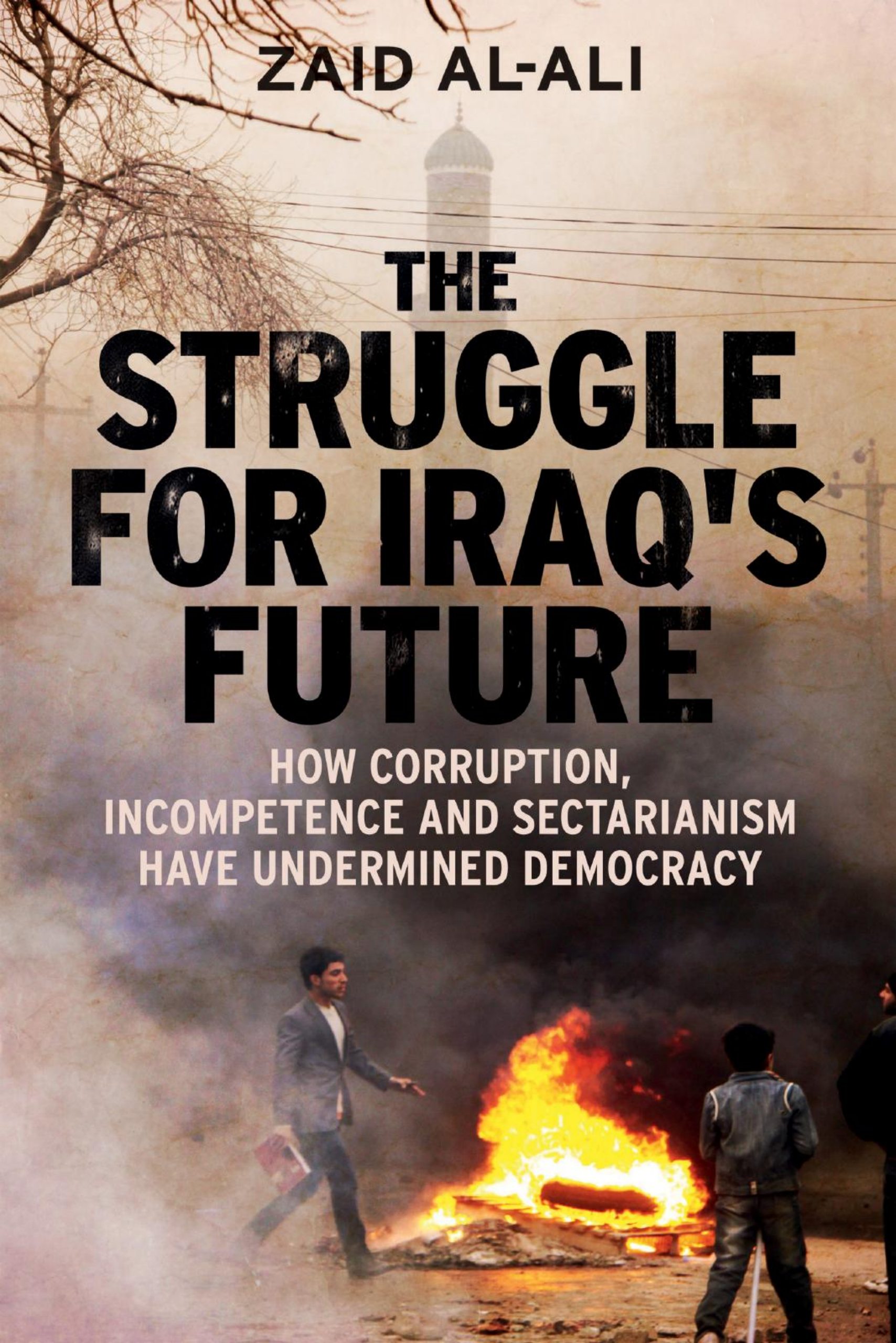


The background of the entire cover is a photograph of a street scene. In the foreground, a large fire is burning brightly, with thick black smoke rising from it. To the left, a man in a grey jacket and dark trousers is walking away from the camera, carrying a red bag. To the right, another person is standing with their back to the camera, looking towards the fire. In the background, a mosque with a prominent dome is visible through the haze. Bare tree branches are in the upper left corner.

ZAID AL-ALI

**THE
STRUGGLE
FOR IRAQ'S
FUTURE**

**HOW CORRUPTION,
INCOMPETENCE AND SECTARIANISM
HAVE UNDERMINED DEMOCRACY**

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**YALE UNIVERSITY PRESS
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To my brother Omar, who never knew Iraq, and to my son Joud,
for whom I wish a better future than the past we have known.



CONTENTS

<i>Map</i>	viii
<i>Introduction</i>	1
1 A legacy of oppression and violence	17
2 On the origins of Iraq's new political elites	39
3 Creating a new political order	75
4 A country back from the dead	103
5 Defective politics	125
6 A country left to languish	161
7 The ravages of corruption: The second insurgency	189
8 The third insurgency: Environmental disaster	219
9 What is to be done?	243
<i>Endnotes</i>	257
<i>Bibliography</i>	281
<i>Index</i>	289



INTRODUCTION

In 2013, politics in Iraq reached a new low. Apart from the usual depressing failures in terms of services, corruption, security and the environment, a number of other developments finally revealed the full extent of the government's incompetence.

