

## **Iraq Hydrocarbons Legal Framework**

An analysis of the Federal Oil and Gas Law, the Federal Financial Resources Law, relevant constitutional articles and proposed amendments by the Constitutional Review Committee and the Kurdistan Region Oil and Gas Law and Model Contract

**Submitted to the US House of Representatives Subcommittees on the Middle East and South Asia and International Organizations, Human Rights and Oversight by:**

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### **Attachments:**

- 1) Iraqi Oil Policy -- Constitutional Issues Regarding Federal and Regional Authority, Joseph C. Bell, Hogan & Hartson LLP and Professor Cheryl Saunders University of Melbourne Australia with addendum by Joe Bell on proposed amendments
- 2) Analysis of the Revenue Sharing Law by Joseph C. Bell

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## **1. Executive Summary**

Born out of difficult and protracted negotiations in the context of a raging conflict and very low trust, the emerging Iraqi hydrocarbon legal framework is not perfect, but it does represent progress.

The framework, particularly the proposed amendments to the Constitution, reflects a sense of realism and preparedness for compromise which has eluded Iraq's political elites over the past four years.

The framework is based on a set of principles agreed by negotiators for the federal government and Kurdistan in the summer of 2006. The principles include undivided public ownership of oil wealth, co-management of the oil sector by the federal centre and the regions and a fair and transparent distribution of revenues among all regions and provinces on the basis of population.

These principles open the way for the establishment of coherent sector management laws and institutions aimed at maximising the benefits from oil for all Iraqis and a separate revenue sharing mechanism which would assure all parties their fair share of the wealth.

The compromises struck in the course of negotiations over the past year are fragile and there are signs of backtracking. They need to be formalised before they totally unravel.

More work is necessary on almost all elements of the framework to remove ambiguities and contradictions and achieve consensus. A transparent public debate drawing on the expertise of Iraq's petroleum, legal and finance professionals, among others, could greatly contribute to this process.

Iraq is in dire need of the resources that a viable hydrocarbon legal framework could unlock. If properly developed, the framework could also reduce apprehension, both in Iraq and outside it, about the shape of the nascent union and may help reduce some of the tensions feeding into the cycle of violence.

Conversely, pushing the framework through according to a US timetable and before consensus is achieved is likely to produce further polarisation and a framework that will lack viability and may be destructive both economically and politically.

## **2. State of Play**

After months of protracted and often contentious negotiations, a legal and institutional framework for managing Iraq's oil wealth is slowly emerging.

A draft report by the Constitutional Review Committee (CRC) containing substantial changes to the oil related articles was sent to Parliament on May 23, 2007. The CRC has obtained an extension until the end of August to finalise its report.

The draft Financial Resources Law, which governs the sharing of oil revenues and other external sources of income between the federal government and the regions, was published on June 12, 2007. The draft Oil and Gas Law was officially presented to the Parliament on July 4, 2007.

This leaves the Ministry of Oil Law and the Iraq National Oil Company (INOC) Law to be developed. Also outstanding are Annexes to the Oil and Gas Law determining the distribution of fields between those managed by the state through the Ministry of Oil and INOC and those available for licensing by the regions, as well as model exploration and development contracts. The annexes and contracts may be left to be determined by the Federal Oil and Gas Council (FOGC), which will only be established after the passage of the Oil and Gas Law.

On June 29, the Kurdistan Regional Government (KRG) published a draft Regional Oil and Gas Law and a Model Production Sharing Contract.<sup>1</sup>

### **3. The Federal Oil and Gas Law**

#### ***3.1 The law on Federal Centre vs. Regions***

Despite the media's focus on the role of the private sector, the most contentious issue in the legal framework is the division of authority between the federal centre and the regions.

The Oil and Gas Law goes beyond the Constitution in terms of the powers it vests in federal government. The law implies that the regions have ceded some of their constitutionally permitted powers to the federal government in order to maximise return to everyone.

