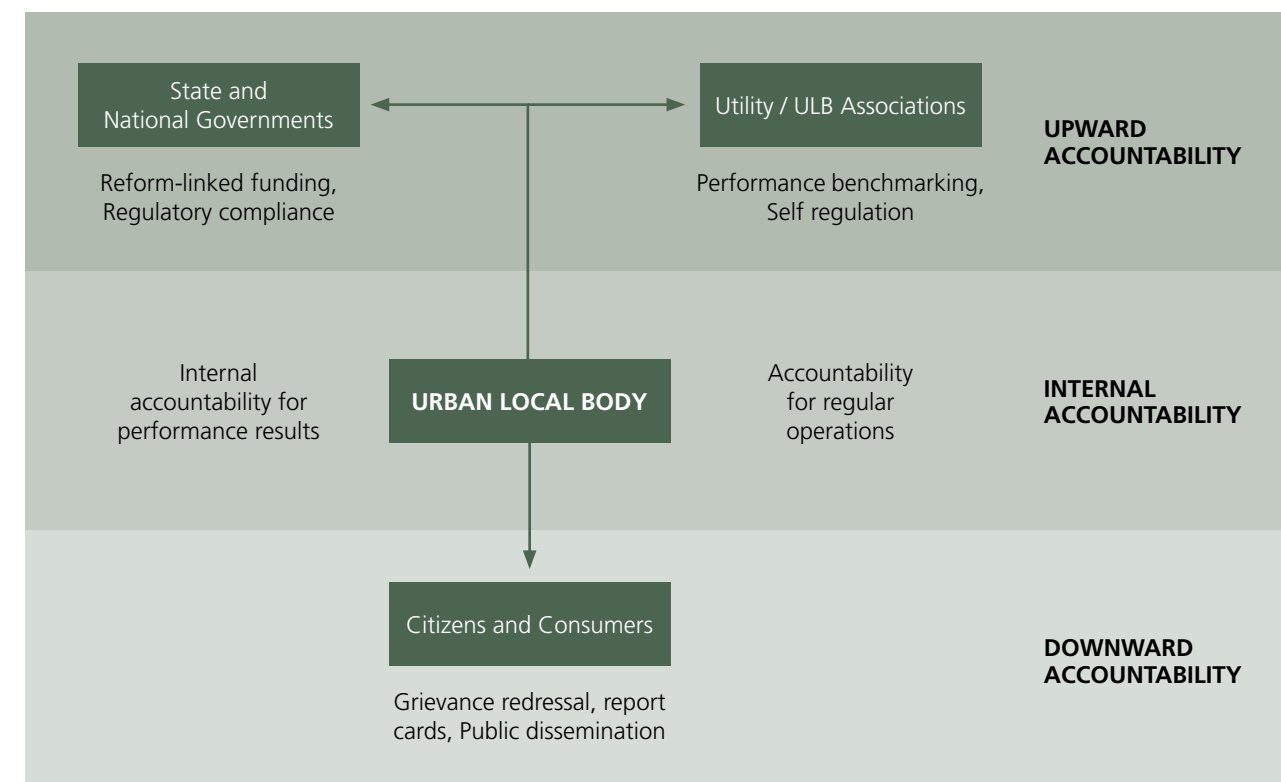
As has been discussed in sections II.A and B, it is fundamental before looking at local service delivery to first assign the respective responsibilities for service provision between different levels of governments and to provide adequate financial provision for a particular level of government to deliver the devolved services. Once these fundamentals for decentralized service delivery are in place, the key ingredients to establish high-quality local service delivery are to establish systems of accountability and to develop the technical capacity of local bodies to manage service delivery.

ACCOUNTABILITY FOR SERVICE PROVISION

As Professor Dinesh Mehta made clear in his conference presentation, accountability should be upwards from the local body managing services to the federal government in terms of meeting criteria for revenue transfers and downwards in terms of accountability to citizens. Downwards accountability is critical so “people have a say in how the services are run and so they have a voice and forum to voice their satisfaction and dissatisfaction,” said Professor Mehta (see figure 2.2).

Through upwards accountability, service providers must provide reports including financial data to state or national bodies and can be incentivized on performance. They must set up internal accountability mechanisms including analysis of effectiveness of service delivery (reaching targets) and efficiency of delivery (cost effectiveness). Through downwards accountability, there needs to be accountability to local citizens who are the consumers of services and who should have access to an effective system of grievance redressal.¹

Figure 2.2 Structures of accountability for delivery of urban services



Source: Presentation at the UN-HABITAT International Conference on Decentralization by Professor Dinesh Mehta, Amman, 9 May 2011

¹ Conference presentation by Dinesh Mehta for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

In this respect, Jonas Rabinovitch explained how e-governance can assist with local service delivery. Online front office systems can be used to deliver certificates to citizens, to handle tax and fee payments, and to administer a grievance and complaints procedure supporting the physical delivery of services to residents.²

“Each transfer of resources is accompanied by very specific responsibilities and accountability mechanisms and part of my presentation was to highlight how e-government can support transparency objectives and accountability objectives,” said Mr. Rabinovitch.

CAPACITY BUILDING

Even with clearer rules on assignment of responsibilities and the finance to fulfil those responsibilities, a key challenge for Iraq is developing a civil service technically experienced and competent enough to ensure improved service of delivery.

“We’re talking about a very complex structure involving thousands of civil servants working for the Iraqi government and capacity is a challenge if we are to decentralize certain administrative functions,” said Mr. Rabinovitch.

Participants differed in their views on whether capacity should be the focus

before powers are devolved. Anwar Shah said World Bank research in Colombia showed building capacity before devolution was not necessary. The World Bank study compared cities with high technical capacity and those with lower capacity and after devolution, the cities with low technical capacity achieved better delivery of services.

“You can transfer overnight all the central officials, and federal officials to the provincial and local level, as was done in Indonesia, or you can do it gradually, as has been done in Thailand but what is critical is that the local governments have the powers to decide what positions they want to have, how many people



World Bank research in Colombia showed building capacity before devolution was not necessary

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“We’re talking about a very complex structure involving thousands of civil servants working for the Iraqi government and capacity is a challenge if we are to decentralize certain administrative functions.”

