

Iraq's Judiciary Rules against Sunni Politician Ahead of Iraqi Elections

By Omer Kassim

Vice President Nouri al-Maliki—seeking to regain the premiership—is likely leveraging his influence over the judicial process to marginalize political rivals ahead of the legislative and provincial elections, slated for May 12, 2018. Maliki previously influenced Iraq's judiciary and ostensibly independent bodies to eliminate rival candidates and politicians during his two terms as Prime Minister (2006-2014). Politically-motivated decisions by Iraq's so-called Independent Bodies are likely to increase as the election approaches.

The Rusafa District Misdemeanors Court in Baghdad on January 21 sentenced former Ninewa Province Governor Atheel al-Nujaifi in absentia to three years in prison, seized his money, identified him as a fugitive, and forbade him from travelling abroad in response to a lawsuit filed against him by Diwun al-Waqf al-Shia'i (the Shia Religious Endowment). The court charged Nujaifi with money laundering and integrity violations. Nujaifi—probably in Turkey—called the sentence “abhorrent sectarianism.” He claimed the action was part of a revenge campaign by the Shia Endowment, led by Allah al-Musawi, to punish him for not granting the Endowment ownership over historic Sunni mosques in Mosul during Nujaifi's time as Governor from 2009-2015. It is unclear if Iraq's Integrity Commission—an independent body responsible for pursuing corrupt figures—will call on Turkey to extradite Nujaifi.

The Shi'a Religious Endowment filed a suit against Nujaifi in 2014 to deactivate an order he issued in 2013 to stop all government institutions in Ninewa— particularly the real estate directorate— from dealing with the Endowment. Iraq's Shi'a and Sunni Religious Endowments are powerful, ministry-level, state-funded institutions that oversee Sunni and shi'a mosques, religious schools and other affiliated educational institutions as well as charity foundations. The Endowment argued that Nujaifi's order impeded the application of orders from Iraq's Council of Ministers on dividing the ownership of religious institutions between the Shi'a and Sunni religious endowments.

Nujaifi is a prominent anti-Iranian Sunni political leader of the influential Ninewa-based Mutahidoon bloc— a Turkish-funded, anti-Iranian political organization which holds significant influence among Sunni. Nujaifi is a fierce political rival of Iranian-aligned political and military actors, especially Vice President Nouri al-Maliki. Nujaifi, who was governor when ISIS captured Mosul, has stated the policies of Prime Minister Maliki led to the city's fall and has criticized the Iranian-backed Popular Mobilization Forces (PMF). Atheel Nujaifi and Mutahidoon have joined the “Decision Coalition” led by his brother Vice President Osama al-Nujaifi. The brothers will likely oppose Maliki in the upcoming elections and try to align with a different Shi'a politician.

Political considerations were likely behind the decision. Maliki—who seeks to return to the premiership and likely exercises some degree of influence over the Iraqi judiciary—may have affected the timing of the decision in order to undermine Nujaifi's electoral chances further. The Iraqi election law, passed on January 22, stipulates that a candidate must be “in good standing and behavior and not sentenced with a crime against honor.” Atheel al-

Nujaifi also faces an outstanding arrest warrant issued in 2016 by the Iraqi Central Court of Investigations for “corresponding with a foreign power.” The warrant was based on a 2015 lawsuit filed by Sunni politicians friendly to Maliki. The charges stem from Nujaifi’s leadership of the Ninewa National Guard, a force that received training from a Turkish force stationed in Bashiqa, Ninewa Province, Iraq since 2015.

