



## **The Costs of Inadequacy: Violence and Elections in Iraq**

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### **Abstract**

Iraq is currently witnessing the highest levels of violence since 2008 and with the failure to adequately adjust the election laws the ethnic and sectarian violence is only set to increase following the 2014 elections. This paper examines the core political factors that have contributed to the escalation of violence and the intensification of the conflict following the last national elections in 2010. It also analyses potential changes to the election laws that could solve many of the issues highlighted and thus reverse the escalation of violence.

ISSN: 2048-075X

Ethnopolitics Papers is an initiative of the Exeter Centre for Ethnopolitical Studies and published jointly with the Specialist Group Ethnopolitics of the Political Studies Association of the UK.

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## 1. Introduction

There are many issues with the current electoral system in Iraq and this has resulted in political instability, which can be regarded as a contributing factor in the intensification of ethnic conflict in the country (UN, 2013a).<sup>1</sup> As it stands, the electoral system allows for coalitions to be created following the elections. This not only takes an immense amount of time but effectively it prevents the people of Iraq from electing the government, as the winning party does not necessarily elect the prime minister (al-Jazeera, 2010; Visser, 2010). Following the 2010 elections, many issues arose that can be attributed directly to the system used to form the Iraqi cabinet. These included: Iraq being without a president for an extended period of time; the vice-president living in exile after being sentenced to death; a host of al-Iraqiya<sup>2</sup> ministers resigning; boycotts of parliament by both Kurds and al-Iraqiya; and the Prime Minister, Nuri al-Maliki, who is also the Minister of Defence and the Minister of Interior, attempting to extend his power while his own party battled with fellow Shiites, the Sadrists.<sup>3</sup> Political instability following the 2010 elections has been compounded by rising conflict. In Kirkuk, the Iraqi army and the Kurdish Regional Government's (KRG) army – known as the *peshmerga* – have been on the brink of war since late 2012. Furthermore, the Kurds and the government in Bagdad are in disagreement over oil deals. Yet, no changes have been made to the electoral system and four years on following the 2014 national elections, Iraq is once again without a government as politicians attempt to negotiate their way to power.

The main aim of this paper is to propose an option to replace the current electoral system in Iraq, which can be seen as responsible for the ongoing ethnic tensions. This paper argues that in order to minimise the impact of the political instability not only on Iraq but the wider region, a new

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<sup>1</sup> For more information on the political instability in Iraq see: Brinker, Garrett and Nigel Cory (2014) 'Violence, Distrust, and Instability: Iraq's Future in Uncertain Times,' *Georgetown Public Policy Review*, [Online], Available: <http://gppreview.com/2014/03/13/violence-distrust-and-instability-irags-future-in-uncertain-times/> [15 May 2014]; Katzman, Kenneth. (2014) 'Iraq: Politics, Governance, and Human Rights.' *Congressional Research Service Report*. No. RS21968. Please also note that this paper was written prior to the events of June 2014.

<sup>2</sup> Al-Iraqiya is the coalition that won the most seats in the 2010 national elections. They are secular and consist of both Sunnis and Shiites.

<sup>3</sup> Shiite bloc led by the Muslim cleric Muqtada al-Sadr.

process for deciding the government following the elections must be introduced and implemented. This paper will investigate the viability of allocating ministerial portfolios through Sequential Proportionality Rules (SPR), demonstrating how in the Iraqi case SPR would be a fairer and more efficient method for dividing the portfolios. This system would result in the immediate election of a government; would reward parties based on votes rather than political manoeuvring following the elections; would prevent individuals and parties from amassing power; it would also prevent boycotts or resignations from blocking the political system; and would allow for issues to be addressed in parliament rather than on the ground.

Prior to proposing a change to the electoral system, this paper will demonstrate the importance of this transformation by analysing the negative effect the current system has had on the population and politics of Iraq. Indeed, the results of the election process following the 2010 elections - with State of Law<sup>4</sup> electing the prime minister despite not winning the elections - are a major factor in the current Sunni uprising, which stems from opposition to Maliki's government. This paper will examine the two key events – the storming of the Hawija protest camp and the arrest of Iraqiya MP Ahmed al-Alwani under terrorism charges – that transformed the violence from a Sunni uprising against the central government to violence perpetrated by the state against the Sunni population. Additionally, the paper will examine the main factor that brought the *peshmerga* and the Iraqi army to the brink of war – the creation of the Dijla command. It will also investigate a closely connected issue with regard to the relationship between the Kurds and the central government: the disagreement between the two sides over the implementation and interpretation of the hydrocarbon laws.