Jonas Rabinovitch, UNDESA

they want to hire and if the central government is able to transfer some personnel to fill these positions as desired,” said Dr. Shah. “But even if that doesn’t happen local governments, if they have the resources and they have the responsibilities, will be able to hire people. So technical capacity to me is only of secondary importance because technical capacity assumes that everything will be delivered by the local governments itself whereas the new paradigm is that local governments act as a coordinator or catalyst and are a purchaser of services but not necessarily a direct provider of services.”

Professor Mehta agreed saying that whether or not there is a major transfer of central government officials to local government, local governments will assume the capacity through experience. “The way they do it in some countries is that there is a whole array of people that are local government and they move from one local government to another but they are the people that are most experienced and trained, like accountants, and these are the kind of people that move from one local government to another.”

Dr. Ahmad said that the transfer of personnel should only be undertaken when budgeting and management capabilities were in place. Experience in other countries had shown that the

transition to the new system has to be properly sequenced to avoid errors.³ In Latin America for example, sharing of revenues before responsibilities had been properly assigned proved detrimental to the effectiveness of decentralization.

The proper sequence of steps undertaken by Iraq should be as follows⁴:

- establishment of budgeting and managing capabilities prior to devolution;
- the transfer of personnel to subnational control;
- the assignment of hiring, remuneration and management of career responsibilities to the subnational government units where personnel has been transferred;
- the transfer of property of infrastructure and equipment to subnational governments in their newly assumed functions, together with responsibility for maintenance and operations; and
- the gradual assumption of full functional assignments in the same sector (primary education, basic health care etc).

In terms of training personnel. Jonas Rabinovitch cited the United Nations Public Administration Country Studies as an online tool to assist development. “It will not provide the Iraqi government with a magical formula as to how to do their own reform, they have competent people already working on that,” explained Mr. Rabinovitch. “But it will provide them with references and information about capacity development, existing codes of conduct for the civil service, existing institutional settings, a network of chief operation officers worldwide, samples of legislation for electronic government development and samples of policies for electronic government development. So it’s a resource to find out what is happening and how, in other UN member states. I think it could be immediately useful in terms of information sharing and eventually further support cooperation with all UN agencies.”

ADMINISTRATIVE STRUCTURES FOR SERVICE DELIVERY

Brazil and France were cited by conference speakers as examples of how municipalities had addressed issues of service delivery by joining together in inter-municipal consortia. As part

² Conference paper prepared by Jonas Rabinovitch for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

³ Conference paper prepared by Dr Etisham Ahmad and Giorgio Brosio for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

⁴ Idem



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Brazil uses inter-municipality consortia to address service delivery like healthcare

Service delivery: case study on waste management

In his conference presentation, Professor Amin explained how decentralization can play a significant role in the improvement of basic services delivery through an example case study on waste management.⁷

Moving away from a centralized approach and implementing an integrated decentralized system for the supply of waste management services, means that each stakeholder in the management chain has a functional limitation. With an integrated supply of waste management both the formal and informal sector will mutually function and interact for mutual benefit. A decentralized model, if successful, can lead to numerous benefits, including producing compost, improving recycling, reducing greenhouse gases, harnessing carbon trading, reducing the cost of waste management services, creating jobs for the poor, improving health and the environment.

An example of a successful decentralized wastewater project is the wastewater treatment system in Khulna, Bangladesh. The Khulna City Corporation, at the time, was unable to provide water supply to all of their designated areas. Only 30 percent of the households had access to piped water and in the dry seasons some areas suffered acutely due to water shortages. Consequently more than 80 percent of illnesses were related to waterborne and water related diseases like diarrhoea, dysentery, fungal and skin diseases.

In 2000, PRISM, a non-governmental organization, established a duckweed based wastewater treatment plant on the land provided by Khulna Agricultural Training Institute (ATI).

The objectives of the project were to improve water and sanitation services, to reuse treated water for irrigation and fish culture, and to reduce the environmental impact of untreated wastewater. The plant treats wastewater from drains and the wastewater flows using gravity to the wastewater treatment plant. Duckweed, a small aquatic plant, is used for tertiary treatment of contaminated water.

The project was hugely successful. The main sources of direct revenue come from fish sales (70-80 percent of income), selling duckweed (4-5 percent) and the additional revenue-generating activities related to the selling of cultivated fruit and vegetables and of cow milk. The ATI plant provides duckweed to local residents to feed fish and approximately 20 local farmers receive treated wastewater from the ATI plant to irrigate their fields.

People were able to connect their households' wastewater pipe to the main drain, improving the local sanitary conditions and creating awareness among local people of the need to manage wastewater. In addition, environmental awareness was a major positive outcome, whereby local residents, notably women are now more aware and express concern about the health risks associated with the use of polluted water for various domestic activities and for irrigating crops.

of the process of amalgamation in seeking to deliver efficient services while keeping government close to the people, Ed Cornies highlighted the establishment of inter-municipal special bodies in Europe which enable municipalities to pool their resources in order to more effectively carry out area wide responsibilities such as sewerage, waste disposal, water and transport while at the same time keeping their own municipal structure⁵. In France these bodies have their own source revenue and taxing power and 91 percent of municipalities belonged to 2,588 inter-municipal bodies representing 87 percent of the total population. As Mr. Cornies said such bodies become less effective in terms of local governance if their members are appointed rather than elected.

In his presentation, Luiz de Mello said Brazil had a long history of delivering healthcare services through inter-municipal consortia. This has helped subnational governments deal with diseconomies of scale and cross-border externalities, which might otherwise discourage the provision of services at the local level.⁶ Such diseconomies of scale can be strong even in labour-intensive sectors, such as health and education. When healthcare was decentralized to the municipalities in the 1990s, the establishment of inter-municipal consortia enabled the smaller municipalities to overcome the lack of technical capacity and financial means to deliver specialised health care services.

“Latin America has a wealth of different country experiences in what works well and what doesn't. The experience of Latin America is almost like a natural laboratory for the Iraqis to learn from.” said Mr. de Mello.

