



## The Limitations of the Consociational Arrangements in Iraq

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### Abstract

The political crises in Iraq following the American invasion have triggered the need to revisit the power sharing arrangements established in the constitution and practised at the level of the political system. Since Iraq is a deeply divided society, consociationalism has been the main force of political reconstruction after the toppling of Saddam Hussein's regime in 2003. However, the Iraqi constitution and the political system lack genuine consociational practices. The aim of this paper is to study the limitations of the consociational arrangements and offer prescriptions that may help ameliorate the challenges facing the fragile political system. The political system will be analysed within the framework of consociationalism and power sharing agreements. Two of Lijphart's four conditions are absent in the consociational arrangements in Iraq: grand coalition and mutual veto, while two other characteristics of consociationalism, proportionality and autonomy, are strongly present but are not enough to preserve stability.

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## 1. Introduction

The American invasion of Iraq in 2003 succeeded in eradicating Saddam Hussein's Ba'athist regime in an attempt to create a fair and democratic political system. The mission to establish a democracy in Iraq was challenged mainly by the fact that Iraq had never experienced democracy, and the vacuum created by toppling Saddam's regime awakened dormant enmity between tribes, cultural and ethnic groups in the lawless state that existed in the aftermath of the invasion. The establishment of Iraq's pluralist and democratic political system required the integration of the cultural communities into the system. To do so, it was crucial for politicians and constitutional writers to apply the theories of consociationalism for the sake of managing a plural society in a democratic system. However, the power sharing political system in Iraq did not create a fair system of governance among different communities, as the Shiites were given too much power in the federal government, the Kurds' ambitions were partially satisfied with their regional autonomy, while the Sunnis were left with little political incentive in the system.

Early work on the liberal consociational elements of the 2005 Iraqi constitution by Brendan O'Leary and John McGarry (2005) was so skilfully written that no further work on the topic was necessary. Their argument about the institutionalisation of liberal consociationalism in the new Iraqi political system shows that Iraq has taken important steps towards applying power sharing arrangements in its political system. Nevertheless, a decade after the establishment of the constitution, political practices in Iraq have led to severe consequences: further polarisation of the society (Mayer, 2007: 166), the break-down of the Iraqi army after the fall of Mosul to the Islamic State (Ignatius, 2015), and the rise of Sunni militant organisations like the Islamic State that has been challenging peace and stability in the region. These misfortunes are mainly a result of the absence of consociational provisions in the constitution to accommodate elites from different communal background into the system. Moreover, the powers of the Prime Minister leave little room for accommodation, bargaining and power sharing between elites.

This paper aims to continue O'Leary's and McGarry's initial assessment of the study of Iraqi consociationalism. This will be achieved by studying the limitations of the power sharing arrangements in Iraq, analysing the political behaviour of communal elites and the outcome of the constitution. To address these problems, I draw on consociational theory as advocated by Arend Lijphart and revised in recent years by O'Leary and McGarry. It is important to note that this paper will refer to the different communities as cultural groups, since the politicisation of communal groups is a mixture of both religious and ethnic identification.

The events that took place from 2005 until the agreement to create a new government after the elections in 2014 will be studied within the framework of consociationalism. The paper will implement Lijphart's four conditions of a consociational democracy in the Iraqi

case to specify the limitations of power sharing arrangements in the political system. Examples of other consociational systems, like Belgium and Lebanon, will be used for comparative purposes to show the shortcomings of power sharing arrangements in Iraq and how other countries have succeeded in establishing a balance of power between their cultural communities. The Belgian case will help explain how a state can survive with two federal units divided along linguistic lines with the capital being a separate federal unit shared between Flemings and Walloons, an arrangement that Iraq could consider for its system. As for Lebanon, the success of a power sharing provisions at all levels of state is worth comparing with Iraq, especially in the security apparatus.

## **2. Consociationalism: A Theoretical Background**

Consociationalism and power sharing are two faces of the same coin. Consociationalism is the theory that explains power sharing arrangements in deeply divided societies. Power sharing is the practice of consociationalism which requires that different parties have access to important decision making positions (O’Leary, 2013: 1). In fully fledged consociations, communities expect to be represented in political bodies to govern the political landscape they share with others, in at least rough accordance with its share of citizenry (O’Leary, 2008: 2). McGarry explains that consociational theory in ethnically, religiously, or linguistically divided polities enjoys political stability through the share of power at the leadership level (2008: 691).

The first and main proponent of consociationalism is Lijphart who believes that consociational democracies can be defined in terms of four characteristics: grand coalitions by political leaders of all significant segments of the plural society, mutual veto, proportionality and a high degree of autonomy (1977: 25). Each of these characteristics will be used as markers to detect the limitations of the power sharing arrangements in Iraq.

