Conclusion

Since its creation in 1920, Iraq has been forging a stable functioning democracy. The legacies that US forces have left the country will make building a sustainable democracy extremely difficult. With ruthless efficiency the US co-opted or broke civil society through violence and patronage, forcing people to interact with the institutions of the state on an individual basis. For the Iraqi population, additionally traumatized by three wars in twenty years and the lawlessness and violence that have come to typify regime change, the legitimate expression of overt political opinion has only just to see a real freedom. Most of the political parties now being used as the cornerstone of the new Iraqi government were imported into the country after regime change and have had a short period of time to gain the attention of the population, much less win their trust or allegiance. Attempting to build organized, institutionalized party politics in Iraq is certainly impossible with US intervention, but it will take both time and effort. Those who run the state may feel they have neither the resources nor the support to take this route.

The nature of this conclusion reflects the stages through which this piece of research has passed. The first chapter examined the historical and the US policy in the Gulf which has been more active and shaped its long-term strategy, to maintain control over the region. The second and the third chapters outlines the Kuwait-Iraq territorial questions as a background to the 1990-1991 and the resultant Kuwait Crisis and the consequential Gulf War and the role of the UN. While Chapter Four covers considerable ground and follows in as comprehensive a manner as possible all developments which have affected the status and definition of the boundary up to August 1993. By this time, the land boundary had been demarcated in its entirety by the UN, while delimitation had been announced between the two states for the Khor Abdullah, although the UN would insist, contentiously, that its delimitation for this stretch of water was a demarcation. The subjects covered in this chapter are: the border in the UN settlement of the Kuwait Crisis, April-May 1991; UN Iraq-Kuwait Observer Mission (UNIKOM) and incidents in the border zone, April-August 1991; the "northward migration" of Kuwait's international
borders with Iraq, February-March 1992; the land boundary demarcation ruling and reactions to it, April-June 1992; the UN and the UN Iraq-Kuwait Boundary Demarcation Commission (UNIKBDC) verdict on the land boundary, July-August 1992; resurrection of the Iraqi claim to the entirety of Kuwait on the second anniversary of the invasion of the emirate, July-August 1992; the demarcation of the Kuwait-Iraq land border, the resignation of the UNIKBDC chairman and delays in announcing a water boundary for the Khor Abdullah, October-December 1992; border incidents and the expansion of UNIKOM's terms of reference, January-February 1993; border defences, 'returned' oil wells and compensation for displaced Iraqis, February-June 1993; a median line for the Khor Abdullah, March 1993; and the UNIKBDC's final report, May 1993. In this chapter, I highlight four major trends derived from this narrative: (a) the instrumental multilateralism of all five permanent members on the Council; (b) the manner in which its encounters with Iraq forced the Council to confront new threats, and to address questions of legality and legitimacy, representation, and democracy; (c) the underlying evolutionary trajectory of Council practice, away from a politico-military mode in which it mediated between warring states, to a mode in which it sits at the apex of a global legal-regulatory architecture; and (d) the emergence of a comprehensive approach to peace, justice, security, and development, in which the Council occasionally and controversially legislates for all states on critical new security threats such as terrorism and WMD.

Chapter Five of the thesis have been incorporated with a view to research new insights, dynamics in context of the plethora of documents available in context of post Iraq Kuwait war dynamics and US strategy of intervention. Infact, the prosecution of the 1991 Gulf War by the US-led coalition was intended to serve a number of purposes. It was useful to demonstrate to the world that any grave threat to American interests would not be tolerated, particularly where these required the unimpeded supply of fuel to the world's most energy-profligate nation. It was useful also to signal the new global power structure, the 'New World Order' in which a post-Cold War United States could operate without the bothersome constraint-of another global superpower. It was essential in these circumstances that Iraq be mercilessly crushed. As the American academic and dissident
Noam Chomsky pointed out, the much weaker opponent 'must not merely be defeated but pulverised if the central lesson of World Order is to be learned: we are the masters and you shine our shoes'.\textsuperscript{546} There were other purposes: some obvious and some less so. The Americans did not disguise their delight at being able to experiment with a new generation of high-technology weapons. It was helpful to be able to test such devices on the flesh and fabric of a vulnerable state that was obligingly bellicose and conveniently racially-different from the United States. Another factor, rarely discussed, concerned strategic matters of an altogether different kind. Japan remains massively dependent on the huge oil tankers that ply the routes from the Gulf: how prudent for the United States to maintain a stranglehold on the crucial energy supply to a principal economic competitor in the rapidly developing tripolar system of world commerce.\textsuperscript{547} It would be a mistake to believe that the primary purpose of the US initiated war on Iraq was the expulsion of Saddam Hussein from Kuwait. The expulsion was in fact no more than a means to various ends: it is plain enough that the United States has no principled (as opposed to tactical) objection to aggressions by sovereign states against others, and so the reasons for the onslaught on Iraq must be sought elsewhere. The US did not work to activate the United Nations in military opposition to the Israeli invasions of Lebanon and other Arab lands; to the Indonesian invasion of East Timor; or to the various South African invasions of Namibia, Angola and Mozambique. Indeed, there is evidence that it conspired, to varying degrees, in such invasions; and, of course, the US itself has invaded many sovereign states (notably Grenada and Panama in recent years). Moreover, in order to protect the war on Iraq, the US sanctioned fresh contemporary or subsequent aggressions: further Israeli incursions into Lebanon, the Syrian onslaught on East Beirut, and the (post-Gulf War) Turkish invasion and occupation of northern Iraq.

The war on Iraq, realistically viewed, was designed to protect US hegemony over oil (with the broad strategic aims that this implies), to educate the world about post-Soviet political realities, to test new anti-personnel and other weapons, and to justify the


\textsuperscript{547} In the early 1990s there were many signs of escalating commercial tensions between the United States and Japan. In 1992 there were growing threats of a trade war between the US and Europe. With the Cold War over, the leading commercial players of the world were increasingly able to revert to their traditional practices of economic confrontation.
absurdly high levels of investment in US military power. A further aim was to bolster the reputation of a US president beset by the 'wimp factor' and the prospect of a presidential election in 1992. No-one doubted that, whatever the Gulf War's other useful effects, the reputation of President George Bush had been much enhanced. Commentators queued up to proclaim the inevitability of Bush's re-election in November 1992.

Domestically, Iraq faced the deteriorating health of the population which became increasingly obvious through the summer of 1991, though the US and Britain - as lead players on the Security Council - seemed reluctant to agree any relaxation in sanctions. These countries even went so far as to block Iraq's unilateral efforts to export $1 billion-worth of oil to buy food and other essential products, such as water purification tablets. A few states connived with Iraq to break the UN-imposed sanctions, but Iraqi imports remained only a fraction of pre-war levels. The West, for the most part, continued to pay little attention to the privations brought to the Iraqi people by the seemingly permanent sanctions. The review of sanctions by the Security Council in March 1995 saw no change in UN policy. The toll of dying children in Iraqi hospitals would continue to mount. The holocaust would go on.