⁵ Conference paper prepared by Ed Cornies for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

⁶ Conference paper prepared by Luiz de Mello for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

⁷ Presentation by Professor ATM Arul Amin, Department of Environmental Science & Management, School of Engineering & Applied Sciences, North South University (NSU), Dhaka, Bangladesh, at the International Conference on Decentralization (Amman, May 2011)



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There needs to be trust between the government and citizens for decentralization to progress in Iraq

MARKET FINANCE FOR SERVICE DELIVERY

In terms of financing services and infrastructure at the local level, the importance of incentivizing local governments to develop own source revenues has already been explored (section II, B).

Iraq is not the only country that is facing the crisis of urban infrastructural services but it is uniquely placed in terms of making an informed choice of what it wants and what the political costs and benefits are of the various alternatives.⁸

The aim should be to put in place a kind of urban financing architecture that would enhance the economic productivity of Iraq's cities, contribute to reducing the urban infrastructure deficits, foster decentralization, and strengthen the country's federal structure.⁹ There needs to be a system implemented that enables Iraq to face the challenges of globalization, urbanization and decentralization, and deal with them efficiently and adequately.

One option would be a basis model of local government finance. It would allow for a limited functional domain for local governments, for example, provision of local public goods, goods characterized by non-excludability, and correspondingly, a fiscal space based on the principle of 'immobility of tax bases'.¹⁰

A further option could be a 21st century local government system where local governments will be responsible not only for local public goods but also

⁸ Presentation by Professor Om Prakash Mathur, National Institute of Urban Affairs (NIUA), at the International Conference on Decentralization (Amman, May 2011)

⁹ Idem

¹⁰ Idem



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"I think market-based solutions are still a long way from Iraq and no one in the private sector is willing to take the risks unless they see some kind of stability."

Dinesh Mehta, CEPT University

for redistribution services such as alleviation of urban poverty, urban environment, climate change, and local economic development.

There are pre-requisites for this second model however. Firstly, there needs to be a fiscal architecture that allows local governments access, either directly or via the revenue-sharing arrangements, to economy-wide sources, which has been discussed in section II, B.

Secondly, as discussed above there would be a need for a major capacity building programme for municipalities, preparing them to face the impact of economy-wide changes.

The question also arises as to the extent to which market finance can assist such investment to take Iraq's governorates away from their dependency on central government transfers.

One option is public-private partnerships (PPPs). Richard Slater, consultant with GHK, presented some of the innovative financing operations available to South-Asia municipalities

but the majority view is that Iraq still lacks the technical capacity and the stable investment environment for such market financing.

"I think market based solutions are still a long way from Iraq and no one in the private sector is willing to take the risks unless they see some kind of stability, so it will initially have to be funded out of federal funds and to some extent local funds, but the market solution is something that might be possible once things have settled, but that could be 5 years maybe 10 years," said Professor Mehta.

One challenge is to develop the technical capacity in Iraq for public-private partnerships (PPPs). Ed Cornies said that while PPPs had been a feature of EU decentralization, they had been less successful in the transition economies of eastern European because of the absence of suitably qualified individuals.

Luiz de Mello agreed that capacity was an issue. "I don't think the local governments [in Iraq] would currently have the technical capacity to design a PPP contract, even if they found a private sector partner. At the moment, because the infrastructure reconstruction needs are vast and due to the institutional, technical and capacity constraints at the local level, I would say, at least in the near term, that it would be best to rely on transfers from the centre. In the future they can think of other possibilities that would involve greater autonomy for local governments to raise their own revenue or a different alternative from private sector involvement," said Mr. de Mello.

A second challenge is to show investors that there is a clear revenue stream for the services being provided. In such cases, Richard Slater said private sector lending could happen if different levels of government could provide the majority of the funding with

a smaller equity investment from the private sector. "So if the central and provincial government puts up 70 percent then 30 percent can come from the private party, which perceives risk to be low though at same time they are taking some of the risk, the demand risk and the construction cost."

One delegate pointed out that it would be very difficult to develop private sector lending in Iraq where there was no trust between financial institutions and citizens. Richard Slater said that a solution for the future could be for local governments to form inter-municipal bodies to attract private funding. "If you can pool money from different local governments into a dedicated account for debt servicing then that will bring more confidence for people to come forward and lend," said Mr. Slater.

Recommendations and conclusions

- In terms of capacity building, it is important that Iraq only undertakes transfers of personnel once transparent budgeting and management capabilities are in place.
- Establishing inter-municipal consortia may assist Iraq's local governments in service delivery in terms of dealing with diseconomies of scale and attracting private funding in the future.
- Iraq lacks the technical capacity and stable investment environment to attract market financing. In terms of infrastructure development it should for the moment rely on transfers from the federal government backed by equalization systems as described in section II,B.

Appendices

APPENDIX I: SPEAKERS AND BIOGRAPHIES

Dr. Syed Ehtisham Ahmad is an expert on governance and fiscal policy and has worked in many different countries and regions. He was directly involved in designing policy reforms for countries in Asia, the Middle East, Eastern Europe, Africa and Latin America. He possesses a broad range of expertise in tax and public policy; public financial management; intergovernmental fiscal relations and decentralization; investment and growth. Dr. Ahmad is also a founding member of the OECD-IMF-WB-Network on Fiscal Relations between levels of government.

Professor ATM Nurul Amin gained a PhD in economics from the University of Manitoba, Canada. He was Professor of the Asian Institute of Technology. Currently, he is a professor and Chairman of the Department of Environmental Science and Management, North South University, Dhaka, Bangladesh. He has served as a consultant for ILO, UNEP and UNCRD.

Dr. Hikmat Bista is currently serving as chairperson of the National Committee Local Governance Accountability Facility (LGAF). Dr. Bista earned his Ph.D. in Social and Cultural Anthropology and Ethno-linguistics from the School of Higher Studies in Social Sciences, Paris, France. He has extensive experience in the fields of Local Governance and Decentralization. He has worked as a social scientist in the International Centre for Integrated Mountain Development (ICIMOD) and as Chief Advisor in Danish Support to the Decentralization Programme (DASU/ Danida) in Nepal.