Consociational democracies do not deviate very much from the normative democratic theory of majority rule and minority opposition. Lijphart explains that most democratic constitutions prescribe majority rule for normal political transactions when stakes are not too high, but an extraordinary majority is required for important decisions, such as amending the constitution (1969: 214). Therefore, since the stakes in deeply divided societies are often high, the requirement of a simple majority cannot be implemented (Lijphart, 1969: 214), and this option is dropped in favour of a government by grand coalition. O’Leary believes that power sharing between different groups represents a positive sum game where power is joint, collaborative or cooperative (2013: 2). Therefore, all parties gain from cooperation, notably through the preservation of order and peace by taking a constructive role in the making of public decisions (2013: 2).

Grand coalitions are usually followed by a veto power enabling cultural communities to block any policy that might jeopardise their vital interest within the system. Despite the fact that the principle of veto might immobilise the political system, Lijphart provides three

reasons why veto power is not as dangerous as it appears. First, veto power is mutual to all minority segments. Second, it is a potential weapon that gives a feeling of security that makes the actual use of it improbable. Third, each segment will recognise the danger of deadlocks that might result from an unrestrained use of the veto (Lijphart, 1977: 37).

Lijphart then goes on to define proportionality as being “a general principle of consociational democracy that applies not only to the electoral system but also to the composition of the public service and to the allocation of public funds” (2000: 15). Proportionality is an important element to be applied in deeply divided societies as it eases cultural competition to state resources and distributes them according to the proportion of each cultural community within the population. This is one manifestation of a fair and just democratic system. Proportionality can be partially applied, just to formal political institutions, or it can be applied to all levels of state institutions (O’Leary, 2008: 52). In some cases, parity is applied either at the executive level (as in Belgium) or at an all-state level (as in Lebanon). Parity representation amongst demographically unequal cultural communities creates predictable objections from the community that represents the majority (O’Leary, 2008: 53). However, this policy aims at easing tension between different cultural communities, empowering the minority and institutionalising equity between the cultural communities in the eyes of the law. For instance, in Belgium the Flemish make up a cultural majority (Deschouwer, 2006: 902), but they share power with the Wallonians at the executive level equally where the principle of parity is established (Belgian Constitution, art. 99). In Lebanon, the Muslims outnumber the Christians, but parity is established at all institutional levels of the state as a practical strategy of power sharing arrangements (Wright, 2009: 144).

The final characteristic according to Lijphart is segmental autonomy. The idea of autonomy is not restricted to minorities as it can be applied to majorities too (O’Leary, 2008: 55). Autonomy can be territorial autonomy represented in federalism, or non-territorial represented in cultural autonomy, or a mixture of both. In the case where cultural communities are compact within a territory, federalism is applied (Lijphart, 1979: 505); an example of which is the Kurdish region of Iraq. If the cultural community is scattered in different parts of the territory, cultural autonomy will be implemented. In such a situation, private segmental organisations will be delegated to take decisions that are considered to be critically exclusive to the community (Lijphart, 1989: 141). In modern power sharing arrangements, institutions have an encoded pluralism, a term promoted by O’Leary to resemble the partnership settlements where cultural groups have exclusive authority over their own affairs and share power at the national level through joint agreements (2013: 5).

In this study, the four characteristics proposed by Lijphart will be applied to evaluate the shortcomings of the Iraqi political system. Other favourable and non-favourable factors like elite accommodation and political marginalisation will be taken into consideration. Before the analysis on Iraq will be applied, it is important to review the Iraqi setting in the aftermath of the American invasion.

### 3. The Setting: Iraq after the American Invasion

The 9/11 attacks on the U.S. convinced the neoconservatives in the Bush administration to spread their muscles across the globe. American foreign policy concentrated in the Middle East, and after the invasion of Afghanistan, the neoconservatives fixed their eyes on Iraq as they succeeded in spreading rumours about Iraqi acquisition of Weapons of Mass Destruction (WMD) and Iraq's link to Al Qaeda (Pfiffner and Phythian, 2008: 4). Thus, the U.S. found the suitable excuse to invade Iraq, establish a democracy and overthrow Saddam Hussein.

Once the Americans established themselves in Iraq in 2003, they set out to create a democratic political system, and this process created sectarian and ethnic competition between different cultural communities to increase their shares of the new system. The political landscape of Iraq, as shown in figure 1, reveals how diverse the country is. Today, the demography of Iraq is as follows: the Shiites constituted some sixty percent of the Iraqi population and were based in the southern part of the country (Basra), the Sunnis represented around twenty percent of Iraqis and were based in the west (the governorate of Anbar), while the Kurds formed around seventeen percent of the population. Baghdad, the capital of Iraq, was a mixed city shared by Sunnis, Shiites, Kurds and other minorities.

Sunnis had ruled Iraq for almost eight centuries, and after the second Gulf War, Saddam Hussein relied on Sunni tribes to secure the country (Noorbaksh, 2008: 53-55). Shiites were marginalised and suppressed after attempting to revolt against his rule (Katzman, 2000). The Kurds, too, were victims of genocides (Katzman, 2000), but unlike the Shiites, they were given a safe haven in the Kurdish region north of Iraq in 1992 (O'Leary, 2002: 27). After the toppling of Saddam Hussein's regime, the Shiites and the Kurds benefited from the new order, while the Sunnis lingered on the margins of the political system.