There is obviously a need to try and establish to what degree the United Nation's settlement of territorial questions has satisfied the long-standing and apparently unbridgeable problems traditionally associated with the Kuwait-Iraq boundary. These are clear from a reading of the five chapters of this study. Clearly, the 1990-91 Kuwait Crisis did not arise from a vacuum. It was merely the latest, the most dramatic if certainly the most tragic manifestation of a long-established and complex dispute over the international status and territorial definition of the emirate of Kuwait. Because of the intransigence of the border question historically, it is clearly dangerous to assume that the UN demarcation has disposed of all the differences which have consistently separated the Kuwait and Baghdad governments. Likewise, it would be foolish to presume that the successors to Saddam Husain's rule in Baghdad, whenever they accede to power, will be any less concerned with access to Persian Gulf waters than was he or his predecessors. Notwithstanding the recent UN decision on the boundary, Kuwait and Iraq may still need
in the long term to find a workable arrangement for access through the border zone. It is ultimately of critical importance for the future stability of Kuwaiti-Iraqi and also Iranian-Iraqi relations that Iraq no longer perceives itself as 'squeezed out' of the Persian Gulf. Given its narrow coastline and the fact that Iraq does not exercise complete sovereignty over either the Shatt al-Arab or the Khor Abdullah, its two means of access to Persian Gulf waters, this will probably prove a very difficult perception to assuage. In future years it remains to be seen whether Kuwait will come under renewed Iraqi pressure to make concessions on the islands issue when Baghdad's relations with Tehran deteriorate seriously over the status of the boundary along the Shatt al-Arab, traditionally for decades the cue for Iraq to press its territorial demands on the emirate. All of these concerns are every bit as valid in the autumn of 1993 as they were in the spring of 1991, when the UN originally announced its prescription for settling the border question. During the last six decades successive Baghdad regimes have generally argued that Kuwait should compensate Iraq for its geo-strategic misfortune, that is its lack of frontage on the Persian Gulf. The UN demarcation of the boundary, but most pertinently its continuing guarantee of the integrity of Kuwaiti territory against the contingency of moves from the north may have lessened Iraq's expectations in this regard, but it is impossible to say so for sure. Inconsistently if sensationally maintained for the half-century or so preceding the Iraqi move on Kuwait, this has found a consistently prominent place in the Baghdad media since 1991, becoming most intense on the second anniversary of the Iraqi invasion in August 1992. Sure enough, `the Great Day of the Call' was again celebrated in August 1993, notably by Colonel Ala Husain Ali, the short-lived head of the sham `Provisional Free [Kuwaiti] Government', about whom virtually nothing had been heard since the early days of the crisis in August 1990.\footnote{Saddam pledges time will come to reclaim Kuwait' by Laurence Chabert in The Daily Telegraph (London), 3 August 1993, p. 10.} Before reflecting upon the characteristics of the Kuwait-Iraq border before and after the UN demarcation, comment will be made on Iraq's historical claim to the entirety of Kuwait.

It has already been convincingly demonstrated that close legal scrutiny does not support Iraq's argument that Kuwait should be amalgamated within Iraq to reflect its
former position during Ottoman times as an integral part of the province of Basra. The Treaties of Sevres (1920) and Lausanne (1923), by which Turkey generally renounced all claims to former Ottoman territories outside Anatolia and the small portion of European territory surrounding Istanbul (Constantinople), effectively saw to this. In exchanges of notes of 1923 and 1932 Iraq had also agreed to the delimitation of its southern boundary with Kuwait. Any arguments that mandated Iraq had been unfairly pressurized by Britain into concluding these agreements in an era preceding the admission of the Hashimite Kingdom to the League of Nations as an independent state in October 1932, appeared to lose their force in October 1963 when Republican Iraq not only recognized Kuwait as an independent state but reaffirmed the boundary delimitation of 1932. Immediately following this development, Kuwait and Iraq exchanged ambassadors to assume normal diplomatic relations. For these and other reasons outlined earlier, it is not difficult to rebut Iraq's historical argument for the annexation of Kuwait. An examination of the Ottoman period has highlighted, however, that Kuwait has always perceived a threat to its security from the north dating well before the creation of Iraq. It has also succeeded in underlining the confused international status of Kuwait at the turn of the twentieth century. Despite effectively denying the Porte any active role within a territorially defined Kuwait, the Anglo-Ottoman settlement of July 1913 still recognized the emirate as an autonomous province of the Ottoman Empire. Without the outbreak of the First World War and the dissolution of the Ottoman Empire it would have been intriguing to see how, precisely, Kuwait's international status might have developed.

There has usually been more than a small degree of opportunism discernible in the prosecution of Iraq's historical claim to the entirety of Kuwait. Iraqi Foreign Minister Taufiq Al Suwaidi's claim during the autumn of 1938 followed a period of years in which the Iraqi media, but King Ghazi in particular, had openly called for the annexation of Kuwait. At the time of al Suwaidi's statement, considerable political instability prevailed within Kuwait. There is some evidence to suggest that General Qasim's claim of June

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549 Modern Turkey continued to claim Mosul until the conclusion of an Anglo-Turkish boundary treaty of 5 June 1926, which established the present northern territorial limits of Iraq with the Kemalist state. This boundary was demarcated in 1927.
1961 that Kuwait should be administered as an integral part of Republican Iraq derived principally from his strong opposition to Britain continuing to guarantee the emirate's defence in the post-independence period.

Commentators will long debate the opportunities perceived during the summer of 1990 by Saddam Husain which led him to believe that the time was right not merely to revive the historical claim to Kuwait but to take the physical step of annexing the emirate. A glut of 'psycho-histories' attempting to get into the strategic mindset of the Iraqi President have failed to produce any definitive findings. The subject must therefore remain a speculative one. It is worth noting that a full decade earlier, in 1980, the Iraqi leader's assessment of the opportunity costs inherent in the decision to invade Iran - he had perceived a weak and de-stabilised Iranian military in the aftermath of the Islamic Revolution - proved dramatically over-optimistic. The motivations which led the Iraqi leader to invade Kuwait are probably easier to quantify. If it was genuinely believed that the permanent absorption of the emirate within Iraq could be attained, then this would at once rid the Baghdad Government of its huge wartime financial debts to Kuwait, place Saddam Husain in control of over one-third of the world's proven oil reserves and provide Iraq with a fine natural harbour on the shores of the Persian Gulf. No evidence was uncovered to support the argument that when commencing his dialogue with Rafsanjani in the spring of 1990 (which would ultimately culminate in Iraq agreeing once again to share the sovereignty of the Shatt al-Arab), Saddam Husain had already focused his gaze on Kuwait as the means by which Iraq's access to the Persian Gulf might be improved. Even had such a re-orientation of the Iraqi gaze taken place, the strongest action which seemed plausible, was that Saddam Husain might occupy the Kuwaiti islands of Warba and Bubiyan, control of which had been a key strategic objective of Iraqi Kuwait policy for over half a century. There were no indications that the Iraqi claim to the whole of Kuwaiti territory would be revived, never mind physically acted upon.

All of the foregoing highlights the difficulties of predicting precisely when the Iraqi claim to the entirety of Kuwait, given its generally latent characteristics, will next be

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resuscitated by a government in Baghdad. After a period of generally cooperative relations between Baghdad and Kuwait, following Qasim's overthrow of the Hashimite monarchy in the Free Officers coup d'état of July 1958, Shaikh Abdullah III of Kuwait was taken aback by the ferocity of Iraq's language in reasserting the historical claim over the emirate on the announcement of Kuwaiti independence during June 1961. The threat on this occasion remained verbal, however. Especially following Iraq's recognition of an independent Kuwait in the 1963 treaty and its acceptance then, on its own merits and for the first time since 1932, of the boundary delimitation introduced by the 1932 exchange of notes, it seemed that the prosecution of Iraqi claims for the annexation of the emirate was a thing of the past. How wrong such a presumption turned out to be. A further factor which probably contributed to Saddam Husain's decision to invade on 2 August 1990 was the conviction that the Kuwaiti Government would never have agreed to the lease or cession of both Warba and Bubiyan and that further attempts to achieve Iraqi desiderata by negotiation were futile. This belief hardened considerably after February 1989.

Regarding historical claims for the absorption of Kuwait, it also needs to be said that Britain had been concerned as early as the turn of the 1920s that the emirate would be swallowed up by its expansionist neighbour. The neighbour in question, however, was Ibn Saud's Najdi state. Had Britain not intervened directly at the height of the Jahra crisis in 1920 it is likely that there would have been no Kuwaiti state for Iraq to lay claim to in 1938, 1961 and 1990-91.