Professor Giorgio Brosio is a Professor of Public Economics at the Department of Economics of the University of Torino, Italy. He has been a professor at the Universities of Bari, Italy, and Geneva, Switzerland. He is currently President of the Società Italiana di Economia Pubblica (Italian Public Economics Association) and was President of the European Public Choice Association (April 1992 - April 1993) and member of the Board until 1999. He has worked as a consultant for international institutions (mostly the IMF, the EU and the World Bank) on public sector reform and development, with particular emphasis on decentralization issues.

Dr. G. Shabbir Cheema directs the Asia Pacific Governance and Democracy Initiative. His current work focuses on governance and democracy in Asia and the Pacific – including civil society engagement, transparency and anti-corruption strategies, and civil service reform. Before joining East-West Center, Dr. Cheema was Program Director, UN-DESA, the Director of Governance Division of UNDP and Manager, Urban Development Unit. He has been a Visiting Fellow at Harvard University and has authored several publications in his field of his expertise.

Mr. Ed Cornies is currently Chief Technical Advisor with UNDP for the Decentralization and Local Government Reform Programme Turkey. Formerly, a policy advisor with the Ontario Ministry of Municipal Affairs and Director of Planning and Development for the County of Essex, he has wide ranging experience in the areas of decentralization and LG reform, organizational restructuring, service delivery improvements, development planning, capacity building and waste management. He spoke on lessons for decentralization from his wide-ranging work.

Mr. Lamar Cravens has over 20 years of experience in the governance sector, including local governance, legislative reform, rule of law, and constitutional reform. He currently serves as RTI's Chief of Party for the third phase of USAID's Iraq Local Governance Program (LGP-3) in Iraq. He holds an LLM in International & Comparative Law, a JD in American Law, and an MA in Middle Eastern Studies. Mr. Cravens shared his powerful insight on the progress and challenges for decentralized governance in Iraq at the conference.

Mr. Luiz de Mello currently serves as a Counsellor to the Chief Economist at OECD. Before joining OECD in 2005, he served at the IMF and taught at the University of Kent, UK. Mr. Luiz is a well-known expert on fiscal decentralization and has worked extensively in Latin American countries. He has contributed to more than 20 books and has published several articles in refereed journals.

Ms. Wafa'a Fadhil is Chair for the Iraq Local Government Association, Iraq.

Mr. Tommy Firman graduated from the University of Hawaii with a PhD in urban and regional planning. He is now on the staff of the Department of Regional and City Planning, Institute of Technology (ITB). He has published widely on issues of urbanization and urban planning and presented two case studies on Inter-Local Government Partnership in Metropolitan Regions in Decentralizing Indonesia.

Professor Om Prakash Mathur is a leading consultant from the National Institute of Public Finance and Policy (NIPFP) India, and is also a member of the Prime Minister's National Review Committee on Jawaharlal Nehru National Urban Renewal Mission (JNNURM). He worked at the NIFIP from 1992 to 2003, and was the Director of the National Institute of Urban Affairs, New Delhi from 1984 to 1992. Prior to that he held many senior positions in the UN, Japan, Iran, Sri Lanka, Uganda and India; and was consultant to the World Bank, Asia Development Bank, and various UN agencies as economic planner, regional planning advisor and project manager, to name just a few. He has expertise in infrastructure funding, state/local government fiscal relations, urban governance and urban sector reform,

especially with opening up of economies in developing countries, the role of cities in a global market driven economy and the rise in urban poverty.

Professor Dinesh Mehta is a Professor Emeritus at CEPT University, Ahmadabad where he teaches urban management, housing and development planning. He was the Director of the School of Planning, CEPT from 1985-92. Dr. Mehta was the Director of the National Institute of Urban Affairs, India, during 1992-97. He has worked with UN-HABITAT, Nairobi as head of the Urban Management Programme. Dr. Mehta has published extensively in the field of urban service financing and delivery, resource mobilization under empowered local government, urbanization and urban management.

Mr. Jonas Rabinovitch is the Coordinator of the UNDP Capacity 2015 initiative for localizing the Millennium Development Goals (MDGs). Capacity 2015 operates in 166 countries and supports an information learning network - a meta network of existing and emerging local networks - to leverage resources worldwide to meet sustainable development objectives and the MDGs. Before joining the UN he worked as an adviser to the Mayor and Director of International Relations in Curitiba as part of the city's research and urban planning institute. Mr. Rabinovitch demonstrated how e-Government could promote effective service delivery in the overall framework of decentralization policies and reforms.

Dr. Leyla Şen, PhD, is a Democratic Governance Programme Manager for UNDP Turkey.

Dr. Anwar Shah directed the World Bank Institute's Governance Program from 2004-2009. He has previously served the Ministry of Finance, Government of Canada, and the Government of Alberta and held responsibilities for federal-provincial and provincial-local equalization and specific purpose grants. He has published more than two dozen books and numerous articles in leading economic journals on governance, budget reform, federalism, local governance, fiscal reforms and climate change issues.

Mr. Jamie Simpson is an economist and consultant to the World Bank. He has consulted widely on urban issues and the importance of cities to economic development. He recently led the evaluation of the World Bank funding for Cities Alliance – a global programme to support cities on poverty reduction and promoting economic growth. Mr. Simpson spoke on 'Successful Cities as Engines of Growth' drawing on examples from around the world.

Dr. Richard Slater has over 20 years consulting, training and policy research experience in urban governance, municipal management and capacity development. He has substantial experience of working for a wide range of multilateral and bilateral donors, and UN agencies as well as working directly with national and local governments. He has directed a number of policy studies on urban governance and fiscal decentralization and has also published a number of sourcebooks. He led studies for ADB and JICA on effective decentralization and on fiscal devolution and decentralization frameworks and has also published *Municipalities and Finance: A Sourcebook for Capacity Building for DFID* in 2004.

Mr. Adam Styp-Rekowski, Programme Manager UNOPS Reconciliation and Civil Society Portfolio, recently oversaw implementation of the Local Governance Assessment Initiative project in Iraq. Drawing on experience in using this methodology in Jordan, during 2010/11, a team of experienced Iraqi experts led a field team considering the implication of the decentralization process on the level and quality of participation by citizens in local governance. Mr Styp-Rekowski and other members of the team including **Dr. Ali Hadi Humaidi Al-Shokrawy**, Assessor Team Leader at the University of Babil and **Dr. Kawa Mohammad F. Qardarghi**, Assistant Professorat Sulaymaniyah University, reported on the findings of the assessments in Hilla and Sulaymaniyah.