The compromise draft highlights article 111 of the Constitution, which declares that 'oil is the ownership of the Iraqi people in all the regions and governorates' (2.1).<sup>2</sup> As such, the law codifies the principle of undivided public ownership and control over the nation's wealth.

Constitutional discussions to date have been mired in a fierce debate over whether various other articles vest more 'ownership' of oil resources at the regional or federal level. By placing article 111 at the centre of Iraq's new oil law, with the backing of all major political actors, the new law places ownership over Iraq's natural resources with all Iraqi citizens.

The law also affirms the main premise of the hydrocarbon legal framework by stating as its goal 'the control over oil and gas in a way that guarantees the fair distribution of their returns to the people' (2.2.).

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<sup>1</sup> Unlike the Federal Government and Parliament, the KRG published most of the draft legislation on its website [www.krg.org](http://www.krg.org).

<sup>2</sup> References are to the Arabic text of the law submitted to Parliament on July 4<sup>th</sup>.

While giving extensive leeway to the regions, the law leaves key levers in the hands of federal institutions. In this respect the law goes a long way toward reasserting federal government powers and reducing some of the ambiguities of the Constitution.

The law establishes a complex and convoluted hierarchy for the management of the sector including the Federal Parliament, Council of Ministers, Federal Oil and Gas Council (FOGC) (a body headed by the Prime Minister and comprised of relevant ministers and representatives of the regions), Ministry of Oil, INOC and the regional authorities.

The law is unclear on the distribution of key competencies among these parties. For example, several parties are simultaneously responsible for pre-qualification of contractors, approval of operators, approval of field development plans and third party financing. The law calls for the Council of Ministers to ensure that the FOGC and the Ministry adopt ‘appropriate and effective mechanisms for consultation and co-ordination’ with the regions (8.4.). Article 11 calls for the Ministry to undertake monitoring and supervisory actions ‘in coordination with’ the regions and to draw up federal policies and plans on exploration, development and production ‘in consultation with’ the regions. The mechanisms for coordination and consultation are unclear.

Such ambiguities may indeed, as some critics suggest, dilute control and open the way for conflict and abuse. Yet the federal government is clearly the most powerful actor in the hierarchy. Its competencies include ‘proposing legislation,’ ‘adopting federal policies, monitoring their implementation’ and ‘supervising all operations,’ ‘including the adoption of regulations’ (8.1.,2. and 3.). FOGC is the arm of the government tasked with carrying out these functions. The Ministry of Oil proposes policies, development plans and regulations, in consultation with the regions and other actors, and supervises operations to ensure uniform implementation across the country (11). Regional authorities propose policies and development activities to be included in federal programmes (14). They are entitled to negotiate and initiate contracts for discovered but undeveloped fields on their territory that are not close to currently producing fields and for new exploration blocks.

### ***3.2 The law on State vs. Private***

Another central conflict has been focused on the future role of private investment. Debates over the law suggest a strong current of ‘resource nationalism’ in Iraq which fears and opposes the participation of the international oil companies in the future development of the Iraqi oil industry.

The authors and negotiators for the Ministry of Oil are no exception, but even they agree that Iraq is simply not capable at present of carrying out the large investment projects necessary to achieve a significant ramp-up in production on its own.

The industry is, at present, in crisis, and the nature of private sector involvement envisioned by the law is aimed first and foremost at getting Iraq’s oil sector back on its feet as quickly as possible.

While the law seeks to promote foreign investment as an objective (3.4.), it does so without significantly loosening national control. The authors have put in place numerous restrictions in this respect. These limitations have prompted some critics, including Fadhil Chalabi, former Iraqi deputy oil minister and secretary general of OPEC, to argue that the law is too restrictive to attract serious investors, especially in combination with the high degree of political risk in Iraq today.<sup>3</sup>

The newly constituted state owned Iraq National Oil Company (INOC) is put in charge of ‘managing and operating’ currently producing fields and ‘developing, managing and operating’ discovered but undeveloped fields in their vicinity (3.2.a. and b. and 19 b.).