The most fundamental and constant characteristic of the Kuwaiti-Iraqi border dispute for the half-century preceding August 1990, however, had undoubtedly been Iraq's refusal to demarcate the land-boundary according to the provisions of the vague 1932 delimitation. Unless, that is, its desiderata on the islands question were first satisfied. This, allied with Kuwait's traditional determination to hold on to every portion of territory specified as Kuwaiti in the 1932 delimitation but most particularly to Bubiyan Island, had resulted in deadlock being reached on the boundary demarcation/islands issue by the early 1950s. All subsequent attempts to free the dispute from this impasse had ultimately met with failure. Proposals have been made before 1990 to exchange Kuwaiti
sovereignty over the islands for relatively well-watered inland strips of Iraqi territory. Proposals had been made that Iraq should lease rather than acquire full sovereignty over the islands of Warba and Bubiyan. Proposals had been made that a territorial solution should be part and parcel of a much wider package of bilateral agreements between the two neighbours. Proposals have been made that the two sides should agree to differ on territorial questions but promote bilateral relations to such an advanced stage that the failure to finalize a boundary settlement would be largely irrelevant. These had all been recurring yet ultimately fruitless suggestions for the resolution of the border dispute. They had foundered on Iraq's basic determination to improve its access to the sea and Kuwait's resolution not to cede any part of its national territory. The Iraqi desire to secure sole control over the approaches to Umm Qasr had been understandable, since the potential of the site for development as a railway head and a port had been recognized as early as the mid-1860s by British Political Resident, Lewis Pelly. This potential had been further highlighted by Admiralty and Government of India officials during the first decade of the twentieth century, while during the Second World War (only a few years after Iraq had first expressed an interest in developing port facilities on the Khor Zubair) the Allied forces erected deep-water berths at Umm Qasr. The economic value of a port on the Khor Zubair had, therefore, long been established. Notwithstanding the recent deliberations of the UN, it remains likely that control over the approaches to Umm Qasr port will remain an important strategic imperative of future Iraqi governments.

Given that Iraq had generally proved unable to reconcile itself to the boundary delimitation that it agreed with Kuwait in 1923 and 1932 and reaffirmed in the 1963 'Agreed Minutes', it is instructive to review briefly the circumstances in which the Kuwait-Iraq boundary came about. The course of the land boundary as specified in the texts of international agreements is identical with the alignment of the northern and western sections of the 'green' line or outer zone of Kuwaiti authority introduced by the July 1913 Anglo-Ottoman Convention. This line, described as circumscribing an outer area in which nomadic tribes generally acknowledged the predominant influence of the Al-Sabah shaikh, had been nominated by Lorimer as the northern limit of Kuwaiti authority in 1908, an assessment largely corroborated by British Kuwait Agent
Shakespear only four years later. There is no doubt that the urgency of the Government of India, especially under Lord Curzon during the first half-decade of the twentieth century, to make good the Shaikh of Kuwait's claims to northern territorial limits was dictated by the policy of ensuring that any railhead which Germany or Russia intended to build on the Persian Gulf coast would lie in British-protected rather than Ottoman territory. The Government of India therefore maximized prevailing Al-Sabah territorial claims to effectively 'squeeze out' the Porte from the Persian Gulf and deny to the Ottomans any suitable site for a railway terminus along its shoreline. Though it was recognized that a site south of the Ottoman garrison at Umm Qasr - this had been effectively acknowledged as lying within Ottoman territory - might be suitable for development it was considered that recognition of Kuwaiti ownership and the establishment of British pre-emption rights over the islands of Warba and Bubiyan, would render impracticable the development by the Porte of port facilities on the Khor Zubair to their full potential. How accurate such a contention was to prove for Iraq during the following years! In his recent work Finnic (1992) comments that 'nothing in the British archives indicates that the 1913/1923/1932 boundary was some clever plot to deprive Iraq of meaningful access to the waters of the Gulf. This tends to ignore, however, the whole genesis of Britain's special relationship with Kuwait at the turn of the century and Britain's determination to minimize the Ottoman shoreline on the Persian Gulf.'

The most debatable territorial provision of the 1913 treaty was its recognition of complete Kuwaiti sovereignty over Warba, which, along with Bubiyan, was included within the 'red' line or inner zone of Al-Sabah authority. Shaikh Mubarak had, if truth be told, never displayed much interest in securing title to this island, which was little more than a semi-submerged mud-flat. Britain's acquisition during 1907 of pre-emption rights over this feature, long before the Kuwaiti ruler had even raised the question of its ownership in any serious manner, indicated that the Porte would, under no circumstances, be allowed to exercise sole control over the Khor Abdullah, the water channel linking the Khor Zubair with the Persian Gulf. Though Britain maintained as early as 1902 that Bubiyan Island belonged to the ruler of Kuwait following the Porte's occupation of the

island at the beginning of that year, no efforts were made forcibly to remove the Ottoman garrison until late 1914, after Britain had declared war upon the Empire. A few days earlier the Shaikh of Kuwait had been informed that the Anglo-Ottoman settlement of July 1913 was now dead letter and was promised independence under British protection. It was ironic therefore that during April 1923 the 'green' line of the supposedly defunct 1913 Anglo-Ottoman Convention was confirmed on Sir Percy Cox's recommendations to define Kuwait's northern and western boundaries with the newly emergent mandated-state territory of Iraq.

Though there is much substance in the view that serious boundary disputes are only symptomatic of the poor relations existing at any one moment between the governments of neighbouring states, it has certainly been the finding of this study that the Kuwait-Iraq boundary as originally defined by the unratified Anglo-Ottoman Convention of 1913 and confirmed unaltered in diplomatic exchanges of 1923 and 1932 was far from a satisfactory delimitation. Yet it was a boundary delimitation in international law, however vague, which had been accepted formally by Iraq in the modern era with its signature of the 'Agreed Minutes' in 1963. As such, there was really no question of the UN Secretary-General employing any other basis to settle the border question in the aftermath of the 1991 Gulf War. The only other way in which the UN could have settled the boundary would have been to nominate the de facto rather than the de jure border. It will be recalled that the United Nation's very first resolution dealing with the Kuwait Crisis (Resolution 660 of 2 August 1990) called for Iraq to withdraw to positions maintained before the invasion, as, initially, did the whole of the international community. In other words Iraq was initially being required to withdraw to the line of the de facto boundary, that is the southernmost extent of territory occupied by Iraq before its move on Kuwait. For many stretches along the border, this was quite different to the de jure boundary, especially south of the Rumaila oilfield and the Iraqi port of Umm Qasr, where Iraq had extended its administration considerably in the three decades since the 'first' Kuwait Crisis of 1961. Though Kuwait continued steadfastly to resist formal Iraqi requests that Warba, Bubiyan and a strip of the northern land territory of the emirate be leased, ceded or traded, it had little option but to turn a blind eye to Iraq's encroachment
over the notional de jure boundary. Turning a blind eye also meant Kuwait keeping quiet about these advances, with the ultimate result that in the spring of 1991, as the UN formulated its proposals to settle the boundary, not many people were aware that there was a difference at all between the de jure and de facto boundaries. Even in the autumn of 1993, as this second edition goes to press, Kuwait has failed singularly to publicize the extent to which Iraq had advanced south of the de jure border in the 1961-1990 period. Doubtless to do so would be embarrassing politically, yet it has not helped Kuwait's case in the West, where the belief still survives (wrongly in a technical sense) that the UN decision on the land boundary saw the emirate advance its northern boundaries at the expense of Iraq.