Once in Iraq, the Americans established the Coalition Provisional Authority (CPA) which controlled the country until the United Nations Security Council passed resolution 1511 on 16 October 2003, transferring sovereignty to Iraqi politicians (Noorbaksh, 2008: 59). The CPA's first measure was to implement the policy of de-Ba'athification, which was manifested by order No.1 on 16 May 2003 that prohibited the top four officials of the Ba'ath party from future employment in the public sector (Coalition Provisional Authority Order Number 1, 2003). This was followed by order No. 2 that dissolved Iraq's 500,000 strong armed forces and intelligence services (Osman, 2015: 129). Members of the former Ba'ath party were also banned from being employed by the public sector (David, 2006: 367), and since the Sunnis were mostly incorporated into the party, the de-ba'athification policy was perceived by the Sunnis as an attack against their community. The Association of Muslim Scholars in Iraq (*Hai'at 'Ulamā' al Muslimīn fi al 'Irāq*), a Sunni clerical anti-occupation outfit opposed to the new political order after the invasion, criticised what it described as an attack against Iraqis, "especially and specifically the Sunnis" (2008: 50-52).

By 2003, the sense of belonging to an Iraqi nation had dwindled in favour of communalism (Haddad, 2011: 145). While Iraq had become a deeply divided society, the need to establish a consociational system seemed like the only way to preserve the territorial integrity of Iraq.

#### **4. Grand Coalition**

The first issue with the power sharing arrangement in Iraq is executive formation. According to article 76(1) the President shall charge the nominee of the largest Representative bloc with the right to form a government. This is followed by a confidence vote which requires only an absolute parliamentary majority as per article 76(4). These two provisions are non-consociational: first, the very fact that the leader of the representative bloc is automatically designated to be Prime Minister undermines the need for bargaining between elites in deeply divided societies to nominate a Prime Minister.

Second, winning a confidence vote by an absolute majority is a setback for a divided society like Iraq, because this implies that a major political group may form a coalition government with a number of insignificant groups and exclude other major ones. The exclusion of major political groups may lead to grievances and victimisation of the excluded groups, and in the future political violence might be legitimised to press demands for more share of power in the system. Also, cultural minorities might be excluded and their vital interests may be breached by the majority. This will definitely lead to instability, violence and a high risk of the break-up of the political entity.

To make matters worse, as Zaid al-Ali points out, the constitution does not clarify the required quorum for a meeting of the council of ministers to be legal (Al-Ali, 2014: 134). Thus, it is unknown whether the Iraqi government might take decisions by a simple majority and if its meetings are legal in the presence of only half its members. The absence of an article that can regulate the quorum needed for official governmental meetings and the absence of a law that demands an overwhelming majority (like two-third of ministers) decisions to be taken on critical matters abolish the concept of grand coalition.

Successful consociational democracies require clear regulation of executive activities with respect to their formation and decisions. In Belgium, broad representation in the executive has been guaranteed by a constitutional requirement that the government be composed of equal number of Flemish and Walloons (art. 99). In Lebanon, article 65 of the constitution states that the quorum needed for a legal executive meeting is two-thirds of the number of ministerial members, and critical decisions are to be taken with a two-thirds majority.

Despite the disproportional division of power among communal groups in Iraq, an informal agreement between communal groups was reached in 2005 (which can be referred to as the Iraqi national pact), whereby the position of the President is reserved for the Kurds, the

premiership for the Shiites and the seat of the Speaker of the Parliament for the Sunnis. This pact is a sign of power sharing arrangements, but still it is not a sufficient factor because the Premier can form a government without a grand coalition (Moubayed, 2005). Incorporating major political groups in the executive is crucial because the American invasion of Iraq awakened age-old grievances and enmity between the cultural communities (Monshipouri, 2012: 101). Moreover, Sunnis saw that the new political order threaten their interests and believed that, at the beginning of the state building process, they were left out of the power sharing arrangement (Monshipouri, 2012: 103-106). Hence, the best way to ease the sectarian tension and respond to cultural grievances is by incorporating communal leaders into the executive in grand coalitions.