The law was supposed to be accompanied by four annexes spelling out which fields are included in the various categories. Early drafts of those annexes suggested that INOC would have control of over 93% of reserves. These annexes have been scrapped due to KRG objections and left to the FOGC to decide at a later date.

Multinational oil companies can be engaged by INOC to help develop discovered fields on the basis of plans to be developed by the FOGC and the Ministry of Oil. INOC is also in charge of all pipelines and export terminals and, by extension, transport and marketing. (13.2.e. and 19.3.)

Contracts with multinational oil companies or other private sector investors must be negotiated and signed by the Ministry of Oil, INOC or regional authorities through a process of clear, transparent and competitive bidding. (15)

Contracts are awarded to companies pre-qualified on the basis of criteria promulgated by, and models which will be drafted by, the FOGC.

Contracts have to adhere to a long list of criteria, including ‘National Control, Iraqi Ownership of Resources, Maximum National Economic Return, and Adequate Return on Investment.’ They must require investors to improve extraction, transfer know how, train Iraqis, optimise the use of infrastructure and protect the environment.’ (16) Iraqi national interests, including but not limited to security, maritime navigation, exploration and development, health and safety and high standards of environmental protection must be respected. (15)

Should a contract deviate seriously from the above criteria as enshrined in model contracts it can be rejected by the FOGC. Contracts already signed by the Iraqi government are subject to the same review process. Kurdistan Regional Government contracts which were ratified (grandfathered) in the Constitution are subject to ‘binding’ assessment by the Office of Independent Advisors, which is attached to the FOGC. (47)

Foreign contractors can repatriate profits but only after paying 12.5% royalty, taxes and customs duties. (41.1.)

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<sup>3</sup> Fadhil Al-Chalabi, Executive Director Center for Global Energy Studies, former Deputy Minister of Oil in Iraq and Acting OPEC Secretary General (head of INOC?) Comments on Iraq Petroleum Law Draft presented at a conference for that purpose Amman February 17<sup>th</sup>, 2007 [http://www.revenuewatch.org/documents/chalabi\\_20070306.pdf](http://www.revenuewatch.org/documents/chalabi_20070306.pdf) (last seen on March 12, 2003)

Much of the criticism of the law focused on the possible implementation of production sharing agreements (PSAs), which are deemed by critics to be inadequate for or disadvantageous to Iraq. The law does not mention these agreements, although they are likely to reappear eventually in the model contracts, particularly for risky assets. Many of the safeguards and protections listed above should minimise the risk of Iraq entering any disadvantageous arrangements.

This is far from the wholesale privatization and sell-off of Iraq's oil industry that critics feared upon first glance at the law. Indeed, the nature of state involvement and various protections and local content requirements far exceed, in quality and scope, the policies of many other major oil-producing nations today.

#### **4. The Financial Resources Law**

The Hydrocarbon Law was negotiated over 6-8 months. Indeed first discussions over the law started under the interim administration of Iyad Allawi in 2004. By contrast, the revenue law was hammered out in a record three months—and it shows.

The Law of Financial Resources leaves open a number of issues and in some places uses terminology to which it is hard to give concrete meaning.

The basic points are clear enough. “Oil” revenue and external assistance to the federal government goes into an external account and domestic federal revenue goes into an internal account. From these two accounts there is a waterfall of payments. The first priority is for the sovereign expenditures of Iraq and the second contributions to a future generations fund (this yet to be drafted legislation is a particular concern of the Kurds). Of the remaining balance 17 percent goes to the KRG. The remainder is to support the activities of the federal government and the departments in the governorates not included in a region. The law has no provisions addressing the language of Articles 106 and 112 of the Constitution (and in Article 111 of the proposed amendments) calling for special allocations to assuring compensation to damaged areas and balanced development of different areas of the country. Although these basic points are clear, there remain many areas where the draft leaves open critical questions or uses language that could benefit from further clarification.<sup>4</sup>

#### **5. The Constitutional Amendments**

The Constitutional Review Committee established more than seven months ago to propose amendments to the Constitution sent its draft report to the Iraqi Council of Representatives on May 23. The report was approved unanimously by the 31 members of the committee representing all political blocks, ethnic groups and religious communities in Parliament. The UN, which provided critical support to the process, commended the report in a statement issued June 23.