Had Iraq not made the momentous blunder of occupying Kuwait, the border would have continued in theory to run along a line prescribed by the vague 1932 delimitation but in practice the civil authority of the Iraqi and Kuwaiti states would have continued to be separated by the southern most extent of Iraqi occupation and administration. There is every reason to believe that Iraq's creeping annexation would have continued southwards and that Kuwait would have continued to keep quiet about it. Having the United Nations establish, demarcate and guarantee a boundary based expressly, upon the terms of the 1932 delimitation (the de jure boundary) and various clarifications made over the years of this vaguely-worded definition (notably Britain's demarcation proposals of 1940 and 1951) was ultimately one of the prices Iraq paid for its move on Kuwait. Iraq would almost certainly have been willing to demarcate the land border along the lines eventually arrived at by the UN at various times in the past (before the 1961-1990 period of encroachment), had Kuwait shown a preparedness to cede or lease Warba and Bubiyan. As a result of the events of 1990-91, Kuwait got the demarcated land boundary it had sought for decades, without having to move on the islands question, Iraq's long-standing precondition for demarcation. The UN would no doubt argue that Iraq only had itself to blame for forcing the issue.

UNIKBDC's mandate, agreed to grudgingly by a defeated Iraq in the spring of 1991, as had been the Secretary-General's stipulation that the de jure 1932 definition of the boundary constituted the delimitation upon which settlement was to be based, was to
demarcate an existing delimitation. When first announced, in April 1992, UNIKBDC's announcement for a boundary was castigated widely, albeit mistakenly, for having reallocated Iraqi territory to Kuwait. This had everything to do with the confusion pertaining over de facto and de jure territorial limits. UNIKBDC's case was harmed further when a map enclosed within its lengthy justification for the land boundary award (an interim report of July 1992), showed a line for its border which generally ran north of all previous cartographic depictions of the de jure boundary, notably the 1990 British Military Survey map series, upon whose authority UNIKOM's demilitarized zone had originally been constructed. The demarcation team has not given an adequate explanation of why this was the case. This having been said, there can be little doubt that UNIKBDC's land boundary demarcation is basically what Britain had in mind with its announcement of the vaguely-described border in identical, unchanging terms in 1913, 1923 and 1932, and with its demarcation proposals of 1940 and 1951. As such, UNIKBDC's decision on the land border must generally be regarded as a faithful interpretation of the 'delimitation formula' of 1932.

Naturally, the very vagueness of the delimitation formula for the land border meant that most of the time and energies of the demarcation commission were spent arriving at a much more detailed version of the 1932 definition which could then be demarcated on the ground. Nevertheless, UNIKBDC did end up ultimately demarcating in November 1992 a considerably refined delimitation. When it came to the water boundaries along the Khor Abdullah and the Khor Shetana it was always going to be much more open to question as to whether a delimitation existed which could then be demarcated. The delimitation formula said nothing of any boundary along the Khor Abdullah, merely that Warba and Bubiyan belonged to Kuwait. The 1932 definition at best allocated a boundary along the water inlet in implying that it must run somewhere along it. By no stretch of the imagination can this be termed a delimitation, however. It will be recalled that early on in their operations the neutral members on the demarcation commission expressed the opinion that UNIKBDC probably did not possess the mandate to proceed with demarcation of the water inlet, since, strictly speaking, no delimitation
As we have seen, UNIKBDC's first chairman, Mochtar Kusuma-Atmadja, resigned in large part during the late autumn of 1992 because he did not believe a delimitation existed along the Khor Abdullah which could then be demarcated. Earlier he had been quoted as saying: "The task given to us, according to the resolution, says demarcation, not delimitation ... only countries can delimit boundaries". Even had the UN nominated the de facto line, it remains doubtful whether Iraq would, in the medium to long term, feel any more secure about its access to the Persian Gulf. An extra kilometre here and there would not prevent this historically restless state from continuing to feel boxed in. Yet had UNIKBDC been allowed to show more flexibility in the execution of its tasks and not required Iraq to withdraw fully from positions below the de jure line, it is possible that the Iraqi opposition groupings with whom Kuwait might have to deal (in one form or another) in the future would not so summarily have dismissed the April 1992 verdict on the land boundary.

As a result of its tribulations, the Kuwaiti government's attitude towards maintaining territorial integrity of the emirate has hardened. Before August 1990, as we have seen, Kuwait had shown a great tenacity in its dealings with Iraq (but also, to a lesser degree, Saudi Arabia) on territorial issues, never once seriously contemplating the cession or lease of land which Britain had confirmed previously as belonging to the emirate. This was the line taken formally and informally in the succession of meetings with the Iraqi government over the decades, in which the latter had unavailingly made requests for territorial modifications or arrangements which would improve its access to the Persian Gulf. Yet Kuwait was in no position, as already discussed, to do anything about the steady encroachments of Iraq into the northern border regions of the emirate.

Any talk of demarcating water boundaries is slightly misleading, especially for the political geographer. The conventional meaning of demarcation is literally to mark out physically an existing delimitation. Nomination of coordinates usually falls within the delimitation stage of a boundary's evolution, since coordinates are not physical markers that can be seen on the ground. The UN has argued throughout its deliberations during the last two years that two types of demarcation exist: firstly, demarcation by coordinate, and; secondly, physical demarcation. The land boundary was demarcated in both these ways, but the water boundary only by coordinate. Hence, the United Nations considers that it has demarcated the water boundary without having emplaced any object (buoys or otherwise) to mark out the boundary line.

during the 1961-1990 period. Now it seems certain that Kuwait will not only continue to refuse Iraq territorial concessions in the future but that, with an internationally-guaranteed demarcated boundary now a physical reality, and for as long as it remains a reality, the emirate will also ensure that Iraq never again has the opportunity to advance southwards over its southern limits into Kuwaiti territory.

What are the prospects for cooperation over the border in the future? Iraq did not participate in the deliberations of UNIKBDC from mid-April 1992 onwards. Though it grudgingly accepted the aims and mandate of UNIKBDC, it soon became clear that it could not live with its findings, after they were first announced in April 1992. Nevertheless, it has now, after considerable feet-dragging, withdrawn its administration to positions indisputably within Iraqi territory as recognized by UNIKBDC. Trans-boundary cooperation will remain elusive for years to come and will certainly be a non-starter for as long as Saddam Husain remains in power. Kuwait has made it clear in its recent pronouncements that cooperation on border-related questions will come about only when Iraq gives its unequivocal blessing to the UNIKBDC decision on the border.\(^{555}\) Clearly this is not likely to happen under the current Iraqi government, whose attitude towards the recent demarcation has been one of consistent denunciation, if not rejection. Yet the emirate almost certainly underestimates the political difficulties which will be involved for any future Iraqi government in giving binding recognition to the recently-demarcated boundary. Since Iraqi administration has now been drawn to positions north of the UNIKBDC line, as noted above, the UN probably takes the attitude that the Baghdad government has done the basic, absolute minimum necessary to comply with the territorial provisions of its settlement of the Kuwait Crisis. Kuwait has given notice of its intention never again to allow large scale Iraqi encroachments into its territory with the announcement of plans to construct an elaborate system of border defences. Its erection will reduce the scope for trans-boundary cooperation and minor territorial adjustments in the future. The section of the boundary along which Kuwait will construct no fortifications - the maritime sector along the Khor Abdullah - is perhaps where trans-

\(^{555}\) Comments made by Abdullah Bishara (Former Secretary-General of the Gulf Cooperation Council and currently a senior member of the Kuwaiti Foreign Ministry) at the Royal United Services Institute for Defence Studies (2 August 1993) and at the Royal Institute of International Affairs (3 August 1993).
boundary cooperation will be most needed in future decades, as Iraq seeks to redevelop Umm Qasr and the Khor Zubair. For the March 1993 announcement of a median line boundary along the Khor Abdullah left its principal navigation channel, which Iraq had dredged and maintained for the three decades or so before the invasion, within Kuwaiti territorial waters.