For several years, the security services have used a small handheld device to detect explosives, known as the Advanced Detection Equipment (ADE) 651. These devices were purchased at a desperate time: car bombs had already claimed the lives of thousands of people, and there was an urgent need to improve security measures. Physical searches were effective but were far too time consuming and could cause traffic jams of epic proportions, bringing life to a grinding halt.

ATSC Limited, a UK company that was founded by Jim McCormick, a former police officer with no previous experience in electronics, programming or engineering, claimed that the ADE 651 was 'a revolutionary tool in the effective detection and location of Narcotics (drugs), Explosives, and specific substances at long-range distances' and that it functioned according to a principle that the company referred to as 'Electro-Magnetic Attraction'.¹ The ADE 651 and similar devices had been used in other countries, including Afghanistan and Lebanon.² The Iraqi government purchased an unknown (but large) number of the ADE 651 from ATSC for approximately US\$85 million.³ It required so many government departments and institutions to use the device that there were not enough to go around. A market sprang up overnight, with government departments buying and

selling the devices to each other at a profit. One department in the ministry of justice obtained one for \$50,000 (even though each device cost just a few dollars to manufacture). The department's staff was so terrified of losing or damaging it that they placed it in their building's safe – out of harm's way – and never put it to use.⁴

Even to the casual observer it is clear that the devices are useless. Yet for years they have been employed by security forces at checkpoints throughout the country and at the entrance to ministries and other institutions. The device consists of a small plastic handle with a horizontal antenna attached. When a vehicle approaches a checkpoint, the driver has to wait while a soldier holds the device so that the antenna is level horizontally. He then walks parallel to the car, bobbing from left to right. If, during the soldier's dance, the antenna tilts towards the vehicle, the suggestion is that the car may contain explosives.

Like anyone who has spent any time in Iraq outside the Green Zone, I have been through thousands of checkpoints where the ADE is employed. On occasion, during particularly long trips, I have been through more than a hundred checkpoints in a single day while travelling in the same car. Although the car's contents were always the same (empty apart from passengers and some computers), the ADE would sometimes tilt towards the vehicle and sometimes not. There was no clear pattern; it was pure chance. Even when it did tilt, we were never searched anyway. The troops manning the checkpoint would always ask if we had any perfume with us. An answer in the affirmative guaranteed that we would be politely waved through with a smile.

Years after the ADE was first deployed, explosions were still taking place with alarming frequency. The attackers' weapon of choice was the car bomb, and sometimes several of these would go off in a dozen locations throughout the country within just a few hours. Clearly the terrorists were transporting significant amounts of explosives about with relative ease. Certainly the presence of army and police checkpoints every few hundred metres, and their heavy reliance on the ADE 651, did not appear to impede their movements. Many Iraqis and international observers began to question the device's effectiveness.

Since ATSC was a UK company, and as its founder was based not far from London, the BBC took it upon itself to investigate the issue in 2010. In the presence of a BBC reporter, researchers from Cambridge University took one of the devices apart, the better to understand the technology and how it was

supposed to work. The supplier would provide the purchaser with a number of cards, each of which was designed to detect a particular type of explosive. The cards fitted into a holder that was attached to the antenna. In front of the BBC's cameras, university researchers took some of the cards apart and analysed their contents: they were empty. They contained no digital or electronic information whatsoever. There was no way that the ADE 651 could be used to detect anything. A number of other investigations were also carried out on the device, including by the US military. The conclusion was always the same. Some of the world's leading scientists therefore confirmed what just about any Iraqi who has been through a checkpoint had known for years.⁵

Following the BBC's investigation, UK law enforcement officials banned the ADE 651's export to Iraq and Afghanistan. The affair led to criminal investigations and prosecutions in both Iraq and the UK. On 10 February 2011, al-Rasafa court of appeal in east Baghdad issued an arrest warrant against General Jihad al-Jabiri, who at the time was head of the counter-explosives department at the ministry of the interior and who had been responsible for purchasing the ADE 651 on the government's behalf. On 4 June 2012, al-Jabiri was sentenced to four years in prison. The court's spokesman said that the decision was motivated by the fact that the devices were overpriced and based on bogus technology.⁶

In July 2012, the UK Crown Prosecution Service charged six people, including James McCormick, with the 'alleged manufacture, promotion and sale of a range of fraudulent substance detector devices', including the ADE 651, to countries such as Iraq.⁷ During the course of the investigation, it was discovered that the ADE 651 had been modelled on failed golf-ball detectors that were on sale in the US. In May 2013, the court sentenced McCormick to ten years in prison and confiscated the property that he had accumulated, courtesy of his contracts with the Iraqi government, including several homes and a yacht. In his sentencing remarks, the judge addressed McCormick: 'The device was useless, the profit outrageous and your culpability as a fraudster has to be placed in the highest category . . . [H]otel security staff and many other users trusted their lives to the overpriced devices sold by you, which were no more than crude plastic components with a disconnected antenna and a capability of detecting explosives no better than random chance.'⁸

News of these developments spread far and wide in Iraq, and many wondered how the government would react. Clearly, there were few available options – and none of them attractive. Prime Minister Nouri al-Maliki had cultivated a public persona as someone who was strong on security. He had

largely taken credit for the reduction in violence in 2007 and 2008 and, following the March 2010 parliamentary elections, he had assumed control of the security services, including the ministries of the interior and defence. Security was unquestionably his responsibility, and there were significant grounds for holding him personally accountable for the use of the device (among other failures). It is unheard of for senior officials in Iraq to hold up their hands and admit 'mea culpa', so nobody expected the government to apologize. Given the weight of evidence against the ADE 651, however, no one believed that it would keep them in use. It was most likely that the devices would be quietly withdrawn and the matter downplayed by senior officials.