The development of a new electoral system for Iraq is paramount, as it is extremely important for the stability of the Middle East that Iraq does not erupt into all-out ethnic conflict, as this would reverberate beyond its borders and aggravate violence in an already unstable region. Furthermore, with the events since 6 June 2014<sup>5</sup> – with the Islamic State of Iraq and the Levant (ISIL) taking control of further territory in Iraq – the country is at a precipice. Now more than ever,

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<sup>4</sup> A Shiite Iraqi political coalition led by Nuri Maliki.

<sup>5</sup> This article was written prior to these new developments.

it is crucial that the issues with the central government that are responsible for the increase in violence are resolved (Knights, 2014).

## 2. Intensification of Sectarian Violence

Maliki's amalgamation of power and the actions he has carried out without parliamentary approval – such as the creation of the Dijla Command – have effectively nullified the so-called 'power sharing' arrangements that the government was built on. The discontent with Maliki's governance led to widespread protests from Sunnis across Iraq beginning in 2012 (BBC Monitoring, 2012d). This has further hindered the governance of Iraq, as both Kurdish and Sunni politicians have boycotted cabinet meetings to show support for the protestors (Markey & Aseel, 2013). Furthermore, the Sadr movement<sup>6</sup>, the Kurdish parties and al-Iraqiya have all made statements in opposition to Maliki and what they regard as his authoritarian government (*Aswat al-Iraq*, 2013a).<sup>7</sup>

The mounting tensions within Iraq has led to sectarian violence between Sunni and Shiites across the country and the very real threat of civil war. A major turning point, which was responsible for a drastic escalation in violence, was when on 23 April 2013, the Dijla Command raided the Hawija protest camp claiming that they were looking for wanted suspects and clashes between the protestors and the army ensued. In the resulting violence at least 28 people were killed and more than 70 were injured. The violence was largely condemned by the Sunni bloc, as well as by the Sadrists and the Kurds (Tawfeeq & Abedine, 2013). With tensions between Sunnis and Shiites already at a high level, the strain created by yet more protestors being killed<sup>8</sup> left the whole country fearing that Iraq was on the brink of civil war. As a result of this incident violence

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<sup>6</sup> Although the Sadr Movement are often aligned with Maliki, politically they do like to demonstrate to Maliki that he is in need of their support. Their support of protests did not however stop them from taking up ministries once Iraqiya had resigned them.

<sup>7</sup> Part of this is related to the arrest of nine guards, under alleged terrorism charges, belonging to the finance minister, Rafa al-Essawi, who is a leading member of the al-Iraqiya bloc (Faraj & Abduljabbar, 2012).

<sup>8</sup> On 25 January 2013 Iraqi troops opened fire on Sunni protesters in Falluja killing at least seven civilians and injuring many more (Adnan, 2013). On 8 March 2013 a protestor died in Mosul after the security forces yet again opened fire on protestors (Xinhua, 2013a). On 19 April 2013 a protestor was killed and several were injured when the army, under the Dijla Command, opened fire on the Sunni protest against Maliki in the Hawija district of Kirkuk (National Iraqi News Agency, 2013c).

continued for several days, with both Sunni and Shiites being targeted, and resulted in more than 200 people being killed.<sup>9</sup> Consequently, April 2013 was the deadliest month in Iraq since June 2008, with 712 people killed and 1,633 injured (UN, 2013a).

Al-Iraqiya list member, Hamid al-Mutlaq, criticised the army's actions in the protests and called for them to withdraw from the cities and to return to the borders where he claimed they belong (BBC Monitoring, 2013a). At the same time, as the violence continued in Iraq the attacks became more sectarian in nature with both Sunni and Shiite mosques being increasingly targeted (Salaheddin, 2013c; Griffis, 2013b). The storming of the Hawija camp created real anger amongst the Sunni populace and was responsible for a major increase in violence in 2013. A total of 8,868 people were killed according to the UN in 2013, thus making it the deadliest year in Iraq since 2008 (Harding, 2014).