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<sup>4</sup> See Annex 2 by Joseph Bell of Hogan and Hartson for a brief assessment of certain aspects of the Financial Resources Law

The report goes some way towards removing ambiguities and contradictions contained in the original text approved in a referendum at the end of 2005. Changes recommended to the way power is shared between the federal centre and the regions are substantial and could set the stage for a viable union.

The original Constitution, negotiated hastily in a polarized atmosphere, gave the regions a great degree of autonomy without giving the centre the necessary tools to coordinate among them. Among other provisions, it accorded sweeping supremacy to regional law over federal law in all but a narrow set of sovereign areas.

The proposed amendments strengthen the coordinating capacity of the federal government without weakening the regions. This is an important precondition for a strong functioning union. The federal centre should have the ability to act in areas which are beyond the capacity of any single region or where the exercise of a power by one region could harm another region.

Probably the most significant changes proposed by the Committee are amendments proposed on the oil related articles. The Constitution was replete with ambiguities and contradictions which made the task of reaching an agreement on the management of the oil sector exceedingly difficult. It could be interpreted in a way that gives regional law supremacy over federal law in oil matters, thus conceivably allowing any region to opt out of any agreement. This rendered the oil legislation, and by extension the fate of Iraq's main source of income, unstable and susceptible to abuse.

The proposed amendments respect the principle of undivided public ownership of the oil wealth and joint management of the industry. They establish clear federal jurisdiction over the collection and distribution of revenues while guaranteeing fair and transparent distribution to the regions. These are the same principles that lie at the heart of the Oil and Gas Law and Financial Resources Law, but clarifying them in the Constitution is critical for the stability of any such agreement and the prospect of the law being implemented. Significantly, unlike the oil law negotiations, constitutional amendments were agreed on by representatives of all Iraqi communities and political blocks.

## **6. The KRG Oil and Gas Law and Model Production Sharing Contract**

As noted earlier, on January 29, the KRG published a draft Regional Oil and Gas Law and a Model Production Sharing Contract. There are many conflicts between these and the Federal Constitution and federal legislation. Some conflicts are somewhat technical (e.g., the length of exploration periods or the royalty rate); others are more sweeping.

Although well drafted, the law and model contract reveal a systematic claim of powers granted exclusively to the federal government in the Constitution. These claims are based in part on aggressive and controversial interpretations of the division of powers in the Constitution—interpretations that would by and large be rendered even less plausible under the amendments proposed by the CRC.

For instance, much of the authority claimed by the KRG is based on the argument that essentially all federal activity in the oil sector in Kurdistan requires the ‘express agreement’ of the Regional Government (Art. 2, par. 2).

Specific conflicts flow from this basic premise as can be seen, for example, in the claim of a right by the KRG to negotiate international unitization disputes (Art. 49) and to offer tax exemptions (which seemingly apply to federal taxes) (Art. 40)—both of which seem clearly to be exclusive federal powers under the Constitution. The KRG law also provides for a rather different system of revenue collection than that envisaged in the Financial Resources Law. Moreover, KRG participation as a partner in contracts may contradict the principle of the Financial Resources Law.<sup>5</sup>

## **7. Transparency Issues**

### ***7.1 The Oil and Gas Law on Transparency***

The Oil and Gas Law has exceptional transparency and accountability provisions that have been consistently overlooked in public criticism and debate, and yet represent a leap forward from the corrupt, parasitic practices that characterized oil revenue management under Saddam.