On 21 May 2013, two weeks after the UK court decision, several explosions ripped through the capital, killing dozens of people. The devices were still in use. The prime minister organized a press conference a few hours later with a large part of his cabinet. He solemnly condemned the violence. The first question from the packed hall of journalists was about the ADE 651: how could it be that it was still in use, given the recent court ruling in the UK?

The prime minister's reply left me and others dumbfounded. Despite international consensus on the issue, he stood before his audience and insisted that the devices did in fact work:

We formed committees the day the claims [of corruption] and rumours took place. We formed three committees: a science and technology committee, a defence committee, and a mixed committee. The results were that the devices detect between 20 and 54 per cent under ideal conditions. 'Ideal conditions' means that the soldier has to have been trained in the use of the device, and that he knows how to use the cards, given that the card that is used to detect bombs does not detect arms, and the one that is used to detect arms does not detect bombs . . . Some Iraqi MPs are talking about corruption. The relevant people were taken to court and are now in prison. A court case was filed in Britain, and the person responsible for the forgery [is also in prison]. But what is the truth? *The truth is that some of the devices were real and those devices do detect bombs, while the devices which the court case was about were fake. The problem lies with those that were fake. As for the devices that are real, their problem is that using them correctly requires experience.*⁹

For al-Maliki, the problem was that some of the devices were fake and others were not. This was a distinction that no one else had made or recognized and

was purely of his own creation. One wonders what the deputy prime minister, Hussein al-Shahristani thought of the comments: he has a PhD in chemical engineering from the University of Toronto and throughout the press conference was standing with a poker face immediately to the left of the prime minister.

Officials in Thi Qar, one of the country's poorest areas, did not have the benefit of an advanced western education in science, but nevertheless they saw through the ruse and banned the ADE 651, committing themselves to purchase dozens of sniffer dogs instead.¹⁰ Meanwhile, in Baghdad, car bombs continued to rip apart the lives of the people that the government pretended to protect with a piece of plastic that was worse than useless. July 2013 witnessed more than a thousand security-related deaths. Still more people were maimed. Yet not a single senior official accepted any responsibility. I learned from a friend that an acquaintance of mine was among those killed. A few years back, he had lost his brother in another explosion and had taken in his brother's children, who had nowhere else to go. Following this new wave of attacks, they were left fatherless for a second time.

There were only two ways of interpreting the prime minister's comments: either he believed what he was saying (which would mean that he was incapable of understanding what was painfully obvious to just about everyone else) or he was deliberately twisting the truth (which would mean that the security and wellbeing of Iraqis was for him secondary to protecting his own reputation). It was a perfect illustration of how Iraqis' problems were caused not by religion and race, but by misgovernment. The question, for me and for many others, was how we had reached this point in our country's history and what solutions existed.

* * *

Iraq is a personal matter for me. Having been exiled from my country at a very early age, I did my utmost to reintegrate back into society shortly after the 2003 invasion. I was involved in the effort to rebuild the state – not for professional or financial reasons, academic interest or curiosity, not as a stepping stone to other opportunities, nor to kill time while I waited for something else to do. I left a promising career elsewhere in the hope of rediscovering a country that I could call home without feeling out of place, and of putting the experience that I had gained in my professional capacity to some useful social purpose. However, after years of negotiations, meetings, agreement, and drafting sessions with counterparts in the Iraqi state

and the international community, I finally wrapped up my involvement, frustrated by the impossibility of life in Baghdad and the absence of progress at every level.

Iraq's recent history is full of tragedy, and large sections of our population have suffered terribly. By comparison, my story prior to 2003 was relatively uneventful. But it serves as a contextual backdrop for my involvement in the country after the 2003 war and informs my sense of priorities and attachment to the people that I had been separated from for so long.

My family had already left Iraq prior to my birth. After having been purged and exiled in 1970, and having returned to Iraq following the national reconciliation process that for a time allowed dissidents to resume their activities, my father had accepted a position with the foreign service, and was posted first to Sweden and then to Spain, where I was born in 1977. By the time Iraq invaded Iran in September 1980, he had been transferred to Iraq's permanent mission to the United Nations. Months after the invasion, he returned to Baghdad to seek clarification of the causes behind the war and of the government's future plans. On his return to New York, he resigned from his position in protest at what he concluded had been unjustified aggression. From that day until 2003, I could not set foot in Iraq and had almost no contact with those elements of my extended family that had remained in the country. We later learned that after 1990, when my father took on a more active role in the opposition, our family back home was made to suffer: some were fired from their positions in the civil service, while others were regularly harassed by the security services. In 1987, we had to move to London, where my family remained until 2003. During the following sixteen years, I accompanied my father to meetings with the exile community, including with senior political leaders. Although I rarely participated in any of the discussions, the experience gave me important insights into many of the individuals who would later collaborate with the US occupation after the 2003 war.