Lijphart emphasised the fact that power-sharing means the participation of the representatives at the executive level (2002: 39). He even goes as far as to consider that grand coalitions may be the central principle of power sharing (1979: 500). In Iraq, despite the fact that grand coalition is not a requirement for the executive, there have been a couple of coalitions between 2010 and 2014. In 2010, a cross sectarian coalition consisting of the Sunni National Dialogue Front, Shiite Ayad Allawi and new nationalists won the majority of the seats under a new alliance called Iraqiya (Fadel and DeYoung, 2010). Maliki's alliance won two fewer parliamentary seats than Iraqiya (Parker and Salam, 2013: 74). He warned of a plot by Ba'thists, terrorists and foreign power aimed at controlling Iraq (Parker and Salam, 2013: 74), presenting himself as the only national leader suitable for the position of Prime Minister. His alliance succeeded in inciting fear among Shiites that the Iraqiya, being cross sectarian, was dominated by ex-Ba'athists. Consequently, Maliki managed to gain Iranian support (al-Qarawee, 2014: 9) and Shiite endorsement to win the seat of Premiership. A compromise was reached in 2010, the so-called Erbil agreement, under which the main political parties agreed to form a grand coalition at the executive level with an understanding of the distribution of ministers among the parties. Accordingly, Iraqiya got the Ministry of Defence and the Presidency of the Security Committee, while Maliki received the post of Premiership (al-Qarawee, 2014: 10). Nevertheless, after the formation of the government and the vote of confidence it received from the parliament, Maliki renounced his commitment to the Erbil agreement, and turned down all the candidates that Iraqiya proposed for the Ministry of Defence (Dougherty and Ghareeb, 2013: 88-90). Maliki nominated a close Sunni ally for the post, and even bypassed the parliament in his appointment as he did not ask for the parliament to approve the nomination, as per article 80 of the constitution. Maliki's manoeuvre further radicalised the Sunni community as the position of Defence Minister was agreed to be a Sunni.

In 2014, after the national elections, Maliki's coalition still won the majority of seats, however he was replaced by Haidar Al Abadi according to an understanding between elites which led to the formation of a coalition government. Maliki was vetoed by the Sunnis who blamed him for their marginalisation in the system, and asked for another

Shiite politicians from the Da'wa party to be Prime Minister. The new coalition government was a response to the threat posed by the Islamic State beside the need to please the Sunnis who had been intimidated by the controversial and sectarian policies of Maliki, most prominently the policy to use the army to crush Sunni protests in Anbar (Sullivan, 2013).

Abadi has succeeded in forming a government of national unity including major political factions from all communities, and the Ministry of Defence was given to the Sunni community (Ghobashy, 2014). He also dismissed more than 50 military and security officials and announced an anti-corruption campaign in the military where an alleged 50,000 soldiers are paid salaries without serving in the army, something Iraqis referred to as 'ghost' soldiers (Mardini, 2014). Nevertheless, these policies are still not enough as Sunnis believe that the government is treating them harshly. For example, ex-Sunni MP Ahmad Al Alwani is sentenced to death on the charge of killing two Iraqi soldiers (The Daily Star, 2014). Alwani belongs to a tribe in Ramadi that has been actively fighting against IS (The Daily Star, 2014). Prominent Sunni politician Tarik Al Hahsimi is still in exile, and the Iraqi military campaign against IS in Tikrit, supported by Shiite militias, have conducted acts of revenge against the Sunni population, destroying houses and arbitrary arresting Sunnis (Human Rights Watch, 2015). Politically, while the Iraqis succeeded in forming coalition governments, they failed to attach the concept of minority veto. It is important to note that Lijphart added the concept of grand coalition to the principle of minority veto. His view is that minority veto in the executive provides a guarantee for political protection (Lijphart, 1977: 36-37).

## **5. Veto**

Despite the fact that Iraqi political parties have twice agreed (2010, 2014) to form a coalition government, this consociational factor would still be considered incomplete unless it was followed by a veto power to minorities. The aim of a veto is to keep the power of majorities in the executive and legislative branch under check, because, as Lord Acton once said, "if power tends to corrupt, then absolute power corrupts absolutely" (cited in Fasnacht, 1952: 134). In deeply divided societies, veto powers protect minorities in cases where the cultural group believes its vital interest is threatened. The Iraqi constitution has granted political parties a veto power only when the Council of Representatives is asked to ratify international treaties and agreements where a two-thirds majority is needed to enact the respective law according to article 61(4).

A clear principle of the tyranny of the majority in the Iraqi constitution and political practice is in article 59 where the quorum and the decisions of the Council of Representatives are achieved by a simple majority unless otherwise stipulated. Thus, considering that the Shiites are a majority of the population who also have a majority of seats in the Council of Representatives, they may be able to pass laws without the consent of other cultural communities, mainly the Arab Sunnis and the Kurds. Moreover, since the Shiite



community has the majority of seats in the parliament, it may pass laws that threatens the cultural rights of other communities as the constitution does not stipulate veto powers for the minorities in issues that they perceive as threatening to their survival.

Taking a look at the origins of the constitution, the Arab Sunnis were underrepresented in the committee specialised in studying a prospective constitution since they boycotted the general elections in January 2005 (Diamond, 2005: 323). Sunnis were afraid of losing power and believed that by boycotting elections they could delegitimise the whole process (Dawisha and Diamond, 2006: 93). This, however, led to their underrepresentation in the system, and later an additional 15 Sunni members were included to the committee designed to write a new constitution, in order to legitimise its role by incorporating the Sunni community (al-Ali, 2014: 85). This, however, did not solve the problem as the majority of the Sunni politicians who joined the political process were exiled leaders imposed upon the community and did not represent the aspirations of the Sunni population (Zeidel, 2008: 42-43). In effect, the drafting of the new constitution was a product of Shiite and Kurdish negotiations with nominal Sunni representation (Al-Qarawee, 2014: 5). Hence, to use Harith Hasan Al-Qarawee's conclusion, the legacy of exclusion prevailed and repeated itself in Iraq.