APPENDIX II: CASE STUDIES FROM INDONESIA, CHINA, NEPAL AND TURKEY

In reviewing other countries' experiences with decentralization and how this may assist Iraq, speakers were of the general opinion that each situation has its own characteristics and there is no one-size-fits-all approach.

As Jonas Rabinovitch said: "I don't think we can reduce a whole country to one single dimension and say, country x or country y is important for Iraq. What we can do is present the scope of experiences available and help Iraqis decide which experiences, in their view, can be adapted to Iraq. I think in doing that we would be actually implementing a demand-driven approach."

In fact, Iraq presents a highly unusual set of characteristics making alignment with other countries particularly difficult. "First it is in transition from a highly unitary state and secondly it's in a post conflict situation and the third issue is that there are issues with the uneven distribution of petroleum resources which are three issues that are unusual to say the least," said Dr. Ehtisham Ahmad. "So, whereas one can use the experiences in theory to good effect, I wouldn't say there is one particular country that one can point to that is in a similar situation."

So with the caveat that no country is an example which can directly be replicated in Iraq, there follow four case studies highlighted by speakers which can provide useful indicators to Iraq in its process of decentralization.

Indonesia shares some of Iraq's characteristics and has endured an interesting process of decentralization of government. Several speakers cited Indonesia as perhaps the closest country to Iraq being a post-conflict country with a large dependency on oil revenues.

"Indonesia is instructive for Iraq, because Indonesia was very centralized under the Suharto regime and now it is extremely decentralized, and they did it over night, as in a big bang approach," said Anwar Shah. "Indonesia is also an oil rich country, so it has some of the common features with Iraq and also in terms of the ethnicity and religion, it has some common elements."

Dr. Shah cited China in his own presentation. "It is what China has done better than most other countries," said Dr. Shah. "They have basically introduced the local government and actually used a market model for local governance accountability. The people's local governments are the leaderships for motions and the local governments' autonomy depends on how well they perform the services to the people and how satisfied

people are with these services, and how fast the local economy is growing. These are the three criteria that are used to decide how much autonomy each local government will have and also whether the leadership has the potential to move upwards."

The conference was also presented with the experience of Nepal, which has decentralized with a big bang approach after a long civil war and Turkey, for which Dr. Leyla Şen recounted some interesting recent experience of decentralization and set out some general recommendations for Iraq's local government representatives.

Indonesia

At the conference, Professor Tommy Firman outlined the experiences of Indonesia in decentralization.

In 1998 a comprehensive new decentralization law was introduced in Indonesia following insurrections in resource-rich provinces and months of political protest and turmoil. The process in Indonesia is considered one of the most ambitious decentralization schemes in modern history, involving nearly 500 local governments, and more than 230 million people living from various cultures and ethnicities with different levels of socio-economic development, and in quite diverse geographic environments.¹

Assessments of the Indonesian decentralization experience have shown various positive impacts, including the downsized central government and strengthened local administration. During the first three years of implementation, 2.2 million central government employees were reassigned to regional governments, along with control over 16,000 service facilities. In the past, budgeting for development controlled by central government was around 36 percent of state budget, while transfers to regions were 23 percent (in 1994). Local governments now manage 38 percent of total public expenditure and carry out more than half of all public investment.

Political participation and democratization has also been improved, and by 2007 two-thirds of provinces had popularly elected governors and three-quarters of districts and cities had elected mayors. More creative and efficient leadership has produced some local innovations: a district mayor in Bali can offer free health care despite a limited budget for the health sector; a district mayor in

¹ Conference paper prepared by Tommy Firman for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

Central Java has reduced the time taken to get business permits by introducing one-stop service stations and a timed application process; a district mayor in Sulawesi has introduced a mobile government concept to increase agricultural productivity.²

Despite central government administrative authority being transferred to provinces, districts and municipalities, with some exceptions, the decentralization reform has not led to uniform outcomes, with some local governments able to develop impressively, while others are now worse off than before.

With increased decentralization and autonomy, local governments have tended to be more inward looking in orientation. There has been a trend to local government fragmentation, as the local governments often look to maximize their own local income by exploiting available resources, and without considering the interests of their neighbouring districts, acting with 'Local Egocentrism', as Professor Firman stated. Therefore effective inter-local government cooperation for the purpose of urban and regional development becomes much more difficult to build.

In the past coordination and partnership between local governments did not present a problem. Now, under the new decentralization policy, the situation has been greatly changed. Many local governments consider themselves 'Kingdom of Authorities'.³

The Kartamantul Joint Secretariat has been very effective in the implementation of integrated infrastructure development in an urban-rural region. In contrast, the BKSP Jabodetabek has been ineffective because of the lack of authority and power to implement metropolitan management in the region. A mixed format of local governance is considered as the most appropriate model for the Jabodetabek, in which the local, provincial and central government should have different roles in metropolitan management.

Despite the numerous positive impacts that decentralization has brought to Indonesia, encouraging inter-local government partnerships is a problem. There needs to be greater openness, trust and transparency between the local governments involved, as well as good collective leaderships for local governments and the councils. The interests for partnership should come primarily from the local governments themselves, and not from the central

government. The role of the central government is to create incentives and formulate a clear mechanism for locally-initiated local government partnerships.

China

Dr. Anwar Shah and Dr. Shabbir Cheema examined the process of decentralization in China and what it may add to the Iraqi experience.

Through the 1980s and the early 1990s, China implemented a series of reforms to decentralize its fiscal system to provide more incentives to local government to promote economic growth. However, the decentralization led to widening fiscal disparity and shrinking central government revenues. In 1994, the government introduced the tax sharing reform in order to boost central revenues and enhance intergovernmental transfers.