Towards the end of 2013 and the beginning of 2014 the Sunni uprising gained further momentum. Anti-government protests in the Sunni-majority Anbar province intensified with protestors threatening violent action following the arrest of Iraqiya MP Ahmed al-Alwani under terrorism charges. On a raid on his home, in December 2013, 6 people were killed, including Alwani's brother, and a further 18 were injured (Al Jazeera, 2013a). When Iraqi forces attempted to break up the protest camp in Ramadi on 30 December 2013 a battle between protestors and the army erupted, in which at least 13 people were killed. As a result of the government's actions in Anbar, 44 Iraqi MPs announced their resignation (Al Jazeera, 2013b). In early January, the al-Qaeda-linked Islamic State of Iraq and the Levant (ISIL) took control of Fallujah and Ramadi, which resulted in armed battles between ISIL and the Iraqi Army (Al Jazeera, 2014a). Although the security forces managed to regain control of Ramadi, they were prevented from entering Fallujah by the Sunni tribes, and thus the ISIL managed to gain complete control of the city. As a result, the Iraqi army began shelling Fallujah from their base outside the city, thereby escalating the level of violence directed at Iraqi citizens by the central government. (Al Jazeera, 2014b).

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<sup>9</sup> For examples of the violence following the storm of the Hawija protest camp see: Schreck, 2013a; Al-Salhy, 2013; Dunlop, 2013a.

However, despite months of continued shelling and armed attacks from the Iraqi army the ISIL managed to maintain control of Fallujah and gain further control of army positions and as of June 2014 the Iraqi army is yet to defeat them (Al Jazeera, 2014c; Cockburn, 2014). The current rebellion in Anbar, following the arrest of Alwani, has led to the death toll remaining high in Iraq in 2014 following a violent 2013. According to the Iraqi government the death toll for January, February and March is 1,013, 790 and 1,004 respectively (Agence France-Presse, 2014).

### **3. Issues with the Iraqi System of Governance**

The sectarian violence is being caused by the other factions' fear that Maliki is making a grab for power and attempting to return Iraq to a dictatorship. This began with the trial of Sunni Vice President, Tariq al-Hashimi, who fled first to the KRG and then to Turkey and was later sentenced to death in his absence. The Sunnis were further incensed by the arrest of the bodyguards of Sunni Finance Minister, Rafie al-Issawi, on terrorism charges.

Similarly, the Kurds were angered when Maliki sent his troops to Kirkuk in 2012, as very few believe that the purpose of these troops are to fight terrorism and rather believe that Maliki is preparing to take control of Iraq by force. The KRG Foreign Relations Minister has questioned Maliki's actions:

The Iraqi army today is not in a very good shape, but the logic of the use of military to sort out political difference internally this is unconstitutional and this is not allowed and we will not accept it. If this becomes the pattern what is the difference between this and the former regime (Mustafa, 2013).

This indicates that both the Kurds and Sunnis fear that Maliki is accumulating power and getting ready to take the rest by force.

In spite of such objections, a vote of no confidence in Maliki was not possible, as this needs presidential approval and the president, Jalal Talabani has been in hospital following a stroke, the Sunni Vice President, Tariq al-Hashimi, is in exile and the remaining Vice President is a Shiite aligned to Maliki. Meanwhile, despite the formation of a coalition government containing all the ethnicities and sects, Maliki has formed a Shiite grand alliance and the Sunnis have formed their

own coalition and the Kurds have their own parliament in the KRG, thereby splitting Iraq along ethnic and sectarian divides (Gorzewski, 2013).