In a first for the entire Middle East region, all exploration and development contracts are subject to publication within 60 days of signing (15.2.g.). The law also stipulates the regular publication in ‘two daily newspapers and other public media’ of all information related to oil revenues, including from domestic trade of oil and product; audited financial statements of INOC and subsidiaries; and annual reports of the Federal Oil and Gas Council (43). The law prohibits confidentiality clauses which would prevent the publication of any such information, particularly when related to finance. (43)

The weakest element of the accountability framework and one of the greatest weakness of the Oil and Gas Law overall is the limited role it affords Parliament (7). Parliament’s authority is limited to passing legislation and ratifying international treaties, despite being the most important representative of the true owners of Iraq’s oil, as stated at the outset of the law. In particular, Parliament is not authorised to vote on contracts, as is the case in numerous other major oil producing countries.

### ***7.2 The Financial Resources Law on Transparency***

The Financial Resources Law similarly contains several key transparency provisions (Art. 6). It establishes a Commission on Monitoring the Federal Financial Resources tasked with ensuring transparency and disclosure in financial operations ‘in accordance with international accounting standards’. The Commission is to use an international accounting firm to audit the Financial Resources Fund’s external and internal activities and to file reports with the Council of Ministers, the Council of Representatives and the legislative councils of the regions, providing ‘all data related

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<sup>5</sup> Matthew Genasci, Legal Advisor to the Revenue Watch Institute, contributed to this and the following section of this submission

to the funds and activities of the Fund regarding deposits and withdrawals' and expressing its opinion about these activities. An annual report of these activities would also be made public (though the manner of publication is left unclear).

### **7.3 *KRG Oil and Gas Law and Model Contract on Transparency***

For its part, the KRG has also put forth several transparency measures. 'Summary details' of all petroleum operations are to be made public, though the mandated scope of such details is somewhat unclear, and public access would be given only in exchange for an as yet unspecified fee (Art. 55.1.).

In addition, the Current and Future Fields Accounts are to be subject to a regular independent audit, which is to be made available to the public. The KRG regional oil company, KOTO (Kurdish Oil Trust Organization), is also expressly required to act in accordance with the EITI principles and criteria (Art. 13).

Article 25 of the Oil and Gas law establishes a Contract Evaluation Committee to, among other things, ensure that contracts fulfil the transparency requirements set out in the law.

There is little mention of transparency in the Model Contract. Article 36 (Information and Confidentiality) generally provides that 'data and information' shall be kept confidential in accordance with standard oil company practice ('information and data' includes, among other things, quantities of petroleum produced and sold), though an exception to this rule is provided for information required to be disclosed under laws or security listing requirements of the contractor's home country.

## **8. The Debate**

The preceding discussion has described the key laws and developments. The following will address the crucial debates that have surrounded them.

The Federal Oil and Gas Law, which has been public the longest, has received the most criticism. It started with those who suspected that the war in Iraq was 'all about oil'. They expected any law drafted under the occupation to validate their views by heralding an all out sell-off to Western Oil Companies at the expense of the Iraqi people. Their positions in this regard are unaffected by the actual text of the law, which contains little to support such claims.

As time went by, most of the law's authors and negotiators joined the fray criticising the law for deviating from their views and positions. The authors of the law and the majority of Iraq's oil experts, including trades unions of oil workers, attack the law for diluting the control of the federal government over the sector and opening the way to abuse and mismanagement of the nation's wealth by both private and sub-national actors. Some of the criticism undoubtedly is also intended to preserve present positions of current advantage.

The Kurdistan Regional Government, which was first to praise the law in February 2007,<sup>6</sup> has come forward with negative statements in May attacking the law for the exact opposite reasons.<sup>7</sup> The KRG criticises the law for contradicting the Constitution by keeping too much power in the hands of the federal centre and for being insufficiently market friendly.

One of the most frequent criticisms of the Oil and Gas Law is on timing and the potential results of discussing such vital matters in the current tense atmosphere. Politicians of various stripes have voiced concern that, rather than uniting Iraqis, the discussions over the law and the overall framework may further polarise them along political, sectarian and ethnic lines. It may increase suspicions of foul play by external actors. Some suggest that discussions over oil legislation should at least be postponed until after the Constitution is amended.

Iraqi Parliamentarians, in whose hands the law is today, have expressed a range of views, often stopping short of outright dismissal of the law and even, on some occasions, expressing support of its main premise and the compromise contained within.