An additional event that marked the domination of the will of the majority over minorities in Iraq even at a point where the vital interest of a community might have been threatened was the October 2005 referendum on the Iraqi constitution. Article 61(c) of Iraq's interim's constitution stated that 'a general referendum will be successful and the draft constitution ratified if a majority of voters in Iraq approve and if two-thirds of the voters in three or more provinces do not reject it'. Consequently, a door was open for a cultural community (or more than one community) to reject the constitution. When the referendum results were announced, it was obvious that the population voted along ethno-sectarian lines, with the Kurdish and Shiites almost wholly in favour and the Sunnis almost unanimously against (al-Ali, 2014: 90). The Sunni provinces of Anbar and Salahudin had a ninety seven percent and eighty two percent no vote respectively, while Nineveh had a fifty five percent no vote (CNN, 2005), slightly short of a two-thirds majority. For a consociational constitution to be ratified, it needs the approval of major communities; the Arab Sunnis represent one of the major communities in Iraq and they clearly rejected the constitution, but their voice was not considered because the making of the constitution was not based on consociational principles; the fact that the overwhelming majority of Sunnis rejected the constitution should have been considered as a veto. In other provinces where Arab Sunnis reside in substantial numbers, the disapproval rate was significant: in Diyala, forty eight percent voted no, while Baghdad and Kirkuk saw twenty two percent and thirty seven percent voting 'no' respectively (BBC, 2005). Therefore, the Arab Sunni community succeeded in stating its objection to the constitution.

The first two characteristics of consociationalism, grand coalition and mutual veto, have been absent from the Iraqi constitution and political practice. Nevertheless, this paper still needs to study the other two interconnected factors: proportionality and autonomy.

## **6. Proportionality and Autonomy**

Iraq is a plural society where Christians, Muslims and other cultural groups not affiliated to either Islam or Christianity have been surviving for a long time. To answer the demands of different cultural communities in plural societies, proportionality and autonomy are introduced to guarantee a fair representation of these groups in the system along with their right to manage their own affairs exclusively.

The Iraqi constitution acknowledges that Iraq is a country of multiple nationalities, religions and sects (art. 3). Arabic and Kurdish are the two official languages of the country, and the Turkmen and Syriac languages are official languages in administrative units where these minorities constitute a significant proportion of the population (art. 4). Other governorates may adopt other local languages if the majority of the population decides to do so in a general referendum (art. 4). These constitutional arrangements represent the encoded plurality that O'Leary (2013: 5-7) described as being crucial for deeply divided societies.

The cultural manifestation of autonomy granted to Iraqi cultural communities by the constitution is also extended to include territorial autonomy. Hence, in the very first article of the constitution it is stated that the Republic of Iraq is federal (art. 1). The federal element was mainly the demand of the Kurds who insisted on having their region a federal territory. The Kurdish region, also called Kurdistan, has its own President, Parliament and government. Moreover, in an attempt to further decentralise the state, the Iraqi constitution allows one or more governorates to form a region (art. 119). Regional governments are responsible for all the administrative requirements of the region including the organisation of internal security forces (art. 121). Hence, encoded pluralism is applied in Iraq, since the partners of the political settlement (Kurds, Arabs and other minorities) have the power to govern changes in their own communities through autonomy over their own cultural interests and through joint agreements with others (O'Leary, 2013: 5).

Beside territorial autonomy and decentralisation, proportionality is applied to ensure that communities are represented at the federal level according to their proportion of the society. This was applied in the 2010 and 2014 general elections, where a few parliamentary seats were reserved for minorities in regions where they constituted a significant proportion of the population. One seat in each of the following regions was reserved for the Christians: Baghdad, Nineveh, Kirkuk, Dohuk and Irbil. For the Yazidis, one seat was allocated in the Nineveh province, one seat in Baghdad for the Sabi' cultural community and one seat in Nineveh for the Shabak (Electoral Law 2010 and 2014). In federal institutions, fifty-five percent of political and executive offices are given to self-prescribed Shiite parties, Sunni parties receive twenty percent of these posts, and a similar

percentage is given to the Kurdish community; the remaining five percent is distributed among various smaller minority groups (Albadry and Abdullah, 2014: 8). Moreover, each senior official is assigned with deputies from other ethno-sectarian groups in order to counter whatever power the official may potentially wield (al-Ali, 2014: 111). For example, the President, being Kurdish, has two vice presidents who come from the Shiite and Sunni communities. Similarly, the same concept is applied to the Premiership and the Speaker of the Representative Council.