How have the prospects for territorial stability in the northern Gulf been enhanced by the UN settlement of the boundary question? It is very much to be hoped, in the words of UN Secretary-General Boutros Boutros-Ghali, in prefacing UNIKBDC's final report, that, `the work performed by the Commission will have a beneficial effect on the restoration of international peace and security in the area concerned...'. A few ominous developments suggest, however, that in the medium to long term and despite its reluctant agreement to the aims and mandate of UNIKBDC back in the spring of 1991, Iraq may not feel able to reconcile itself to the recently demarcated UN line and may, again, become restless about access. First and foremost, denunciation and virtual rejection of the UNIKBDC decision on the course of the boundary (when first announced in the spring/summer of 1992) was not limited to the current Baghdad government but also extended, as has been alluded to, with some unanimity to the very groups which the West would supposedly rather see ruling in Baghdad. The government of the United States in particular has been surprised that its subsequent efforts to persuade Iraqi opposition groups to accept the UNIKBDC verdict on the boundary have been resisted so strongly.

The acid test for the newly-demarcated Kuwait-Iraq boundary will surely come at some point in the future, when UNIKOM no longer polices the border zone and when relations with Iran next seriously sour over the status of the Shatt al-Arab. Though the Shatt al-Arab dispute is currently dormant, it remains some way short of being finally settled. It could, like that other long established and cyclical Irano-Arab dispute over Abu Musa and the Tunbs in 1992, be resurrected at short notice. If and when it is, Iraq may seek to compensate itself for any temporary loss of the Shatt al-Arab by trying to expand once again at Umm Qasr on the Khor Zubair. This is not idle speculation but a proven historical pattern.

Territorial stability will probably come to this part of the world only when Iraq reconciles itself to its disadvantageous position at the Head of the Persian Gulf, when it perceives itself as no longer 'squeezed out'. For the long-term stability of the northern Gulf it is perhaps more important for Iraq to lose its negative consciousness surrounding access than for the Baghdad government to have demarcated boundaries at the Head of the Gulf. Whether or not access is a genuine problem is less important than the fact that successive Baghdad governments and, to an extent, Iraqi public opinion also, has always believed it to be so. Whatever line the UN had nominated to settle the border, de jure, de facto or otherwise, Iraq would still, almost certainly, perceive itself as a 'big garage with a very small door'.

In twenty-five years of dealings with Iraq, the Council has played a number of roles—Cold War Peacemaker, New World Order Policeman, Weapons Inspector, and Sanctions Enforcer—some with more success than others. The Council received its most euphoric reviews for its performance as a New World Order Policeman in Iraq in 1990-91, contrasting starkly with the disillusion widely experienced following its handling of Iraq in 2002-3 in context of Instrumental Multilateralism. As James Cockayne comments: The crisis over Iraq is, by many reckonings, evidence of a transformative disintegration of an existing UN-centered world order. The prohibition against aggression is challenged by an emerging doctrine of pre-emption. International relations are undermined by the maintenance and proliferation of weapons of mass destruction (WMD) and the asymmetrical warfare of non-state armed groups. A Hobbesian race for security replaces a growing global interdependence. The Council has always been endowed with unique powers under the UN Charter, but its structural peculiarities also contain the seeds of its failures. For the duration of the Cold War, superpower rivalry produced a degree of paralysis. But as glasnost and perestroika took effect, the Council

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found a way to work together on the Iran-Iraq conflict, signaling (in the words of Jan Eliasson) 'the end of the Cold War'. In the heady new post-Cold War era, the success of Council-mandated Operation Desert Storm made international police action seem both obvious and easy. However, the necessary alignment of Great Power interests remained a prerequisite for such action. Tony Judt writes: for ten years following the end of the cold war the US and the 'international community' appeared, however fortuitously, to share a common set of interests and objectives; indeed, American military preponderance fueled all manner of liberal dreams for global improvement. Hence the enthusiasms and hopes of the Nineties—and hence, too, the angry disillusion today. The Council's inability to manage successfully the Iraq crisis of 2002-3 was sobering, especially as the costs of this failure have been high for all concerned. An inability, perhaps an unwillingness, to see the pattern of Iraq's dangerous behavior as a shared problem requiring a shared solution—an approach central to the concept of collective security—highlighted the tendency of each of the P-5 to view the value of the Council as at least largely instrumental. The crisis pointed to two contending forms of instrumentalism possible for the P-5: one realist, treating the Council as just one available legitimizing resource among many; the other, institutionalist, treating the Council as a long-term investment in international stability. The positions of the five permanent members represent five different variations on these two basic leitmotifs.

It is instructive to review how the strategies of the P-5 on Council membership as an instrument of foreign policy (including in relation to each other) have played out during the Council's quarter-century of dealings with Iraq. Non-permanent members, often colorful but rarely central to the action, play a significant role in Council decision-making only when the P-5 split, a rare occurrence as they have every interest in agreeing to the extent necessary to 'control the game'—though the crisis of 2002-3 precipitated just such a split.

561 On the dilemmas this created for non-permanent members, see Mahbubani, Beyond the Age of Innocence, pp. 147-8.
The United Kingdom, increasingly aligned with Washington since the Suez Crisis and the Vietnam War episodes divided them, sought consistently to build bridges between Washington and other Council members on Iraq (and other issues), leveraging its own close ties with the United States. This involved a willingness to shoulder a significant proportion of the military burden on the ground in Iraq (and in the no-fly zones over it), and to lead on much of the diplomatic heavy-lifting in New York, for Foreign Office negotiating skills are widely recognized. When the chips were down in February 2003, London, incapable of finessing positions as starkly delineated as those of Paris and Washington (although it had been open itself to a number of compromise options), opted for Washington. Blair was widely credited with forcing the United States to take the 'UN route', but when the United States and the United Kingdom failed to secure a resolution clearly authorizing military action, his emphasis on Security Council authorization worked against his own arguments that the war was legal regardless. By initially insisting on such a Council resolution only later to abandon that position, Blair confused his public and was caught in between the unilateralism of the United States which had seen the elusive Council resolution as an optional extra-and the institutionalism of the British and broader European publics.

The United States owed the United Kingdom a great deal, since without its support it would have seemed even more isolated internationally than it was; yet the outcome to date of the Iraq adventure is not a further deepening of the 'special relationship', but rather an increased questioning within the British public of the merits of that relationship and Blair's Iraq strategy. Thus, ties between Washington and London are more complex than they would seem viewed solely through the prism of Iraq policy. But the 'special relationship' remains the strongest and most stable axis in international relations, with profound implications for the Security Council, where the United Kingdom will continue with its instinctive bridge-building and its interpretation of Washington to the rest of the members and vice versa-even as large sections of the British public demand unambiguous advocacy of institutionalism and the global rule of law. Blair's ability to overcome his public's skepticism of his Iraq policy, however much Iraq has eroded his early domestic standing, reminds us that he remained, in 2005, the most energetic and talented international politician of his generation.
As Stephen Schlesinger notes, France at first turned down the invitation to be a Permanent Member of the Security Council in 1945, only changing its mind halfway through the San Francisco Conference. Sixty years later, the United States may regret extending that invitation. Paris characteristically sought a central role in the Council's dealings with Iraq on numerous occasions, including during the lead-up to Operation Desert Storm in 1991, signaling its unwillingness to cede the stage to Washington. By 1996, it had claimed that central role, as its defection from the Western P-3 fuelled international opposition to Iraqi sanctions and, ultimately, to military intervention.

The reasons for Paris's shift in the mid-1990s on Iraq policy are not entirely clear, but spawned from an increasingly assertive nationalism under the newly elected Jacques Chirac, possibly combined with a rereading of French strategic and commercial interests in Iraq. On Iraq, while the French intelligentsia took quiet delight in the excesses of US anti-French rhetoric (talk in the United States of an 'Axis of Weasels' involving Germany, France, and other false friends), roaring business was done in France and elsewhere in caricaturing not only the Bush Administration but American values and culture as well. It took the nominally left-wing daily Le Monde to point this out in a stinging response to lazy anti-Americanism. The confrontation between France and the United States over Iraq in early 2003 was not inevitable—it required a degree of political mismanagement by both. The Canadian 'process' initiative of February 2003 to bridge Council differences was scuttled by both Washington and (less publicly) Paris.