Maliki has historically exercised political pressure and influence over several ranks of the Iraqi judiciary, including the Chief Justice of the Iraqi Supreme Court Medhat al-Mahmoud, and compelled the courts to adopt his preferred legal interpretations, oust his political opponents, and disqualify rival candidates in the elections. The Iraqi supreme court—upon a request submitted by Maliki’s State of Law coalition several days before the announcement of the 2010 election results—swung the balance of the 2010 elections to Maliki’s favor. The court stated the largest bloc upon which the responsibility of forming the government is granted can be an electoral coalition or a coalition formed after the elections. This gave Maliki—who came in second place with 89 seats after the Iraqiyya coalition, which had 92 seats—the opportunity to ally with the Shi’a National Alliance in order to form the government. Iraqi courts, beginning in 2011, re-instituted Saddam-era laws designed to prosecute any critics of the former president. This led to the sidelining of many Maliki critics including former parliament members Sabah al-Saidi, Haider al-Mulla and Adnan al-Janabi. Maliki also was accused of influencing judicial rulings to oust Vice President Tareq al-Hashemi and finance minister Rafia al-Isawi on charges of terrorism in 2011 and 2012 respectively. Maliki also has been also accused of pushing to disqualify many leaders from the Iraqiyya coalition on charges of affiliation to the Baath party. Disqualifications were occasionally rescinded following weeks of negotiations involving international actors. The Independent High Electoral Commission (IHEC), prior to the 2010 elections, had disqualified more than 500 Sunni and Shi’a candidates including leaders of the Iraqiyya Coalition—Maliki’s chief rival in the elections. An Iraqi appeals court revoked the decision following weeks of behind the scenes negotiations and a visit from then U.S. Vice President Joseph Biden to Iraq.

The judicial decision reduces the likelihood that Maliki’s Sunni and Shi’a rivals can create a formidable cross-sectarian alliance denying him the premiership. Osama al-Nujaifi has sought to strengthen ties with Maliki’s Shi’a rival clerics Ammar al-Hakim and Sadr prior the elections. Nujaifi congratulated Hakim on his split from the Iranian-aligned Islamic Supreme Council of Iraq (ISCI) to form the Hikma Trend, praising Hakim’s “Nationalist spirit,” in a reference to Hakim’s perceived distancing from Iran. Sadr, a nationalist two has distanced his movement from Iran and drawn closer ties to Sunni Arab countries, has reportedly been working to forge a cross-sectarian alliance—led by Prime Minister Haider al-Abadi and consisting of Sunni figures including Nujaifi and the Kurdistan Democratic Party (KDP). Many of Iraq’s pre-election alliances have fizzled and will likely form instead after the vote.

The decision also advances attempts by Iranian-aligned proxies—present militarily from the Ninewa valley all the way to the Syrian border—to spread their political, cultural and religious influence in order to control the multi-ethnic Ninewa Province and other mixed provinces. To do so, proxies likely seek to install friendly political figures, facilitate the presence and expansion of the Shi’a community in the province, and engrain its traditions in the cultural fabric of the province. Thus this judicial decision serves as a warning for the current Ninewa governor Naufal al-Aqoob—hobbled by corruption allegation—and future governors not to impede such efforts. Turning Ninewa into an Iranian-friendly province will legitimize Iranian presence near the border with Turkey, and secure Iranian secondary route into Syria through Ninewa. It will also likely escalate existing Sunni grievances against the Iraqi government.

Indicators of escalation against Nujafi: The Iraqi government may pursue Nujafi abroad by calling on the International Police (Interpol) to place him on the red list, thus informing countries that he is wanted by Iraq based on an arrest warrant. It is also unclear if the Iraqi government will call on the Turkish government to extradite Nujafi to Iraq, much like it did for former Trade Minister Abdul-Falah al-Sudani who was implicated in 2012 in a corruption case and sentenced in absentia to seven years in prison.

Indicators of further political deterioration: Iraq's savvy and powerful politicians may use judicial, legislative, and procedural means to disqualify their opponents or break up opposing coalitions, especially after candidate lists are filed on February 10. Such disqualifications pose a problem for U.S. interests if they undermine the legitimacy of the Iraqi government in ways that accelerate insurgency, thus negating the military gains the U.S. has made against ISIS.