The concept of two deputies for each senior official is very problematic, as it is likely that the deputies would try to stir problems in the ministry when they disagree with the policies of the minister. Moreover, the government will have to finance the salaries and the privileges of the deputies which adds additional financial burden to the state. Thus, it would be better if the position is abolished in favour of rotating the ministerial posts or senior governmental positions between different cultural communities. Hence, every time there is a new government or a reshuffle is made, the official will be replaced by another one from a different cultural community, and it would be less likely that one official will be able to institutionalise his community's control over the ministry.

Despite the proportionality arrangements along with the cultural and territorial autonomy, there are several issues with respect to these two consociational characteristics. Regarding territorial autonomy, McGarry and O'Leary (2007: 679) point out that two-region federations are prone to collapse, and they support their argument with the example of Czechoslovakia, pre-1971 Pakistan, and more recently, Serbia and Montenegro. A three unit federation is also fragile, as they point out so, in order to avoid a possible breakdown of the Iraqi federation along sectarian and ethnic lines, a four unit federation may lead to some sort of stability and balance of power between cultural groups. The four unit federation should consist of Kurdistan, a Western federal area dominated by Sunnis, a Southern federal area dominated by Shiites and Baghdad being a federal unit of its own, considering that it is the capital and it consists of different cultural and ethnic groups who do not have total domination over the unit itself. This solution for a stable Iraq is derived from the Belgian federation where Flanders and Wallonia are the federal units representing the Dutch speaking population and the French speaking community respectively, with Brussels being a unit of its own where local executive power is shared between Flemish and Walloons.

As for proportionality in Iraq, an important step would be to divide the parliamentary seats along cultural lines; that is each cultural community would receive a reserved number of seats in the Parliament without any group having a dominant position over others. In addition, the constitution should be amended to include a two-thirds quorum and a two-thirds vote for passing any law that deals with culture, security, taxation, and vote of confidence for the government. The Lebanese case is a successful model where no community has a dominant status in the parliament, because parity is applied in the

parliament (as well as in the government) between Muslims and Christians, and the system reserves parliamentary seats for each cultural community (art. 24).

So far, we have seen how the Iraqi political system does not capitalise on consociational provision regarding mutual veto, and its grand coalition is not balanced since minorities are unable to practice their veto rights. On the other hand, the system promotes both proportionality (to a limited extent) and cultural autonomy. In addition, we have to look at some favourable and unfavourable factors that contribute or hinder consociational practices in Iraq.

### **7. Favourable and Unfavourable Factors**

Favourable factors are those that positively contribute to consociational practices, while unfavourable factors hinder these practices. Favourable factors are represented in the proportional representation and cultural protectionism (as introduced by O'Leary) as two characteristics promoted by the Iraqi political system. Regarding unfavourable factors they include elite political behaviour (mainly the absence of elite accommodation) and the politicisation of the Iraqi security forces.

**Favourable Factors:** Factors that favour consociational arrangements exist in the Iraqi case study: proportional representation and cultural protectionism. In all of Iraq's general elections, proportional representation has been established as a norm for fair and democratic representation. In the 2005 January elections, Iraq was considered one electoral district, where voters could cast their votes for closed lists (Coalition Provisional Authority Order Number 96, 2004). Proportional representation was also applied in the 2010 and 2014 elections, but Iraq was divided into several districts and the Sainte-Laguë method was used (Sainte-Laguë method is used where votes are divided by 1, 3, 5, etc., in order to allocate the seats) (Lijphart, 1990: 484). In an attempt to preserve the rights of minorities in Iraq, the electoral law of 2010 and 2014 reserved seats for Christians, Baha'i, Shabak, Turkmen and others. In this case, the Iraqi electoral system followed Lijphart's recommendation for proportional representation. Lijphart (2004: 101) recommends the establishment of some degree of proportionality in the electoral law, multimember districts that are not too large, but the only deviation was the open list case stipulated in Iraq in the last two elections as opposed to Lijphart's recommendation of closed or almost closed lists.

The second favourable factor is related to the concept of cultural protectionism, a concept that O'Leary (2013: 5) established in the studies of deeply divided societies which explains the evolution of cultures in power sharing systems are not subject to the governing diktat of the largest group. The power sharing settlement may promote an inclusive overarching public identity shared by all cultural groups, one which does not contradict or replace existing cultures. The very fact that Iraq recognised the different cultural and ethnic communities in its constitution is a manifestation of cultural protectionism. The

constitutional arrangements provide cultural communities with the right to promote their culture, hence empowering the cultural evolution autonomously and jointly with the central government. O'Leary asserts that this is an important condition of cultural protectionism. The concept of protecting different Iraqi cultures is a very important factor that favours power sharing, considering the fact that the country has only been democratic in the last few years. Despite that, the Iraqi political system contains a couple of unfavourable factors that are worth mentioning.