Compared to its decentralized fiscal system, China's political system is rather centralized and can be described as a multidivisional-form hierarchy structure. Many scholars attribute China's remarkable economic performance since 1978 in part to the country's political and fiscal decentralization. Decentralization is said to have stimulated local policy experiments and restrained predatory central interventions. Fiscal decentralization is thought to have motivated local officials to promote development and harden enterprises' budget constraints. The locally diversified structure of the pre-reform economy is said to have facilitated liberalization.⁴

The Chinese model is one of democratic centralism and dual subordination. Local autonomy varies with fiscal capacity and economic development performance, and local governments play the strongest roles in local economic development.

China is an economic powerhouse poised to assume world economic leadership, which has been due largely to the increased power of local governments. The country has a sustained record of growth and prosperity, while also possessing the most impressive record in poverty alleviation, and local governments have acted as catalysts for this development.⁵

By moving the governments closer to the people, China has empowered its citizens to take decision making into their own hands, to decide their own well-being and uplift local

economic development issues. China has ensured that there is accountability at all levels, from the people to the top of the central government, and using a market model for local governance accountability. The people's local governments are the leaders for motions and their autonomy depends on how well they deliver services to the people, how satisfied they are with these services, and how fast the local economy is growing. These are the three criteria that are used to decide how much autonomy each local government will have and also whether the leadership has the potential to move upwards.

So even in the absence of political democratization, decentralization has delivered, in terms of uplifting the peoples' lives as well as giving a sense of participation in the affairs of the state. Expenditure shares in China are divided between all levels of government, with each taking responsibility for different sectors. The central government has the dominant share in defence, foreign affairs and research and development, with provinces dominating agriculture and local governments accounting for education, health, police, justice, social security and all municipal-local functions.

The government oversight maintains the separation of executive and legislative functions, with directly elected people's congress at each level, while the Communist Party monitors citizen satisfaction and dissatisfaction. Higher level oversight is based upon objective criteria that incorporates, local economic development performance, local service delivery performance and rewarding success and punishing sustained failure.

China has proved that, despite being leaner, allocating an important coordinating role for provinces and an expansive role for local governments is critical to maintaining peace, order, good governance and economic growth.

Nepal

At the conference, Himkat Bista presented the experiences of Nepal in its move towards decentralization, which have been accelerated as part of its post-conflict recovery from civil war.

Efforts towards decentralization in Nepal began in the 1960s with the establishment of separate district, municipality and elected village-level assemblies with the authority to make policy, implement programmes and levy taxes. The 1990 Constitution stipulated that the chief responsibility of the state was the establishment of conditions suitable to the wider participation of people in the governance of the country.

However, the Village Development Committee (VDC), and Municipality and District Development Committee (DDC) Acts of 1992 did not introduce horizontal

accountability of line agencies to local government bodies. There was inadequate coordination in planning and implementing programmes, often resulting in the duplication of tasks and responsibilities. To overcome these problems, the newly elected local bodies demanded authority over line agencies.

The recommendations of the 1996 Decentralization Coordination Committee led by the Prime Minister formed the basis of the Local Self-Governance Act (LSGA) of 1999. The LSGA is the most comprehensive piece of legislation that Nepal has ever implemented in respect of decentralization and local governance, reemphasizing democracy through wider participation of the people in the governance.

The Local Self-Governance Act sets out a number of goals that could be achieved through decentralization in Nepal. Among the targets is the introduction of grassroots participatory planning by all including ethnic communities, indigenous people and socially and economically disadvantaged groups and the balanced distribution of the products of development. The LSGA emphasized the importance of strengthening the governance and service delivery capacity of local bodies and coordinating development efforts among government, donors, non-governmental organizations, civil society and the private sector. The need for the development of local leadership and accountability of local bodies to local people is stressed, together with the participation of the private sector in providing basic services for sustainable development.

Under the LSGA, the two-tier local governance system is made up of the village development committee (VDC) and the district development committee (DDC). Every VDC has nine wards, each with a five-member elected committee, including one female member. The 4913 VDCs in the country's 75 districts have been given the responsibility for implementing basic health education and sanitation programmes, running primary schools and literacy classes as well as community health centres. The local bodies carry out most of their activities through user groups, community-based organizations and community organizations.

Despite the positive intentions and moves towards a decentralized government in Nepal, the current situation is not as advanced as hoped. There are still no elected representatives in the Local Government Councils (including Municipalities), with it being managed solely by government officials. This means there is no downward accountability and transparency, an increase in corruption and misuse, and no access for citizens to participate in the planning or implementation of municipality works.⁶

² Conference paper prepared by Dr. Shabbir Cheema for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

³ Conference paper prepared by Tommy Firman for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

⁴ Conference paper prepared by Dr. Shabbir Cheema for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

⁵ Presentation by Dr. Anwar Shah, World Bank at the International Conference on Decentralization (Amman, May 2011)

More than 15 percent (3.6 million) of Nepal's population live in the country's 58 towns and cities (figures from 2008). The municipal authorities are in no position to meet the technical and financial challenges of the rapid urbanization process. Poorer population groups in particular are included only to a limited extent and the supply of basic services to these groups is currently inadequate.

Nepal is going through a transitional phase where a new Constitution is in the making. It is most likely that the local elections will be held after the new Constitution is in place.

Turkey

Dr. Leyla Şen outlined Turkey's move towards decentralization in her conference paper.

Comprehensive local government reform efforts in Turkey, aimed at bringing the local government system in line with international best practices began in the 1980s and were significantly expanded during the period from 2003 to 2005. Turkey has 81 Provinces and a population of over 70 million, while there are three types of local governments in Turkey: special provincial administrations (SPAs), municipalities and villages.

The impacts of the reforms in Turkey have been varied and there is much that could be learnt from them experiences. The amalgamation of small municipalities into larger district municipalities in the metropolitan areas helped to improve the delivery of many local services. Increasing the number of council meetings gave the councils a higher profile but mayors still retain a disproportionate amount of power. Additional ways need to be identified that allow the elected council members to play a more meaningful role in municipal decision making.⁷

Introduction of audit commissions and municipal auditors as well as accrual accounting and performance management reporting has generally increased transparency and accountability in municipalities and improved financial management practices but major problems still exist. Despite the 30 percent increase in central government funding, municipalities are still in need of additional funds and powers to enable them to raise their own funds through local taxes and special charges. At the same time many mayors and councils are unwilling to introduce local tax increases because of the potential for political backlash.