Despite these limited expressions of support, the Members of the Council of Representatives also assert their right and intent to amend the law rather than approve it as is. At this point it is difficult to find anyone who speaks openly and unequivocally in support of the law with the notable exception of its main sponsor: the Ministry of Oil.

Ironically, the Revenue Sharing Law, by far the weakest technically in the package, has generated virtually no reaction since its publication.

### ***8.1 The Debate on Federal Centre vs. Regions***

Both the federal government and KRG emphasise that the agreements contained in the hydrocarbon law represent a second-best compromise. The Oil Minister sees the compromise as fully establishing a coherent, centralised framework for the management of the sector consistent with the principle of undivided public ownership of the resource. The federal government would have liked to see more power given to the centre but concedes that this is the best that could be achieved in the current context of mistrust.

The KRG, on the other hand, would have liked the law to be more in tune with their interpretation of the Constitution by giving the regions full control over resources on

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<sup>6</sup> Kurdistan Regional Government Support Draft Federal Oil and Gas Law  
[http://www.krg.org/articles/article\\_detail.asp?LangNr=12&RubricNr=&ArticleNr=16450&LNNr=28&RNNr=70](http://www.krg.org/articles/article_detail.asp?LangNr=12&RubricNr=&ArticleNr=16450&LNNr=28&RNNr=70)

<sup>7</sup> KRG Ministry of Natural Resources responds to statements from Baghdad deterring oil investment in Iraq  
[http://www.krg.org/articles/article\\_detail.asp?LangNr=12&RubricNr=&ArticleNr=17573&LNNr=28&RNNr=70](http://www.krg.org/articles/article_detail.asp?LangNr=12&RubricNr=&ArticleNr=17573&LNNr=28&RNNr=70)

their territory. Indeed, as discussed above, the draft Regional Oil and Gas Law and Model Contract do just that.

The drafters of the hydrocarbon law, including Tariq Shafiq, a veteran of the Iraqi oil industry and a founding director of INOC, and Farouk Al-Qasim, one of the worlds leading experts on oil governance credited with masterminding the Norwegian oil governance institutions, feel that the compromise goes too far in undermining the coherence and effectiveness of the decision making process and leaving loopholes and ambiguities which would lead to damaging decentralisation. In this context they object to the exclusion of Parliament from the decision making process on significant oil contracts, the unwieldy composition and procedures of the Federal Oil and Gas Council and the Council of Independent Experts;

## ***8.2 The Debate over State vs. Private Sector:***

The debate over the issue of state vs. private sector roles in the sector, while emotional and at times more charged than the one on federalism, reveals less pronounced divergences of opinion than the media suggests. While recognising the need for foreign investment and technology to develop the sector, it is clear from the tone of most Iraqi actors, with the exception of the KRG and some private Iraqi oil executives, that resource nationalism remains a defining sentiment in Iraq today.

The KRG is making a strong plea for limiting INOC's portfolio to about 50% of known reserves and opening the rest to the private sector. They argue that this will be a sufficiently large load for INOC and that 'burdening' it any further will only mean that reserves will remain untapped.

Ashti Hawrami, the KRG Minister for Natural Resources and main negotiator on the framework, questions the usefulness of an Oil and Gas Law which purports to promote investment in the industry if most known assets are to be kept off the table.

On the opposite side, the drafters of the law are demanding to include all of Iraq's discovered reserves into INOC's portfolio. They assert that this is a requirement of the constitutional principle of public ownership even though almost every country asserts public ownership of oil resources, regardless of the contracting method used for exploitation.

Neither the drafters nor the Ministry of Oil envision the use of standard PSAs for the development of these fields. They do, however, allow for their use in risky new fields and exploration blocks.

Nevertheless, most Members of Parliament and experts seem unwilling to be seen as 'reversing nationalisation'. The Shura (Consultative) Council of Parliament raised this issue directly in its report, which suggested that this law may contradict the Nationalisation Laws of 1958 and 1973.