While France triumphed for a period in UN circles for its opposition to the United States, it fared less well in the European Union, where the split between London and Paris soon generated a firefight of its own for approval of EU governments. The Cold War between the United States and USSR had long divided much of the world into rival 'spheres of influence'.

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Moscow seemed prepared to leave Washington a free hand, so long as situations clearly within its own sphere of influence—as in Chechnya did not find their way onto the Council’s agenda, despite the egregiousness of the human rights violations there. The same approach was evident when it convinced the Council to acquiesce in its approach to conflict in Georgia in 1994. An increasingly confident and accomplished cadre of Chinese representatives racked up IOUs from other permanent members throughout the years and crises covered in this volume. When necessary, these IOUs could be deployed to reduce friction over Chinese opposition within the Council, for example, when China refused, in the wake of the Abu Ghraib scandal in 2004, to support a further extension of exemption from ICC jurisdiction of US staff serving in UN peacekeeping operations.

Whether the generally serene relationship of China with the other permanent members will survive the dramatic growth of its economy, with attendant growing energy needs and expansion of political influence, remains to be seen. Like Iraq, North Korea falls outside the exclusive sphere of influence of any single P-5 member; like Iraq, the North Korean regime poses a threat both to its own people and to regional stability; and like Iraq, North Korea has a history of obstruction and deceit in dealing with the international community that occasions great pessimism about the prospect of regulatory approaches—such as weapons inspections requiring substantial cooperation from the regulated state. The Council might also learn, from its experiences with Iraq, that economic sanctions are unlikely to be effective if neighboring states conduct covert trade with the embargoed state.

Only a historical interpretations of American foreign policy would qualify US policy toward Iraq since 1980 as a radical departure. Exceptionalism, isolationism, unilateralism, and, more recently, multilateralism have all vied for dominance of US foreign policy at various times, and a degree of each are generally reflected in Washington’s debates over international relations. All, save comprehensive isolationism, have been present in US policy toward Iraq, and isolationism sometimes

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rears its head in discussion of US policy toward the UN. The Iraq case initially shows US foreign policy of the Cold War era addressing the Iran-Iraq war through strategies seeking to contain the protagonists and, perhaps more importantly, the role of the Soviet Union in the Gulf shipping lanes (astutely exploited at the time by Kuwait). Following Saddam Hussein's defeat in Operation Desert Storm, containment through sanctions and inspections was Washington's central goal-and here the UN was given a central role as a framework for multilateral action. However, Washington paid a price in international support for failing to calibrate the inspections-plus-sanctions regime, and, to a degree, for its unilateral military enforcement action such as Operation Desert Fox in 1998. By neglecting the growing opposition of international opinion to policies perceived as taking Iraqi civilians hostage, it creating a growing skepticism-among its allies, no less than in the opinion of the Arab 'street'-as to US motives.

Already chafing at the constraints imposed by the multilateral framework of Security Council decision-making, the events of 9/11 resolved key Washington policymakers to throw off the perceived shackles of multilateral decision-making over the use of force. The extent of the shift became clear in a March 2005 National Defense Strategy, which warned that 'our strength as a nation state will continue to be challenged by those who employ a strategy of the weak using international fora, judicial processes, and terrorism'. In this analysis, discussing a matter in the Security Council or arguing a matter before the World Court is likened to negotiating with terrorists. The US policy no longer reflected unilateral implementation of multilateral mandates, or occasional humanitarian exceptionalism; now, it seemed to aim at a reconfiguration of international security arrangements. In the 'hierarchy of decision-making' revealed by the US's treatment of the Council in 2002 and 2003, the Security Council was not at the apex. The question for the Bush Administration was not whether the Security Council would allow a return to military action in Iraq, but whether military action in Iraq would allow a

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567 This proposition is countered by John R. Bolton, 'Unilateralism is not Isolationism', in Prins (ed.), Understanding Unilateralism in American Foreign Relations.
570 The phrase is Mark Danneis: 'The Secret Way to War', p. 48.
return to the Security Council. Why accept a world powered by rules when it could have a world ruled by power? But, as noted by James Traub, 'the United States can determine the agenda of the Security Council, if it wants to, even if it can not quite dictate outcomes.' France's former ambassador to the UN, in the fall of 2002, described the United States as the 'first among equals' within the Security Council, and there is no doubt that President Bush altered the Council's agenda instantly through his forceful September 2002 address to the General Assembly.

Having supported with varying degrees of engagement (not least through supportive resolutions of the Security Council) Operation Enduring Freedom in Afghanistan, many UN members perceived the US case on WMD in Iraq as weak. SCR 1441, with its talk of 'serious consequences' further muddied the waters. It did offer creative ambiguity, but at the expense of clarity on the nature and timing of consequences for Saddam Hussein's sins of commission and omission. In retrospect, had Washington and London built their case on Hussein's overall defiance of the UN or on the grounds of a necessary humanitarian intervention to rescue the Iraqi population from the clutches of one of the twentieth century's worst dictators, they might have proved more successful in convincing the Council, and the broader public. But UNMOVIC chief Hans Blix could not translate suspicions he seemed for a time to share with Washington into facts (the IAEA's Mohammed El Baradei having largely debunked allegations that Iraq was pursuing actively a nuclear weapons program). And so, Washington suffered a defeat in the Council that has cost the UN dearly. Fearing electoral backlash for the plight of the Kurds, James Baker and George H. W. Bush engineered SCR 688 providing a (thin) basis for US-led humanitarian intervention. Many speculated that US policy on Iraq at the UN and elsewhere in 1998 was driven in part by Bill Clinton's plight in relation to the

572 Traub, 'Who needs the UN Security Council?', p. 47.
573 Perhaps under the Responsibility to Protect doctrine. See generally Thomas G. Weiss and Don Hubert, Responsibility to Protect: Research, Bibliography, and Background, Supplementary volume of the International Commission on Intervention and State Sovereignty, Ottawa: International Development Research Centre, 2001.
Lewinsky scandal. Accounts of senior Bush Administration officials calling for an attack on Iraq in response to 9/11 also point to domestic political considerations influencing US policy on Iraq in that period. While such interpretations doubtless short-change Clinton and both Presidents Bush, the complex interplay between domestic politics and international initiatives has been a constant in our narrative, often confounding the diplomacy of successive UN Secretaries-General.

The appeal for support of its strategies on Iraq in early 2003 based on purportedly airtight intelligence that proved false carries its own costs, not least to US credibility next time it advances an intelligence-based claim. The lasting 'blot' on his record of which Colin Powell candidly spoke in September 2005, further to the 'devastating' realization that his assertions to the Council in February 2003 had been misleading of course extends to the international credibility of the Washington Administration as a whole and also to that of the UK government, for which Tony Blair has already paid a price in his domestic popularity. Taken together with the Abu Ghraib events, these were serious and unnecessary self-inflicted wounds.

The question by late 2005 was whether the enormous costs of its Iraq venture might trigger a re-evaluation in Washington of the risk-reduction and burden-sharing potential of investment in multilateral relations and institutions. Reflecting on this, Jane Boulden and Thomas G. Weiss note: The Security Council is not a road Washington always, or never, takes. Clearly no US administration would ever permit the Council to stand in the way of pursuing perceived national security interests. At the same time, ... the Bush Administration is discovering that 'even imperfectly legitimated power is likely to

574 See Christopher Hitchens, 'Weapons of Mass Distraction', Vanity Fair, March 1, 1999. In his last weekly 'Letter from America', in early 2004, Alistair Cook reminded his BBC audience that Clinton might well have invaded Iraq but for the Monica Lewinsky affair. 'By the time Clinton was ready to mobilize an American or allied force, he didn't possess the moral authority to invade Long Island.' ('Alistair Cook', The Economist, April 3, 2004.) Conversely, 9/11 gave his successor all of the authority he needed.