**Unfavourable Factors:** The British established Iraq as a monarchy in 1921 (Kwarteng, 2011: 392). The latter was overthrown by a military coup in 1958 (Harris, 2005: 32), and from that date Iraq became a dictatorship until the overthrow of Saddam Hussein in 2003. The absence of democracy from the 1920s until 2003 created a class of political elite who were used to imposing their will by force rather than bargaining and compromising. Even after the establishment of a democratic political system the elite struggled to bargain and accommodate.

The first instance that marked the absence of elite accommodation was when some Sunni leaders decided to join the committee responsible for drafting a constitution in 2005. When those leaders proposed amendments to the constitution, their claims were rejected due to their numerical inferiority (Zeidal, 2008: 43). The failure to incorporate the Sunni leadership in drafting the constitution eventually became a major factor leading to Sunni rejection of the constitution.

Another significant fact related to the absence of elite accommodation is the policy of de-Ba'athification. The Sunni community represented the backbone of the Ba'ath regime in Iraq, and because the rulers of Iraq during the Saddam era were Sunnis, those leaders imposed Ba'athification upon the community. When Saddam's regime fell and the policy of de-ba'athification started, the Sunni community came to suffer from this policy. In some Sunni areas like Tikrit (Saddam's hometown), around seventy percent of the workforce was banned from employment because of their former membership of the Ba'ath party or due to their work in the security service (Zeidal, 2008: 45). Moreover, as the Iraqi army was mainly composed of Sunni recruits due to Saddam's distrust of the Shiites and Kurds, the disbanding of the army created a mob of unemployed Sunni workers who were prohibited from seeking state jobs, hence the Sunnis perceived the new order as a direct threat to their survival in Iraq.

Another instance that marked the absence of elite accommodation was in 2010 in what is known as the Erbil agreement. When the main political leaders reached a deadlock regarding the formation of a new government, an agreement was reached between them in Erbil by which every parliamentary bloc was allocated a specific number of ministries according to a strict formula to prevent any group from dominating the executive (al-Ali, 2014: 128). Maliki then renounced his commitment to the Erbil agreement and appointed a Sunni ally as acting Minister of Defence (al-Ali, 2014: 132). Renegading a promise that

was so crucial for the formation of the government in 2010 showed how little elites care about accommodating the demands of other communities.

Another disadvantage in elite political behaviour was Maliki's attitude while he was in office from 2006 to 2014. Maliki's political behaviour, for example, demonstrates the impatience and lack of bargaining of the elite in Iraq in their attempt to implement their policies. Maliki established himself as a ruthless Prime Minister who functioned beyond the law. He abandoned his allies from the moderate Sadrist Movement and the Islamic Shiite Council of Iraq (headed by Ammar Al Hakim) in favour of more radical Shiite groups like Asa'ib Ahl Al Haq and the Badr Organization (al-Qarawee, 2014: 7). His relationship with the Sunni component was intimidating: he exploited his subjugation of the federal court to accuse his Sunni opponents, Tarik Al Hashimi and Rafi' Al Issawi of corruption (al-Qarawee, 2014: 10) in order to marginalise Sunni opposition to his government.

The other unfavourable factor in Iraq that hinders consociationalism is the politicisation of the Iraqi security forces. According to article 76 of the Iraqi constitution, "the Prime Minister is the direct executive authority responsible for the general policy of the State and the commander in chief of the armed forces". This is a dangerous article because, as Adrian Guelke (2012: 33) writes, "security is not something that members of deeply divided societies are ever likely to take for granted". Thus, the very fact that the Prime Minister belongs to the Shiite community and is chief of the armed forces means that other cultural groups will perceive the armed forces as being a security apparatus controlled by the Shiites. This has been the case recently in 2013 when Maliki ordered his troops to storm a Sunni protest camp in the town of Hawijah and killed about forty civilians (Abbas, 2013). Later in 2014, the army was sent twice to Anbar to crush peaceful Sunni protests, which eventually made the population turn against the army and join forces with IS in the takeover of Mosul and the western part of Iraq (The Guardian, 2014). Maliki exploited the article regarding the role of Prime Minister in commanding the army. He obtained the mobile numbers of commanders all over the country and called them directly to issue orders, thus circumventing the chain of command and making those units personally answerable to him (al-Ali, 2014: 131). He built a personal power base on the security establishment and went on to appoint personal allies in the security apparatus (Younis, 2011: 5-8) while dismissing others at will (al-Ali, 2014: 131), without taking into consideration the need to preserve a level of proportionality among the officer corp.