The introduction of the norm cadre system for municipalities eliminated the need for the Ministry of Interior to approve the hiring of municipal staff but it is considered by many as not flexible enough to take into account special circumstances where more than the prescribed number of technical staff are sometimes required to carry out certain functions.

Citizen assemblies have only been formed in a relatively small number of municipalities and most have major operating problems because there are no clear operating guidelines and virtually no ongoing capacity building support from the central government. They do not have a reliable ongoing source of funding and political tensions between the assemblies and the municipal mayors and elected councils are common.

Although they are now legally recognized and regulated, most inter-municipal unions in rural areas are weak and in need of major strengthening, while the requirement for larger municipalities to prepare strategic development plans has been well received and the results have been generally positive. Mandatory membership for all municipalities has transformed the Union of Municipalities of Turkey into a larger more powerful organization with the necessary funding to promote local government interests more effectively and to develop an ambitious future training programme for local elected officials and staff.

Dr. Leyla Şen, in her paper for the UN-HABITAT International Conference on Decentralization, summarizes the lessons that can be learnt from Turkey's experience with local government reform as follows:

- Try to develop a comprehensive decentralization and reform strategy in consultation with a wide range of national and local stakeholders. Ensure that the strategy has strong support from senior central government elected officials. Avoid if possible the implementation of reforms in an incremental or ad hoc manner.
- Establish a clear division of responsibilities between central government and local government and between metropolitan municipalities and district municipalities based on the reform strategy and provide ongoing training and supervision to ensure that is properly implemented.
- Critically assess all two-level metropolitan government systems to determine if they are working effectively and efficiently. Ensure that district municipalities are large

enough to be viable. Amalgamate the two-level systems that cannot be justified into single units.

- Encourage the amalgamation of small municipalities with incentives if necessary as a preferred alternative to the continuation of local inter-municipal service unions.
- The implementation of reforms at the local level needs to be supported by technical support and advice from the central government.
- Encourage and support the development of strong national and regional municipal associations so that they to act as lobbyists and participate in national policy discussions regarding local government reform. Provide financial support as necessary to enable them to provide a wide range of training to local elected officials and staff.
- Develop and implement national policies and legislation that ensure municipalities are adequately funded taking into account regional income disparities and that they have the power to raise significant amounts of their revenues.
- Enact legislation that provides for a better balance of power between mayors and councillors and enables local residents to vote for specific individuals for council positions rather than just party lists.
- Experiment with reform initiatives where possible by implementing them first on an experimental basis in a small number of demonstration municipalities. If the results are positive then move ahead with nationwide reforms.

⁶ Presentation by Dr. Hikmat Bista, The Local Governance and Accountability Facility (LGAF), Nepal, at the International Conference on Decentralization (Amman, May 2011)

⁷ Conference paper prepared by Dr. Leyla Sen for the UN-HABITAT International Conference on Decentralization (Amman, May 2011)

APPENDIX III: SELECTED ARTICLES OF THE IRAQI CONSTITUTION (2005)

Section Four of the Constitution: Powers of the Federal Government

Article 109: The federal authorities shall preserve the unity, integrity, independence, and sovereignty of Iraq and its federal democratic system.

Article 110: The federal government shall have exclusive authorities in the following matters:

- First: Formulating foreign policy and diplomatic representation; negotiating, signing, and ratifying international treaties and agreements; negotiating, signing, and ratifying debt policies and formulating foreign sovereign economic and trade policy.
- Second: Formulating and executing national security policy, including establishing and managing armed forces to secure the protection and guarantee the security of Iraq's borders and to defend Iraq.
- Third: Formulating fiscal and customs policy; issuing currency; regulating commercial policy across regional and governorate boundaries in Iraq; drawing up the national budget of the State; formulating monetary policy; and establishing and administering a central bank.
- Fourth: Regulating standards, weights, and measures.
- Fifth: Regulating issues of citizenship, naturalization, residency, and the right to apply for political asylum.
- Sixth: Regulating the policies of broadcast frequencies and mail.
- Seventh: Drawing up the general and investment budget bill.
- Eighth: Planning policies relating to water sources from outside Iraq and guaranteeing the rate of water flow to Iraq and its just distribution inside Iraq in accordance with international laws and conventions.
- Ninth: General population statistics and census.

Article 111: Oil and gas are owned by all the people of Iraq in all the regions and governorates.

Article 112:

- First: The federal government, with the producing governorates and regional governments, shall undertake the management of oil and gas extracted from present fields, provided that it distributes its revenues in a fair manner in proportion to the population distribution in all parts of the country, specifying an allotment for

a specified period for the damaged regions which were unjustly deprived of them by the former regime, and the regions that were damaged afterwards in a way that ensures balanced development in different areas of the country, and this shall be regulated by a law.

- Second: The federal government, with the producing regional and governorate governments, shall together formulate the necessary strategic policies to develop the oil and gas wealth in a way that achieves the highest benefit to the Iraqi people using the most advanced techniques of the market principles and encouraging investment.

Article 113: Antiquities, archeological sites, cultural buildings, manuscripts, and coins shall be considered national treasures under the jurisdiction of the federal authorities, and shall be managed in cooperation with the regions and governorates, and this shall be regulated by law.

Article 114: The following competencies shall be shared between the federal authorities and regional authorities:

- First: To manage customs, in coordination with the governments of the regions and governorates that are not organized in a region, and this shall be regulated by a law.
- Second: To regulate the main sources of electric energy and its distribution.
- Third: To formulate environmental policy to ensure the protection of the environment from pollution and to preserve its cleanliness, in cooperation with the regions and governorates that are not organized in a region.
- Fourth: To formulate development and general planning policies.
- Fifth: To formulate public health policy, in cooperation with the regions and governorates that are not organized in a region.
- Sixth: To formulate the public educational and instructional policy, in consultation with the regions and governorates that are not organized in a region.
- Seventh: To formulate and regulate the internal water resources policy in a way that guarantees their just distribution, and this shall be regulated by a law.