575 Clinton was also dogged by suggestions that his forceful reaction to the Kosovo crisis of 1999 was politically motivated. See Elaine Sciolino and Ethan Bronner, 'How a President, Distracted by Scandal, Entered Balkan War', New York Times, April 18, 1999, p. 1.

be much more effective than crude coercion. The political liability of the contested occupation in Iraq provides an opportunity to find ways to engage Washington and encourage its tactical multilateralism. While true, this may prove a Panglossian view. By the end of 2005, the neo-con prescriptions for Iraq policy had burdened US deterrent capacity by tying down such a large proportion of its fighting forces, demonstrating the limitations of use of force in addressing complex societal challenges and eroding President Bush's domestic standing. The costs in US and Iraqi lives were high. The draw on the US Treasury was staggering. When Hurricane Katrina devastated the southern Gulf coast of the United States, most notably New Orleans, it was easy for the pundits to ask whether Bush had sent the National Guard to the 'wrong Gulf'. Lessons of the Iraq venture, particularly those relating to the difficulties inherent in foreign occupation, were being registered although the US military was horribly stuck in Iraq for an indefinite future. One of the most serious implications of the way in which events have played out in Iraq may be that 'the brief era of consensual international intervention is already closing ...' While Europe remained in favor of a multilateral system with strong powers of intervention, it-along with much of the rest of the world-continued to fear and resist such intervention conducted by the United States. As Tony Judt has argued, this is good news for no one: If the US ceases to be credible as a force for good, the world will not come to a stop. Others will still protest and undertake good works in the hope of American support. But the world will become that much safer for tyrants and crooks-at home and abroad.

579 Indeed, the compromised US capacity for deterrence seems to have emboldened both Iran and North Korean in accelerating their nuclear programs.
580 See for example Dennis Kucinich, 'Our Troops Are Stationed in the Wrong Gulf', Address to the US Congress, HCR 7625, September 2, 2005.
582 Judt, 'The New World Order', p. 18.
Thus, the Council's decisions on Iraq came to seem decreasingly legitimate to much of the UN membership. For many, the root of the Council's 'legitimacy' deficit is its unrepresentative membership, slighting the developing world and thus undermining the Council's authority. As Michael Ignatieff has put it: What passes for an 'international community' is run by a Security Council that is a museum piece of 1945 vintage.\(^{583}\) Such an analysis spurred attempts to reform the membership of the Council in 2005, predictably sucking oxygen away from other important reform initiatives. Debate on possible models for Council reform became both vexed and heated in the spring of 2005, with anti-Japanese demonstrations in China—ostensibly relating to historical grievances—adding an edge to the proceedings.\(^{584}\) These discussions were described by the President of the General Assembly, Jean Ping, as 'awakening great passions and fixed attitudes'.\(^{585}\)

That the EU is over-represented is clear, and this was particularly so in 2003 with Germany and Spain swelling its ranks in the Council.\(^{586}\) But would the outcome on Iraq have been much different had Germany and Spain been absent and Brazil and India present (with or without vetoes)? If anything, the Council's experience in Iraq suggests that Council enlargement will not be a cure-all. It may, in fact, risk aggravating a tendency toward dilatory maneuvers and occasional paralysis. As Simon Chesterman pointed out, a more representative Security Council might be fairer, but not necessarily more effective.\(^{587}\) This is in part the case because meaningful Committee decision-making is generally more difficult in large groups than in small ones. Further, Ramesh Thakur convincingly identifies the Council's 'performance legitimacy' as a much greater problem than its composition.\(^{588}\) Washington would find it more difficult at home to give the back of its hand to an Alliance of Democracies than to the UN.\(^{589}\) The utility of such

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\(^{585}\) 'Assembly President Previews Possible Outcome of Summit on UN Reform', *UN News Centre*, June 3, 2005.

\(^{586}\) If Europe is to pursue a common foreign policy—a goal ardently endorsed by this author—defeat of the European constitution in 2005 notwithstanding, why did Germany believe Europe needed three permanent seats? Skepticism was rife in Washington, particularly after 2003. In conversation with the author, a senior Administration official wondered: 'We have to cope with one France in the Council. Why would we want two?'.


\(^{589}\) Ivo Daalder and James Lindsay, 'Our way or the highway', *Financial Times Weekend*, November 6, 2004, p. 16.
an approach is highly questionable, on at least three bases. First, it ignores the reality that Washington's principal opponents on Iraq policy had been other democracies such as France and Germany. Second, it suggests that confrontation through exclusion of major powers, such as China, would be a good policy for the United States—a debatable thesis at the very least. The debate now pervades much discussion of extra-Council uses of force, whether in 'humanitarian intervention' or counter-terrorist prevention. It was notably central to discussion of the US-UK action against Iraq in 2003. Events in Iraq reveal the limits of such debates. After the invasion, Anne-Marie Slaughter, having revised her earlier opinion that while illegal the military action might be legitimate, commented that: [t]he most important lesson of the invasion of Iraq is that the safeguards built into the requirement of the multilateral authorization of the use of force by UN members are both justified and necessary. Once the problems inherent in the occupation of Iraq were clear, the legitimacy of the enterprise faded for many. With considerable foresight, Jeremy Greenstock remarked before the invasion, 'when fantasy meets reality, reality always wins.' This is not to say that the United States is in any way above the law, or even, as Michael Glennon seemed to argue gleefully, that the Security Council's 'failure' on Iraq represents the end of 'the grand attempt to subject the use of force to the rule of law'. Glennon's arguments on the 'desuetude' of such law were, within months, powerfully repudiated by Thomas Franck—and just as much so by subsequent developments, incurring serious costs to the United States. These factors and the preponderance of instrumental approaches to the Council's decisions by each of the P-5 suggests that the 'collectively authorized use of force' will remain, as the High Level Panel characterized it, neither rule nor exception.

Perhaps the most challenging implication of events in Iraq for these interlocking debates on legality and legitimacy, representation, and democracy has, however, been

595 Ibid.
596 Note [transmitting report of the High-level Panel on Threats, Challenges and Change, entitled 'A more secure world: our shared responsibility'], p. 32.
largely overlooked. The growth in support of ideologies or faiths rejecting the UN's basic
tenets has been present-if obscured-in the Council's dealings with Iraq for the last twenty-
five years, first in Iran's promotion of the primacy of shari'a over international
humanitarian law during the Iran-Iraq war, and more recently in negotiations over the
role of shari'a in the new Iraqi constitution. The normative systems the UN has done so
much to help develop since 1945 are here truly challenged. As 9/11 made clear that the
very concept of 'collective security', forcing the Security Council to adopt a more
preventive stance. Examples of the Council taking action in this mode in Iraq include
its approach to the Iran-Iraq war, the establishment of UNIIMOG, UNIKOM, and the
political aspects of UNAMI. In the legal-regulatory mode, the Council typically
establishes detailed rules governing the behavior of States, individuals, or other subject
tentities. Examples of the Council taking action in this mode in Iraq abound: UNSCOM,
UNMOVIC, the sanctions regime, the OFF Program, and the UNCC. UN Deputy
Secretary-General Louise Frechette recognized the need for transformation following the
release of the Volcker Inquiry's September 2005 Report: Everyone today agrees that the
UN faces very different management challenges than those of the Cold War period. The
UN was then mainly a deliberative body. Our major task was to support negotiations. Our
administrative systems have not adapted to new mandates and activities. On
management, the Secretariat and Member States have failed to adjust. Problems can
arise when the Council establishes what it seems to intend as an independent delegate,
but then fails to allow that delegate to exercise truly independent discretion. In Iraq, this
problem arose with political interference on a number of levels in the administration of
the OFF Program, UNSCOM, and during the US-UK contestation of UNMOVIC's work
in 2003. The mandate and operations of the 661 Committee proved particularly
problematic. A failure to adopt an impartial decision making procedure risks producing
illegitimacy, as the UN Compensation Commission's refusal to give Iraq standing in its
claim process risked aggravating Iraq's victim mentality. In the long-term, that can only
hurt the UN. Such considerations also need to pertain to the decision-making procedures