Al Maliki's practices hindered the element of trust in the national army, mainly in Sunni areas. Hence, Sunni governorates started looking at ways to develop their own security forces. According to the constitution, one or more governorates are allowed to merge and form a region with the right to create its own security apparatus (art. 114 and 129). In early 2015, the government has agreed to propose legislation that allows each province to establish its own security forces, whereby in mixed areas the forces will be created according to the concept of proportionality and the central government has no right to interfere in the security affairs of the region (Mustafa, 2015). Since federal regions in Iraq

are likely to be created on ethnic and cultural lines with some pockets inhabited by minorities, the security apparatus of the federal region may become an instrument for the dominant community to harass minorities living in their regions. Moreover, considering the recent events whereby the Iraqi army fled its positions in Mosul and allowed IS to take over, it is likely that regional security forces may be able to prove themselves to be a stronger military power than the national army, eventually leading to disintegration of the state. What helps its disintegration is the fact that the Iraqi army is infiltrated by various branches of militant groups, both Sunni and Shiite, which aim at furthering their sectarian agendas (al Marashi and Salama, 2008: 216). In Kurdistan, the local government has been reluctant to let Arabs join Iraqi military units in the north, and Kurdish soldiers have been refusing to serve outside Kurdistan (al Marashi and Salama, 2008: 217).

The central government in Iraq has shown concern over the security role of regional governments if the Peshmerga model will be copied in other regions, especially the Sunni regions. Therefore, in 2011 Maliki rejected the constitutional right of the Salahudin province to declare itself as a region in fear that this move would give the Sunnis the right to create their own security forces (Kane et al, 2012). Afterwards, the Diyala provincial council voted in favour of declaring itself a region and made preparations for a referendum to institutionalise the process (Osman, 2015: 251). The main reason for this decision, according to one provincial official, was the policy of exclusion and marginalisation they have suffered from the central government (Osman, 2015: 251). However, this action triggered a strong response from the central government which issued arrest warrants against several provincial council members (Osman, 2015: 251). These incidents reveal how antagonistic the elites in Iraq are in dealing with their disagreements, and how political communication is almost absent in the system.

## **8. Conclusion**

The Iraqi political system suffers from limitations in important consociational arrangements: the grand coalition and veto power. Proportionality is fairly promoted but with limitations in the armed forces, while autonomy is strongly advocated in Iraq. Hence, it is crucial for Iraq to revisit its consociational arrangement. From the analysis of events and the Iraqi constitution, it is fair to say that the Iraqi political system lacks important consociational provisions, such as the grand coalition and the veto powers for cultural communities. Elites in Iraq have failed to continuously communicate, bargain and compromise to bridge the gap between the aspirations of their cultural communities.

This article does not only specify the limitations of the consociational provisions in Iraq, but it also recommends certain prescriptions to improve the consociational practices among elites. The first prescription deals with the legislature whereby it would be better if each cultural community would be assigned a specific number of seats in the parliament according to their proportion with respect to the constituency. Another desirable change might be in the nomination of the Prime Minister where the President would be asked to

conduct mandatory parliamentary consultation where MPs would nominate the Prime Minister. This policy will provide wide room for political parties to bargain, and it is likely that it will encourage moderate Shiite politicians to assume the Premiership. Moreover, the quorum for a legal session by the Council of Representatives should be by an overwhelming majority (for example, a two-thirds) rather than a simple majority, and the same ought to apply to critical decisions like deploying the armed forces, ratifying treaties, or amending the constitution. In the current situation, the Shiites, who constitute sixty percent of the population along with their control of majority of parliamentary seats may promote controversial policies that would lead to internal conflict due to the constitutional right of passing legislative bills by a simple majority. As for the security arrangements, it is important to introduce power sharing arrangements at the level of the security forces in order to avoid the complete domination of the security sector by one group. Incorporating all communities in the decision making of the military is crucial as it will legitimise the use of the military against sectarian military organisations or terrorist groups.

In this sense, the Lebanese experience can provide guidelines for reforming the Iraqi security establishment and incorporate minorities into the army. In Lebanon, the predicament of the national army being controlled by Maronites was answered by creating a Military Council that deals with administrative issues in the military and promotions consisting of the six major cultural communities in Lebanon (Aboultaif, 2015). Recruitment has to take into account the need for a balanced representation of cultural communities to prevent one group from dominating the army. Hence, it would be worth considering creating a Military Council in Iraq with similar powers as to the Lebanese one. Recruitment in the Iraqi army should consider to proportionality of each community with respect to the society, but with an equal share between Sunnis, Shiites and Kurds at the officer corps (thirty percent each for example), a third for each of three main groups (Arab Shiites, Arab Sunnis and Kurds) and leaving the remaining for minorities (ten percent) (Aboultaif, 2015). Regarding the decision to deploy the army for security purposes in Iraq, article 78 should be amended regarding the role of the Prime Minister as being the commander in chief of the armed forces, and the decision to deploy the army has to be taken unanimously in the government considering that it is a coalition which represents all major communities in Iraq.

These arrangements may encourage elites in Iraq to bargain in order to achieve compromise and accommodate their demands. Promoting further policies to empower grand coalitions and veto powers may stabilise the system and ease cultural tensions, especially in the current situations where the Sunni-Shiite conflict is threatening the unity of Iraq. The threat from the Islamic State is not only answered by a military campaign, but also by fortifying consociational arrangements in the political system. This will be the coming challenge for the political system in Iraq.



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