In contrast, the KRG seems intent on going ahead with PSAs for all development work on its territory. Indeed, along with the model contracts and draft regional law, it

has published a map of blocks open for exploration and development work covering essentially the entire territory of the region.

### **8.3 *The Debate on Revenues***

The oil revenue law has the potential to be more polarising than the oil and gas law. Most agree with the idea of a single petroleum account, but this is about as far as the agreement reaches.

The Ministries of Finance and Oil assume that all oil receipts will be deposited directly into the account. The KRG seems to believe that the region collects revenues and then submits them to the account. This is implied in the draft regional law as well as the model contracts.

The main problem, however, is reconciling the KRG demand for an assured, automatic transfer of the region's share of revenues with the federal government's desire for an integrated budget under supervision of Parliament and Ministry of Finance authority. The law seems to solve this dilemma to the benefit of the KRG but leaves a vague role to be played by both Parliament and the Ministry of Finance in budget design and execution.

Although the proportion of the distribution is largely undisputed where the KRG is concerned, the issue becomes problematic under the at least theoretically permissible prospect of all governorates collecting their share in cash. This would leave the federal centre with approximately 20% of all revenues—hardly sufficient to finance a viable government. Moreover, the provinces, which will have the right to demand their share in cash by forming regions in less than a year (August 2008), will be far from equipped to handle all the functions which the federal centre will no longer be able to finance.

Among other things, this creates an incentive for the formation of regions even when the institutional capacity to deliver public services is not available.

One solution to this dilemma could be to expand the list of federal competencies as proposed by the constitutional review committee. This will increase the amount allocated to the federal government before the distribution to the regions. However, this creates another problem by potentially reducing the absolute amount transferable to the KRG, thus depriving the Region of resources necessary to deliver services it is already obliged to provide.

Most players, aside from the KRG, would like a more coherent and effective decision making process under parliamentary supervision whether in relation to the sector or revenues. However, it is not clear how such a system could provide safeguards for the regions and minority actors in general should the majority dominated Parliament, and by extension the government, act in bad faith.

## 9. The Next Steps

The oil and gas law was sent to Parliament on July 4, 2007 with amendments proposed by the Consultative (Shura) Council. The original intent of the Shura Council was to introduce amendments that affect key areas including the right of regions to initiate Exploration and Development Contracts. They also addressed some of the concerns by the law's authors about the composition of the FOGC. These amendments were dropped due to pressure from the KRG. The laws with respect to distribution of revenues, the establishment of INOC and the regulation of the Ministry of Oil laws are still somewhere between the Ministry of Oil and the Shura Council as of the writing of this paper.

Parliamentary deliberations can commence immediately. However, no vote can take place as long as the Sunni and Sadrist members continue their boycott of Parliament. There have recently (July 15) been signs of both groups returning to Parliament.

The Constitutional Review Committee has received an extension until September. In the meantime, the draft report is being discussed by party leaders.

Parliament needs more time to negotiate and agree on solutions to outstanding issues in a spirit of solidarity and professionalism. However, there are signs they may not be allowed to do so. Political leaders are already showing displeasure with various elements of the framework. As discussed above, the KRG legislation suggests backtracking on most agreements contained in the Oil and Gas and Financial Resources Laws. Shura Council proposals are perceived by the KRG to contradict achieved agreements.

There is a danger of the negotiations shifting back to the 'kitchen cabinet' of key party leaders—a repeat of the original constitutional deliberation which many blame for that document's weakness.

On the one hand, the rush to meet US imposed benchmarks and deadlines may preempt meaningful dialogue and deliberation and force agreement on vague and ambiguous formulations. On the other hand, further delays may cause the total unravelling of any agreements.

Of course, high level political dialogue is required to arrive at practical compromises, but it is in the interests of all Iraqis that this dialogue be thoughtful, inclusive and not be cut short before real consensus is achieved.

Most importantly, a broad public discussion is necessary. This could start with the publication of all drafts. The KRG has provided leadership in this regard by publishing most parts of the agreed framework.