All these developments are facilitated by flaws in the Iraqi consociational power sharing model, as in an effective power sharing system it would not be possible to form alliances after elections, break alliances during the parliamentary term without facing consequences, or to hold more than one cabinet position. The use of corporate consociational methods in Iraq have helped to maintain Maliki's power and have prevented the political process from operating. The current system allows Maliki to continue unhindered and prevents opposing politicians from blocking him through political means. This has radicalised the population because they have seen no results from political means and, as a result, they have turned to violence as a method of displaying their discontent with the political process in Iraq. As discussed later in this paper, this can be rectified by adjusting the consociational system to a more liberal method that will encourage cooperation.

As a result of the sectarian divide in Iraq, which has been caused by the failure of the political system, Al-Qaeda is once again becoming a presence in Iraq and there has also been an increase in Shiite militias (Kagan, 2013). Many Sunnis and Kurds believe that Maliki is forcing those who oppose him out of office with terrorism and corruption charges, as he did with the chairman of the election commission, the head of the central bank, the Vice President and the Finance Minister. Furthermore, he postponed the Provincial elections on 20 April 2013 in the majority-Sunni western provinces of Anbar and Nineveh – in spite of the fact that the Independent High Electoral Commission had stated that all provinces, excluding the three Kurdish provinces and Kirkuk, were ready for the elections (UN, 2013c). The cancellation of the elections was opposed by Sunni politicians and the Sadrists, with critics arguing that it constituted another move for power by Maliki. This is because his party was unlikely to win many seats in the western provinces and preventing elections from taking place gave him time to further split the Sunni vote (Ingram, 2013b).

Consequently, Maliki has returned Iraq to sectarianism and very few Kurds or Sunni's trust him. They fear that since the US forces have left Maliki has been amalgamating power. As Salah Dalo, head of the Kurdistan Democratic Party (KDP) in Kirkuk, puts it: 'We voted for Maliki, but he lied



we think he is going to be a dictator again, like Saddam (Dalo, 2013).’ The fears that Maliki is trying to return Iraq to a dictatorship were heightened by his calls for early national elections and his statements that a majority government should be formed. Many believe – such as Iraq's Sunni speaker of parliament Osama Al-Nujaifi – that the power Maliki wields in state organisations could be used to ensure victory and thus break the power sharing government, leaving the other sects and ethnic groups without a say (Nasrawi, 2013a).

Additionally, the lack of a president further detracts from the political process; Talabani is too sick to carry out his duties, but the Patriotic Union of Kurdistan (PUK) seem reluctant to nominate a new president. This is further complicated by the fact that the current power sharing deal stipulates that the president should be a Kurd and the PUK and KDP also have a deal in place that the President of Iraq will be from the PUK and the President of the KRG from the KDP (Nasrawi, 2013b).

The increase in the sectarian violence and the Sunni discontent with Maliki’s government has led many Sunnis to begin to call for a Sunni region similar to the KRG. This is possible within the constitution, but would separate Iraq along sectarian and ethnic lines and could lead to the eventual breakup of the state (Al Jazeera, 2013c). Nevertheless, many of the Kurdish politicians and academics favour such solution as this could pave the way for future Kurdish independence.<sup>10</sup>

With Iraq seemingly on the brink of a civil war, Maliki blamed senior security staff, and, on 21 May 2013, announced a change in the security personnel, with some senior members losing their job. This comes despite the fact that Maliki is Minister for Defence and he is therefore in charge of the army (Karim, 2013). Following the continued violence Maliki made a rare visit to the KRG in early June for further discussions with the Kurds over the ongoing issues. He also held a cabinet meeting in Erbil. Despite this, no agreement was reached with the Kurds over the disputed territories, the budget or the hydrocarbon law (Salaheddin, 2013d). Following the results of the 20 June 2013 local elections, a Kurdish-led coalition won the most seats in Nineveh and a the Sunni Mutahidoun bloc won the most seats in Anbar, although neither had enough seats to form a majority. This falls

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<sup>10</sup> In conversations between the author and political actors as well as academics in Erbil, many of them highlighted this as a reason for them to back a Sunni region.

into Maliki's hands as he again has managed to split the Sunni vote by forming alliances – the political bloc of Loyalty to Nineveh, which he backed, managed to win four seats in Nineveh (*Xinhua General News Service*, 2013b). These results mean that the 2014 national elections represent a fork in the road for Iraq: they could result in Maliki amalgamating power and forming a quasi-dictatorship or the failure to form a government in a timely manner could result in an all-out civil war, with Iraq divided along ethnic and sectarian lines.