By September 2001, I had accumulated three degrees in law, was developing a specialization in commercial litigation and arbitration, and had just moved to New York to continue what was looking like a promising career. The 9/11 attacks took place on my second day in my new office. I was based in the mid-town area, far away from Ground Zero, but the day of the attack and the weeks that followed were an awful time. Matters took a turn for the worse when the Bush administration's attention centred on Iraq. My family and I were conflicted: a new war would probably mean that we would

be able to reconnect with our relatives; however, we had come to distrust US foreign policy in Iraq, particularly as it fell under the control of the Republican party, and even more so once neo-conservatives acquired so much influence. We could draw little comfort from the administration's allies in the exile community, with whom we were all too familiar.

By the time the war started in March 2003, I had moved to Paris, where I practised commercial arbitration with some of the world's leading experts. Shortly after the US started bombing Baghdad, my father travelled to the Syria–Iraq border: he wanted to be in his country as the US army completed the invasion, as he felt he could not simply stand on the sidelines and wait for news from afar. At one point, we lost contact with him and were unsure if he had made it in (there were no mobile phones in Iraq at the time and no internet access). Later we learned that he had reached his hometown and was carried through the streets by our relatives, many of whom had not seen him for decades (and the vast majority of whom I had never seen). Back in Paris, when the US army swept into Baghdad and assisted a small group of Iraqis to pull down a statue of Saddam Hussein in Firdos Square on 9 April 2003, I stood and watched the statue fall and could not stop thinking that it was just a matter of time before my life changed irrevocably.

Despite the early warning signs and increasing levels of violence, and despite the fact that most formerly exiled Iraqis shrank from the prospect of returning to their country, the atmosphere in 2003 and 2004 was optimistic. Many Iraqis were planning their futures in the expectation that the US occupation would wind down within a few years, that the violence would recede, and that life in Baghdad would soon settle into a state of normality. Within that context, I spent a year deciding what would be the best way of contributing to the transition process. I considered many possibilities, but in the end I was offered a position as a legal adviser to the United Nations, initially to work on drafting the constitution, and later on issues relating to parliamentary and judicial reform. I resigned from my position in Paris and moved to the Middle East, hoping that Iraq would quickly emerge from the wreckage of the war and occupation as a modern and prosperous country, and that I would shortly move from the United Nations to work directly for the state. With this in mind, I contacted the ministry of higher education to ask for a teaching position, and I prepared a syllabus for a course on European law that I hoped to teach to undergraduate students. I was concerned that my many years away would mean that I would never be able to integrate fully, and so I had plans to throw myself in at the deep end and study for a PhD in law at the University of Baghdad.

Around a year after I arrived, the team of jurists and experts that I was working with at the UN essentially disbanded, each of my former colleagues moving on to pursue opportunities in other countries. Because of my commitment to my country, I continued working with the United Nations on various projects for another five years. During that time, I kept a low profile, mainly out of a concern to maintain my integrity and to avoid endangering my family; working too closely with the ruling elites would have been problematic. As a result, I was involved in a number of important technical projects which did not attract the interest of senior politicians, but which were designed to circumvent their authority without them realizing. Among other things, this included an effort to develop the parliament, the judiciary and oversight agencies into functioning institutions that would allow some form of oversight of government. Although my counterparts and I made significant progress towards that goal, in the end parliament was completely sidelined and the courts co-opted, while the government functioned as if there was no one watching and no one to answer to.

My decision to leave Paris and to focus all my efforts on Iraq allowed me to satisfy a number of objectives: I reconnected with my family and my country; I became familiar with customs that I had only read about; and I gained intimate knowledge of the workings of the new state. My Arabic improved, as did my sense of belonging. I made friends from all over the country, many of whom I visited regularly in their homes in the countryside or in Iraq's small towns, where we would spend days and nights debating what might have been, what was and what possibly could be. I heard incredible stories of poverty, hardship and forgiveness, and saw with my own eyes what the consequences of poor policy can be. My colleagues, friends and relatives shared their principal grievances and fears with me; and from them I discovered imaginative ways of cursing politicians. I learned to complain about the poor electricity supply and to yearn for rain during a dust storm.

To my immense regret, all of this happened against the backdrop of a country falling apart. As soon as I started in my new position in early 2005, the conflict worsened and eventually brought the state and society to the brink of collapse. Instead of taking on the teaching position that I was hoping for, I spent close to six years in my post with the United Nations. And rather than settling in Baghdad, as I had planned, I was forced to constantly shuttle between Baghdad, Erbil, Beirut, Amman, Cairo, Istanbul and other cities.