598 Correspondence with James Cockayne.
599 See Louise Frechette, 'L ONU doit reformer sa gestion', Le Figaro, September 8, 2005. Original in
French.
of the Council itself, not least in engagement with relevant stake-holders and in the transparency of its own proceedings. One former German ambassador has described a complete loss of transparency and of the right of the concerned parties, e.g. Iraq, to address the Council in corpore while it is still in the process of deliberation. By disregarding the success of inspections and sanctions, Washington discarded an effective system of containment and deterrence and on the basis of faulty intelligence and wrong assumptions, launched a preventive war in its place. The UN Secretariat has been excoriated for mismanagement and worse but, so far, Security Council members have largely enjoyed a 'free ride'. Most of the people who dealt with this were thinking of how to ensure that 'the majority' [the Shi’a] had the decisive voice in postwar Iraq. Very different to attitudes in 1997, Shi’a had by 2003 acquired a collective identity and a kind of collective virtue by being the majority of the population. For understandable reasons, no-one really considered the Sunnis, qua Sunnis, to be a community and saw them more in their various incarnations: as Saddamists, as Ba’thists, as Communists, as Safaris, as secularists, as tribalists etc etc. The notion of a 'Sunni community is very recent, after all, and, as events in Iraq have demonstrated, it is doubtful that there is one in any meaningful sense of the term. This is what is making it so difficult to identify and to bring in a group or individuals that would be seen as representative in any way of the Sunni Arabs as a whole. Making war is risky, with the law of unintended consequences kicking in spectacularly in the case of Iraq. This makes contingency planning involving a wide variety of scenarios (including state collapse) advisable. It is not at all clear that the planners of Operation Iraqi Freedom were drawing on a broad range of expertise or open to the range of possible outcomes on the ground to Saddam Hussein’s overthrow.

602 In one of his last comments on Iraq as Secretary of State, on January 11, 2005, Colin Powell underscored that responsibility for the OFF Program was shared by the Security Council, noting that the Council exercised day-to-day super vision over it. See Kralev, 'Powell urges UN Council to take blame for scandal', Washington Times, January 12, 2005, All. The Volcker-led Independent Inquiry Committee, through leaks and several interim reports, exposed Annan, in the words of The Economist, to a form of 'Chinese water torture'. See 'Torturing the United Nations', The Economist, April 2, 2005.
603 See Adrian Blomfield, 'British forces are powerless as Basra descends into anarchy'. Daily Telegraph, September 21, 2005, p. 11, and Adrian Blomfield, 'Ayatollah urges party to reject draft constitution'. Daily Telegraph, September 24, 2005, p. 18.
Few experts-inside or outside government-predicted the extent and nature of state collapse in Iraq following the US-UK invasion. As Toby Dodge has commented: The expert view on the socio-political dynamics post Saddam was that Iraqi nationalism was strong, as was a commitment in the non-Kurdish areas of the country to a unified state. The big thing all the policy makers missed was the almost complete collapse of the state. Once that had happened and was not rectified, the traumatised population of Iraq grabbed whatever sub-state identities it could in order to gain some foothold in the chaos that has swept the country.... Once the institutions of the state disappear (for whatever reason) different local, communal or sectarian identities leap up to take their place. At the time of writing, it remains to be seen whether politics will take hold in Iraq, or whether it will descend, once more, into violence. The questions raised about Iraq's future are increasingly those relevant to domestic politics, particularly the relations between the major ethnic and political factions within the country. Having endured the tyranny of a minority regime for so long, might Iraq now succumb to insensitive, possibly autocratic leaders representing a majority challenged, through terrorist violence, by an insurgency rooted in that very minority?

To answer that question, we must also consider how the collapse of the Iraqi state is connected to regional politics. (The absence of an even mildly effective regional organization in the Middle East is one of the peculiarities of this case, the Arab League having proved severely challenged in responding to Saddam Hussein's serial provocations after 1990, prior to which Arab governments broadly supported his aggression.) A regime as despotic as Saddam Hussein's could only flourish as easily as it did in a region of dysfunctional polities, as Kanan Makiya and many others have pointed out. Whether the regional inclination toward totalitarian and authoritarian government of various stripes will overwhelm budding Iraqi representative government or whether, rather, a new Iraqi model will influence its region, inducing more inclusive government

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else where the neo-con vision—also remains to be seen. The influence of events in Iraq, including its recent elections, on the broader Arab scene, restless and yearning for political change, should not be underestimated.\textsuperscript{606} The Security Council itself is implicated in the collapse of the Iraqi state. Combined with this, the Council's assertive role in supporting the fight against terrorism, through SCR 1373 and subsequent decisions, contributes to a sense among many peaceable Arabs that the UN is an instrument of a self-serving P-5 dealing in double standards and aiming to marginalize the Muslim world.\textsuperscript{607} Writing about future prospects for Iraq in 2002, Charles Tripp suggested: Those who are seeking to develop a new narrative for the history of Iraq must recognize the powerful legacies at work in the country if they do not wish to succumb to their logic.... The restricted circle of rulers and the primacy of military force have combined with the massive financial power granted to successive Iraqi governments by oil revenues to create dominant narratives marked by powerful, authoritarian leadership.\textsuperscript{608}

The corruption revealed by the Volcker Inquiry is only the most obvious, and perhaps not the most invidious. Other examples included the US intelligence infiltration of UNSCOM, and the willingness of even Council advocates for a tough approach to Baghdad to condone illegal oil-smuggling from Iraq to Turkey, Jordan, and Syria. The goal of 'regime change', so often articulated in Washington (and occasionally London) after 1997, was unpopular among many governments at the UN, who suggested it shifted SCR 687's goalposts. Some were preoccupied with their own regime survival; others were fearful of where such policies might lead for weaker countries. In fact, SCR 687 sought to stigmatize the Iraqi regime and to deter others in the region and beyond from similar behavior. When Washington and London moved to implement regime change in Baghdad in 2002-3, this long-running and sour debate handicapped their arguments. Indirectly and for some, SCR 687 might also have been intended to promote regional stability and societal change in the Middle East. It did undermine Iraq's capacity for

\textsuperscript{606} See Marc Lynch, 'Beyond the Arab Street: Iraq and the Arab Public Sphere', Politics Sr Society, Vol. 31, No. 1, 2003.

\textsuperscript{607} Such was the nature of the indictment of the UN made by Osama bin Laden in his address broadcast on Al Jazeera on November 3, 2001 in the wake of the invasion of Afghanistan.

\textsuperscript{608} Fripp, A History of Iraq, pp. 295-6 and pp. 312-28.
aggression against neighboring countries. That, in turn, created the possibility for
developing countries (the overwhelming majority at the UN, and sometimes the majority
in the Council) to develop serious and vocal reservations over the stringent sanctions
punishing Iraq's population with little apparent effect on Baghdad's leaders. It would take
a global catastrophe to design an alternative and that alternative might not represent an
improvement. The Iraq saga is replete with lessons for actors in and students of
international relations, some of which this narrative has attempted to distil.

Why, despite the overwhelming military defeat of the Iraqi army, has the United
States failed to secure its ostensible goal in Iraq, a stable pro-US regime? The removal of
Saddam Hussein has proved to be the beginning, not the culmination, of a long and very
uncertain process of occupation and state building. The lawlessness and looting that
greeted the US force's seizure of Baghdad on 9 April 2003 have evolved into a self-
sustaining dynamic that combines violence, instability, and profound uncertainty. US
troops and the nascent Iraqi security services now face an insurgency that has managed to
extend its geographic scope, while increasing the level of violence and the capacity for
destruction and instability.