The national elections went ahead on 30 April 2014 and Maliki's State of Law coalition won the most seats – 92 out of 328. Shiite cleric Ammar al-Hakim's al-Muwatin bloc was second with 29 seats, followed by Sadrists main al-Ahrar bloc with 28. Sunni parliament speaker Osama al-Nujaifi's Mutahidoun bloc won 23 seats, whilst Ayad Allawi's Sunni list, al-Wataniya, won 21 seats. Sunni Deputy Prime Minister, Saleh al-Mutlaq's al-Arabiya list won 10 seats (Salaheddin, 2014). The Kurds managed to win 62 seats in total – with the KDP winning 25, PUK gaining 19 and Gorran managing 9 – putting them into a good position (Dolamari, 2014). In order to become Prime Minister Maliki still needs to gain the support of parties or coalitions with the minimum of 73 seats, thus forming an absolute majority of 165 seats.

Therefore, the lengthy process of negotiations will continue and Iraq will remain without an elected cabinet for some time yet, which can only have a negative effect on the ethnic tensions that currently dominate the country. Forming a government will be no easy task as there is a lot of animosity towards Maliki from the other political parties and several parties have announced that they are utterly opposed to Maliki winning a third term (Rudaw, 2014). Therefore, the negotiations are likely to be laborious and the result might not be entirely democratic, as the winning party might not get to elect the prime minister. This only further underlines that the election system in Iraq needs to change.

#### **4. Dijla Operations Command**

In May 2012, Iraqi Prime Minister, Nuri al-Maliki, ordered the dissolving of the Iraqi Army's Diyala Operations Command and called for the creation of the Dijla Operations Command (Tigris Operation), which links the Iraqi army's 4th, 5th and 12th divisions. Maliki claimed it was created

to secure the provinces of Diyala, Salahaddin and Kirkuk but when – without the agreement of parliament – he appointed a senior member of his own party as commander of this force, fears intensified among Kurds and Sunni's that he was trying to increase his power over Iraq and establish another dictatorship. In September 2012, the Kurdish parties agreed to object to the creation of the Dijla Operation, stating that it was unconstitutional, as the constitution stipulates that the security of the disputed territories<sup>11</sup> should be jointly managed by the KRG and Baghdad until Article 140<sup>12</sup> is implemented (Aswat al-Iraq, 2012a). The Kurdish President of Iraq, Jalal Talabani, claimed that Maliki had no right to form this operation as 'the emergency is imposed with the approval of the President and the Premier', and he, as president, did not approve it (Aswat al-Iraq, 2012b). In response Baghdad claimed that it was necessary in order to combat terrorism and thus placed the Dijla Command as overseers of the police and security forces in Kirkuk, which are dominated by the Kurds (Energy Compass, 2012a).

The Kurds believe that Maliki is using the army to strengthen his hold over Iraq. Salah Dalo, Head of Kurdistan Democratic Party (KDP) Kirkuk and Garmia leadership council, illustrates this by stating that:

The Iraqi army must be for everyone not just for Maliki – Iraq is returning to a dictatorship. Kirkuk security system belongs to Maliki, not like in other cities where all the agencies belong to the governor and are under his control (Dalo, 2013).

As a direct result of the creation of the Dijla Operation and the amassing of Iraqi forces in Kirkuk, the KRG leadership created a joint command for the Kurdish *peshmerga*, security and police forces in Kirkuk (BBC Monitoring, 2012b). Following this, both Kurdish and Iraqi forces amassed in and around Kirkuk, with just 15km separating the two armies. In Kirkuk city, the Kurdish governor acted to maintain control of the city by setting up checkpoints to prevent the army from entering the city and by ordering the directors of the police not to obey orders from Baghdad (Fordham, 2013).

<sup>11</sup> The disputed territories of Iraq are those areas that had their borders changed by the previous regime and now involve disputes over the borders. They involve Kirkuk, Diyala, Ninawa, Salahaddin and the KRG.