My father was one of the few who returned in 2003 without seeking to profit from the new order. During the summer of 2006, after receiving

numerous threats, he finally decided that he could stay no longer. The thought of him packing his bags after just three years back home, possibly never to return, was particularly distressing. As many as 4 million others were similarly driven from their homes, including relatives and friends. Misery was all around, and my resentment towards the people who were responsible for this crisis grew in proportion to the tragedies that I witnessed.

By the end of 2010, it had been clear to me for some time that the state's development agenda was a hoax, and that (my own personal development aside) I was essentially wasting my time trying to assist a state that was led by the worst elements in society. What was the point of negotiating anti-corruption frameworks with mid-level officials, when ministers and other high-ranking officials were robbing the state in broad daylight? What good could come of reforming a government department, when all our work could be reversed in the blink of an eye if someone so desired? Who were we fooling in thinking that anything that we were doing would make any difference?

In the 1970s, Iraqis generally eschewed corruption and theft, largely because they believed (rightly or wrongly) that the state's revenue was being put to good use and should be protected. By the time Nouri al-Maliki's second government was formed in November 2010, moral standards had plummeted, in large part because of an understanding that anything that was not stolen would just be wasted or gobbled up by the political parties anyway.

In that context, the prospects of 'making a difference' seemed at best remote, and I started looking around for other options. In January 2011, I was in Baghdad when the Tunisian dictator was deposed by a popular revolution. My uncle wept as he considered the prospect of the first genuinely free and democratic Arab state. Over the coming few years, one Arab country after another would be rewriting its constitution, and my experience in Iraq could be helpful, particularly as a warning of what not to do. A few months later, I started participating in conferences and meetings on constitutional reform in Tunisia and Egypt, and eventually wound down my professional involvement in Iraq altogether, although I continued to pursue a number of personal initiatives.

* * *

By 2013, ten years after the 2003 invasion that was supposed to bring an end to despotism and usher in a period of unparalleled prosperity for the country, Iraq was in an uncomfortable position. The government, individual

ministries, the parliament, political parties, the courts, the provinces, academics, civil society and the media were all stuck in a terrible morass: although they all complained that the state was failing the people, there was no dynamic in play that could possibly bring about change. There was no initiative on the table to solve any of the problems that the state was suffering from. The most troubling aspect of this was that all the issues that officials and citizens were complaining of in late 2013 were almost precisely the same issues that had first been placed on the table in 2003. Despite a new constitution that had been approved by a referendum in 2005, there was so much disagreement on almost all of its content that the state was paralysed.

The lack of progress at every level has had a terrible impact on the general population. In many countries, when politics break down, essential services continue functioning normally, though progress on key issues is delayed or suspended until the crisis is resolved. In Iraq, there were virtually no services to speak of post-2003, and so a frozen state left the average Iraqi in a difficult, dangerous and precarious position. Among other things, the ruling parties could not agree what the country's political system should be – or even whether it should be centralized, decentralized or should become a federation. One consequence was that complete stalemate ensued over which level of government should control natural resources such as oil, gas and water. Another consequence was that oil production (and therefore exports) only barely increased from 2003 to 2013, despite the auctioning off of the country's most precious assets to international corporations.

The politicians were in deep disagreement over what role the security services should play and under whose control they should be. The constitution's ambiguous provisions were exploited by the prime minister, who took over both the police and the army, leading to accusations by his rivals that both had become heavily politicized and were committing crimes throughout the country. Both institutions saw their legitimacy tarnished as a result. There was no agreement on what development plan the state should follow, so public services barely improved after 2003. Electricity production was (and to this day remains) terrible, so that large swathes of the country do not receive any power whatsoever for days on end, particularly during the summer. Although corruption was identified as a major impediment to progress as early as 2005, the state has not passed any notable reforms to curb graft. The result is that for years Iraq has ranked as one of the most corrupt countries in the world, including in 2013. The decades-long decline in the education sector has not been reversed, and the country's best teachers and thinkers have left.

The private sector has barely recorded any growth since 2003, and has not generated any significant employment opportunities for the hundreds of thousands of young Iraqis who swell the ranks of the unemployed every year. Finally, there has been almost no public discussion of the state's identity, what its underlying philosophy is and what role religion should play in forming policy.

For the average Iraqi family today, life is very difficult. If a family member has access to a government job, and if the family is lucky enough to own its home, one salary is probably enough to cover the very basic essentials, including food and clothing – but is probably not enough to pay for heating and gas. There is a strong incentive to find additional employment. Because of the lack of opportunities, the absence of oversight and the prevalence of corruption, most families end up paying bribes to governmental officials whenever positions are advertised. And needless to say, the investment usually does not pay off. Those families that do manage to supplement their income with a second or third salary use the funds to pay for private schools, private health care and perhaps even trips abroad.

A large proportion of the population, particularly in the south, is left without a regular income to speak of, which means that they have to fend completely for themselves, with precious little assistance from the state. Millions are not connected to the electricity or water networks and eke out a living as if the state did not exist. Many have been pushed even further to the margins of society, and have been reduced to living in informal garbage dumps, raising their children in the midst of open sewers.

Regardless of income, however, no Iraqi, no matter how wealthy or privileged, can isolate him or herself completely from the disaster surrounding them. Aside from the never-ending terrorist attacks, the failing services and the garbage-strewn streets, the environment has been deteriorating at an alarming rate, and hundreds of dust storms are recorded every year. The storms make life unbearable for everyone and are a clear warning that something drastic needs to change urgently.