Article 115: All powers not stipulated in the exclusive powers of the federal government belong to the authorities of the regions and governorates that are not organized in a region. With regard to other powers shared between the federal government and the regional government, priority shall be given to the law of the regions and governorates not organized in a region in case of dispute.

Section Five of the Constitution: Powers of the Regions

Chapter One [Regions]

Article 116: The federal system in the Republic of Iraq is made up of a decentralized capital, regions, and governorates, as well as local administrations.

Article 117:

- First: This Constitution, upon coming into force, shall recognize the region of Kurdistan, along with its existing authorities, as a federal region.
- Second: This Constitution shall affirm new regions established in accordance with its provisions.

Article 118: The Council of Representatives shall enact, in a period not to exceed six months from the date of its first session, a law that defines the executive procedures to form regions, by a simple majority of the members present.

Article 119: One or more governorates shall have the right to organize into a region based on a request to be voted on in a referendum submitted in one of the following two methods:

- First: A request by one-third of the council members of each governorate intending to form a region.
- Second: A request by one-tenth of the voters in each of the governorates intending to form a region.

Article 120: Each region shall adopt a constitution of its own that defines the structure of powers of the region, its authorities, and the mechanisms for exercising such authorities, provided that it does not contradict this Constitution.

Article 121:

- First: The regional powers shall have the right to exercise executive, legislative, and judicial powers in accordance with this Constitution, except for those authorities stipulated in the exclusive authorities of the federal government.
- Second: In case of a contradiction between regional and national legislation in respect to a matter outside the exclusive authorities of the federal government, the regional power shall have the right to amend the application of the national legislation within that region.

- Third: Regions and governorates shall be allocated an equitable share of the national revenues sufficient to discharge their responsibilities and duties, but having regard to their resources, needs, and the percentage of their population.
- Fourth: Offices for the regions and governorates shall be established in embassies and diplomatic missions, in order to follow cultural, social, and developmental affairs.
- Fifth: The regional government shall be responsible for all the administrative requirements of the region, particularly the establishment and organization of the internal security forces for the region such as police, security forces, and guards of the region.

Chapter Two [Governorates that are not incorporated in a region]

Article 122:

- First: The governorates shall be made up of a number of districts, sub-districts, and villages.
- Second: Governorates that are not incorporated in a region shall be granted broad administrative and financial authorities to enable them to manage their affairs in accordance with the principle of decentralized administration, and this shall be regulated by law.
- Third: The governor, who is elected by the Governorate Council, is deemed the highest executive official in the governorate to practise his powers authorized by the Council.
- Fourth: A law shall regulate the election of the Governorate Council, the governor, and their powers.
- Fifth: The Governorate Council shall not be subject to the control or supervision of any ministry or any institution not linked to a ministry. The Governorate Council shall have independent finances.

Article 123: Powers exercised by the federal government can be delegated to the governorates or vice versa, with the consent of both governments, and this shall be regulated by law.

APPENDIX IV: LAW OF GOVERNORATES NOT INCORPORATED INTO A REGION

Law 21 of 2008, Article 7 (See section II.A)

The governorate council shall assume the following functions:

- First: Elect the council head and his deputy by an absolute majority of the council members at the first session of the council called for by the governor within 15 days from the date of the certification of the election results. The session shall be chaired by the oldest member.
- Second: Remove, upon the request of one third of the members, the council head or the deputy by an absolute majority of the council members in cases where one of the conditions stipulated in Paragraph “Eighth” of this Article has been met.
- Third: Issue local laws, instructions, bylaws, and regulations to organize the administrative and financial affairs so that it can conduct its affairs based upon the principle of administrative decentralization in a manner that does not contradict the provisions of the Constitution and federal laws.
- Fourth: Outline, in the development of the plans for the governorate, the general policies in coordination with the competent ministries.
- Fifth:
 1. Prepare the council budget to be included in the general budget of the governorate.
 2. Approve the governorate draft general budget plan referred to the council by the governor, and transfer funds between its chapters with the approval of the absolute majority of the council members, provided that the constitutional criteria shall be observed, and submit to the Ministry of Finance of the federal government to ensure its uniformity with the federal budget.
- Sixth: Monitor all the activities of the local executive authority excluding the courts, military units, colleges, and institutes in order to ensure its good performance with the exception of offices under federal jurisdiction.

APPENDIX V: CONCLUSIONS OF THE CONFERENCE WORKSHOPS (TUESDAY 10 MAY)

Participants identified the following challenges and suggested solutions to advancing the decentralization process in Iraq.

A. Challenges to effective decentralization

Political

1. The general policy of the federal government towards centralization.
2. The conflict between the regulations defining the role and capacity of the federal government and governorate councils.
3. The lack of fairness demonstrated by ministry staff when dealing with decentralized governing bodies.
4. Interference by the security forces, especially the army, in the duties of local governorate councils.

Social

5. Iraq’s population is a mix of religious, ethnic and tribal groups with social differences spread across urban and rural communities.

Economic

6. There are economic challenges caused by an increase in the consumption of resources, the increased demand being made on services and an increase in unemployment.

Environmental

7. The environmental challenges include contamination of water and desertification.

B. Proposed solutions to promote decentralization

1. Parliament must legislate for the benefit of the governorate councils in amending Law 21 of 2008.
2. The federal government must set up a clear mechanism for transfer of authority to the governorate councils.
3. The federal government through Parliament must enact the necessary legislation for governorates to manage the ministries that address basic services (municipalities).
4. There should be campaigns in the media and civil society to support decentralization.
5. The capacity of members of local governorate councils needs to be developed by enrolling them in similar training schemes to those offered to federal government staff.

UN  HABITAT

This report presents the outcomes of UN-HABITAT's *International Conference on Decentralization, Local Governance and Service Delivery: Sharing Experience and Sustaining Progress in Urban Iraq*, which took place in Amman, Jordan from 8-10 May 2011. The objective of the conference was to provide an opportunity for Iraqi Local Government Association representatives to learn, experience and benefit from the process of decentralization and development of local governments in other selected countries. The conference provided a focused practical perspective on how decentralization in urban areas promotes local government as an effective tool for service delivery.

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