The purpose of this book is to explain how this situation has come about. It particularly seeks to do this through an analysis of the current ruling elite's rise to power and of the decisions it has taken since 2003. I also explore what solutions exist for the country in its efforts to rescue itself and to establish a successful democratic system of government. Many analysts have blamed the United States for having imposed on Iraq a group of former exiles with no professional skills, and for having rigged the system of government in their

favour. Others have noted that it is the Iraqis themselves who are to blame for their woes, pointing out the poor performance of their elected representatives since 2005. The argument is that if Iraqi society as a whole could not produce a better crop of politicians, then it has only itself to blame. I explore both of these perspectives, based on my own observations from before the war and my professional dealings with the new ruling elites since 2003.

Chapter 1 provides a brief review of Iraq's modern history, with particular emphasis on how specific policy decisions – from the period of the monarchy all the way to the Baathist era – have affected standards of living. In particular, I explore the impact that the absence of democracy and the concentration of power and wealth have had on the country and its blatant inequities.

Chapter 2 explores the origins of Iraq's new ruling elites. It provides some background on the years that they spent away from Iraq and looks at the impact that time had on their psychology, their capacity to administer a country and their ability to cooperate in what was supposed to be a multi-party democratic environment.

Chapter 3 sets out my understanding of what went wrong during the first two or three years of US occupation, particularly as the new elites worked to design the framework of their new state. First of all, I ask whether the process by which the constitution was conceived was truly democratic, particularly in light of all the available evidence; second, I explain the system of government that the constitution imposes, and ask what the consequences have been – and whether they could have been foreseen.

Chapter 4 describes the chaos and violence that ensued after the new constitution came into force and Nouri al-Maliki's first government was formed in mid-2006. Thousands were killed each month, millions were forced from their homes, and the state essentially collapsed, as state employees kept their heads down and tried to evade the attention of the militias. As violence receded in 2008, however, a new social environment was created by a population that had grown weary of sectarianism, corruption and inefficiency, and by a number of new political alliances that sought to capitalize on that sentiment by campaigning on nationalist platforms (i.e. in favour of a united Iraqi nation). I describe the unique political opportunity that was created by the 2009 and 2010 elections to unite the country behind a single programme focusing on reconciliation and reconstruction.

Chapter 5 explores how the ruling elites responded to that call. It questions the decision to create governments of national unity and looks at the impact it had on governance. Al-Maliki for years complained that those

arrangements limited his capacity to govern, and many have accused him of seeking to monopolize the state by capturing its most essential institutions from within. I ask whether or not he has been successful in this, and also question what impact that strategy and the constitutional framework are likely to have on the state in the long run, particularly on federalism, decentralization and service delivery.

Chapters 6, 7 and 8 set out in detail the impact that Iraq's system of government has had on governance. Chapter 6 focuses on a number of vital issues, including basic services, the oil and gas sector, economic policy and the failure to engage in legal reform, particularly the framework for protecting fundamental rights. Among other things, these failures have contributed to an ever-growing refugee crisis, and have led to the exodus of entire communities, including the Christian community. Chapter 7 explores how Iraq's constitutional and political system has created a huge space in which corruption can thrive. In particular, it describes the gaping loopholes that have existed for years and asks why the government and parliament have done virtually nothing to close those loopholes. Chapter 8 focuses on an area that is often overlooked by analysts and other interested parties. I have been trying for some time to draw attention to the speed at which Iraq's environment is deteriorating, and this chapter reflects my thoughts on and knowledge of the issue. I describe in some detail the transformations that have been taking place in Iraq's environment over recent decades, and explore how the ruling elites have exacerbated that crisis.

Chapter 9 rounds things off by asking whether there is any common political ground in Iraq on which a new, truly representative and accountable government can be created. I conclude by proposing a road map for reform, focusing on the kind of substantive changes that can and must be embarked upon to repair the state, and I discuss the type of process that can be followed to have that vision implemented peacefully and through democratic means.

* * *

The contents of this volume are the product of close to ten years' work. The events that I describe and the opinions that I express are based on information that is publicly available, but they also draw significantly on my own personal involvement in Iraq from 2005 onwards. A large number of people have greatly exaggerated the roles that they played in Iraq after 2003. Considering how disappointing the entire venture has been, the idea of boasting about supposed accomplishments in Iraq has always struck me as

an odd one. In my case, I can honestly say that, although I was involved at some critical junctures, I cannot take responsibility for any of the decisions that were made. During the drafting of the 2005 constitution, I was one legal adviser in a large team of dedicated individuals at the United Nations. Although I had strong opinions about the process and about the shape that the constitution was taking, I was never in a position to influence the outcome of discussions on the key issues that the state's future depended on. The same applies to all the projects that I was involved in after the constitution came into force in 2005: although my colleagues, counterparts and I tried to make a difference, we were frustrated at every turn by the ruling elites.

* * *

This book would never have been possible without the assistance of a number of former colleagues, including in the Iraqi judiciary, the ministry of justice, the parliament and the Kurdistan regional government. Many of these individuals have become very close friends, with whom I have had frank, protracted and repeated conversations about the state of our country over a period of years. Their contribution has been invaluable, but they must remain nameless out of a concern for their privacy. Aside from those of my friends and colleagues who continue to be based in Iraq, a number of individuals deserve special mention.

My father's humanity and his commitment to his country and to its people have been an inspiration throughout my life. The decisions that he made, the positions that he adopted and the compromises that he entered into inform the way I choose to live my own life. I do not know how conscious he is of the impact that he has had, but his path has provided me with an understanding of the world that is grounded in a desire for equity and fairness for all, without discrimination.

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CHAPTER ONE

A LEGACY OF OPPRESSION AND VIOLENCE

A thousand years ago, Baghdad, the capital of Iraq, was the world's most important centre of knowledge and learning. It was home to scientists, physicians, translators and philosophers, some of whom travelled from the far reaches of a vast empire to participate in the most advanced intellectual discussions that were taking place at the time. The city was established in the year 762 as the Abbasid caliphate's capital, from which it ruled over the entire Middle East, including the whole of modern-day Iraq, much of North Africa and large parts of Asia.

With over a million inhabitants, it was said to have been the world's most populous city for several hundred years. Its citizens were served by the world's first public hospitals, some of which are supposed to have been as large as palaces. All this was made possible by knowledge that had been developed in previous eras by the Greeks (meticulously translated into Arabic) and Persians, but it also owed much to the city's cultural and linguistic diversity.¹ It was in antiquity that a country referred to as 'Iraq' came into existence; it was generally acknowledged to cover the area between Mosul and Basra and to stretch from west of the Euphrates to east of the Tigris.² It all came to an end in 1258, when Baghdad and much of what remained of the empire were destroyed by the Mongols. Subsequently, the city and the territory that makes up modern-day Iraq were invaded and incorporated into a number of larger territories, most notably the Ottoman Empire, which administered the country almost uninterrupted for five centuries, from the sixteenth century until the First World War.

At the beginning of the twenty-first century, most interested observers believed that the Ottomans had divided Iraq into three separate provinces (the *vilayets* of Mosul, Baghdad and Basra), and that those provinces roughly corresponded to the areas where Iraq's three major ethno-sectarian groups (Kurds, Sunni Arabs and Shia Arabs) lived. In fact, the country's internal boundaries shifted on a number of occasions during Ottoman rule and never corresponded to the generally accepted divisions. For example, although Basra province did exist between 1550 and 1690, it was integrated into Baghdad province for most of the following two hundred years. It re-emerged once, between 1850 and 1862, but was again absorbed into Baghdad, making a final appearance in 1884. And even when it did exist, it only covered a small corner of Iraq's south-eastern territory; the bulk of the country's Sunni and Shia Arabs, as well as the Shia shrine cities of Najaf and Karbala, were always grouped together in Baghdad province. In addition, while the country was under Ottoman control, Baghdad was long considered to be the administrative centre of the area that today constitutes Iraq and was never regarded as merely another province.³

By the time the British Empire managed to wrest the country from the Ottoman Empire at the end of the First World War, the local population had fallen on hard times. The country still enjoyed great diversity – the majority had a very distinct dialect of Arabic as its mother tongue (as well as a number of regional variants), but significant minorities spoke various dialects of Kurdish and Turkish, as well as Chaldean, Farsi and others. And although most people were Muslim, both the majority Shia and the minority Sunni groups were home to various schools of thought, while the rest of the population included assorted groups of Christians, Jews, Mandeans and Yazidis.

At the same time, however, by the end of the First World War, Iraqi society had suffered the consequences of the collapsing Ottoman state. The country was very underdeveloped and suffered gross economic disparities. Rates of illiteracy, poverty and disease were high everywhere, but especially so in rural areas. Outside the major cities, tribal and traditional rules were often still in force, meaning that the government's authority was not recognized, and farmers and labourers were often forced into a state of virtual serfdom. Iraq was also still prone to disasters, such as floods, famine and outbreaks of such debilitating diseases as malaria. Society was deeply stratified, so that power, money and influence were concentrated in the hands of a small – and very exclusive – group of individuals.

THE MONARCHY PERIOD

When it took control over the whole of Iraq in 1918, the British government promised the locals self-determination and prosperity. Over the next two years, however, British officials subjected Iraqis to brutal treatment, burdensome taxation and arbitrary justice, and also made clear their intention of curbing Iraqi sovereignty and of exerting direct influence over the country's governance. In response, Iraqis became increasingly determined to prevent one occupier merely replacing another.

At a meeting in Damascus in 1919, a group of Iraqi officers issued a declaration, according to which they sought 'the independence of Iraq . . . within its natural borders which are . . . from the line of the Euphrates north of Dayr al-Zor and the Tigris River Bank near northern Diyar Bakr to the Gulf of Basra. It also includes the banks of the Tigris and the Euphrates east and west, as confined by the natural barriers.'⁴ The Great Iraqi Revolution broke out in May 1920 and brought together nationalists from different backgrounds and confessions who worked together against British rule. Armed fighters, mainly from tribal areas, attacked and gained control of several areas that had previously been under British control and there attempted to establish an independent Iraqi authority. Although the uprising was crushed in November 1920, it caused the occupation forces so much trouble that they felt compelled to shift their strategy in favour of ruling indirectly, through a weak Iraqi administration.

In March 1921, the British authorities decided that the future Iraqi state should be a constitutional monarchy and selected Faisal bin Hussein as their candidate for king. Bin Hussein was a wartime ally who was originally from the Hijaz area of present-day Saudi Arabia and who had very little connection to Iraq and its people. He and the British authorities based his claim for legitimacy on the fact that he was a descendant of the Prophet Mohamed (the same rationale that has been used to prop up regimes in Jordan and Morocco) and had played a leading role in the Arab revolt against the Ottoman Empire. Shortly after he settled in the country and found that a large proportion of his subjects did not recognize his authority, he was contemptuous enough to write: 'This government rules over a Kurdish part, most of which consists of a majority of ignorant people . . . and an ignorant Shi'a majority that belongs to the same [ethnicity as] the government. But the oppression they had under the Turkish rule did not enable them to participate in the governance or give them the training to do so.'⁵

A plebiscite was organized by the British authorities in Iraq in July 1921 to confirm the future monarch's position: 96 per cent of the population voted in favour of the British candidate (the only one on offer).⁶ The British high commissioner in Iraq then negotiated a treaty of alliance with the provisional Iraqi authorities, which was signed in October 1922 (the Anglo-Iraqi Treaty) and which significantly influenced Iraq's future constitutional framework. This treaty provided for a draft constitution to be prepared by the king and presented to a constituent assembly, and indicated that the new constitution 'shall contain nothing contrary to the provisions of the present Treaty'. This included the requirement that King Faisal should 'fully consult the High Commissioner on what is conducive to a sound financial and fiscal policy'. The British government was also given free access to air bases, and it could place civilian and military 'advisers' throughout the state. Iraq's sovereignty was being curbed for all to see.

A new constitution was drafted by British and Iraqi officials, in consultation with the UK's colonial office,⁷ and was eventually approved by an indirectly elected constituent assembly.⁸ The constitution officially established Iraq as a liberal democracy, which promoted modernism and development and which would hold regular elections. However, enormous constitutional authority was granted to the king and the small retinue of advisers and politicians that surrounded him. The king had unrestricted power to appoint the prime minister and could convene, adjourn and dissolve parliament at will. That power was used to appoint Nuri Pasha Said (one of the king's wartime companions) as prime minister on fourteen separate occasions, even though he was among the most hated figures in the country. The king was also responsible for appointing the entire upper chamber of parliament – the only condition being that appointees must have 'secured the confidence and esteem of the public', which effectively meant that the king could appoint anyone he wanted.

The monarch likewise held both executive and regulatory power and could simply refuse to ratify laws passed by parliament. Similarly, all members of the judiciary were appointed by royal decree. Most importantly, perhaps, although the new state was ostensibly a democracy and was required to hold regular elections, the electoral laws and the system of government denied the vast majority of the population effective political representation. The monarchy and the government were so closely intertwined with the moneyed classes that pro-poor policies were hardly ever considered or seriously applied. Iraq's government and democracy were designed to allow for power

transfers within a small coterie of wealthy Iraqis, while the rest of the population looked on.

Having connived with the British Empire in constructing a kleptocracy that was dominated by an ethno-sectarian minority, Faisal discovered that he was unloved by his subjects and that his stature as their monarch did not inspire any significant social movements in his favour. In 1933 – more than ten years after he ascended to the throne and thirteen years after the 1920 revolution, which had sought to establish an independent state free from British occupation – he was moved to write:

There is still – and I say this with a heart full of sorrow – no Iraqi people but unimaginable masses of human beings, devoid of any patriotic idea, imbued with religious traditions and absurdities, connected by no common tie, giving ear to evil, prone to anarchy, and perpetually ready to rise against any government whatever.⁹

Thus, rather than admit his own failures and reform the state to make it more representative and accountable for its actions, Faisal blamed Iraq's divisions on the population's inability to rally to him.¹⁰ In truth, despite its difficulties and the lamentable state of education, Iraq's population was well aware of the inequity of the situation, which was the real reason why the people were so 'ready to rise against any government whatever'. Not only was Faisal's statement one of the first instances of senior government officials (in this case, the head of state) politicizing sectarianism to obfuscate the state's failures, but it also did enormous damage to international perceptions of Iraq's people – and sometimes even to Iraqis' appreciation of themselves.

The monarchy period was marked by a failure to respect community rights, a contentious issue for such a diverse country. The vast majority of the monarch's new ruling elite consisted of Sunni Arabs, and very little provision or effort was made to improve democratic representation for the rest of the population. Early on, the Kurdish population sought some form of autonomy on educational, linguistic, cultural and other matters, but was generally ignored. A number of uprisings and rebellions took place as a result, and these were put down by the UK's Royal Air Force. The first bombing raids took place in 1919, when aircraft were dispatched to the north, where they left death and destruction in their wake. Arthur Harris, who would later hold the rank of air chief marshal during the Second World War, commanded squadrons of bombers in Iraq during the 1920s, and wrote