<sup>12</sup> Article 140 of the Iraqi Constitution calls for the implementation of Article 58 of the Transitional Administrative Law (TAL) by the 31st December 2007. Article 58 calls for the normalisation of the disputed territories of Iraq, followed by a census and then a referendum on the future constitutional status (in Kirkuk's case whether it would join the KRG or not).

With tensions high, violence finally erupted in November 2012 when a gun battle ensued between the Kurdish *peshmerga* and the police (Salaheddin, 2012a). The animosity between the KRG and Baghdad continued with numerous negative statements from both sides about the other. In one such statement, Qubad Talabani, the KRG Washington representative at the time and son of Jalal Talabani, said: 'Why be part of a country that a) cuts your budget, b) constantly undermines the constitution and c) then attacks you' (Today's Zaman, 2012a). Tensions remained high between the KRG and Baghdad and this was exacerbated by Barzani's visit to Kirkuk where he stated that: '[Kurds] are against the war and we do not like war, but if things come to war, then all Kurdish people are ready to fight in order to preserve the Kurdish identity of Kirkuk' (Today's Zaman, 2012b).

The situation in Kirkuk seemed to be improving by December 2012 when Baghdad and the KRG reached a preliminary agreement to let the inhabitants of the disputed areas oversee their own security and thus replace Kurdish and Iraqi forces (Today's Zaman, 2012c).<sup>13</sup> Despite this agreement, in December 2012 Kurdish forces shot at an Iraqi military helicopter, which they claimed was taking pictures of the position of their forces (Ditz, 2012). Fears of conflict further increased when Talabani suffered a stroke and was hospitalized later in December, as he is seen as the calming force and mediator between Barzani and Maliki (Donat, 2012). With Talabani in hospital, negotiations between Kurds and the central government came to a standstill (BBC Monitoring, 2012c).

Additionally, the Kurds were also making threats against the government with Kurdistan Alliance member, Adel Berwari, claiming that they could withdraw Kurdish ministers from the government and declare the independence of Kurdistan economically if the federal government continued to refuse to pay the dues of the oil companies operating in the KRG (National Iraqi News Agency, 2013a). This followed the ratifying of the 2013 budget, which was done in the absence of those parties that were boycotting the parliament, including the Kurds.

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<sup>13</sup> The implementation of this agreement is another matter as it would take a great deal of time and would be an extremely difficult task with no actual consensus on the future of the disputed territories.

To sum up, many question the legitimacy of Maliki's claims that the Dijla Operation was created for security and believe rather that it is part of a political game being played over the disputes between the KRG and Baghdad.<sup>14</sup> Furthermore, Maliki used the Dijla Operation to consolidate his power, which was fragile due to him not winning the 2010 elections.

## 5. Hydrocarbon Issues

One of the main disagreements between Baghdad and the KRG is the dispute over hydrocarbon legislation. The lack of a consensus on a new hydrocarbon law has created several issues between the central government and the KRG. The central government is displeased with the KRG signing oil contracts with international companies, such as Exxon Mobil and Chevron, and exporting oil to Turkey independently of the central government. The Iraqi Oil Minister, Abdul Kareem Luaibi, stated that the central government would sue those companies involved in 'trafficking' oil out of the KRG and he also announced that the central government was considering cutting the KRG's 17% share of the budget (International Oil Daily, 2013). In a similar manner the Deputy Prime Minister for Energy Affairs, Hussein al-Shahristani, accused the KRG and oil companies of smuggling oil out of the country (Today's Zaman, 2013a).

At the same time, the KRG regards the central government negotiating to sign a deal with BP to exploit fields in Kirkuk as unconstitutional, due to the fact that Kirkuk is part of the disputed territories and therefore such a deal requires agreement from all parties. Furthermore, the KRG claim they are owed money to pay the oil companies who were supplying oil to the centrally controlled Ceyhan pipeline. The KRG claim they are exporting oil because they are not receiving their 17% share of the budget, nor are they receiving oil for power generation and export payments for the oil exported through the Ceyhan pipeline, as per the constitution. This stance is highlighted by Falah Mustafa, KRG Foreign Relations Minister:

We will not accept somebody like Shahristani to sit in Baghdad, to impose his will or to determine what we will do. The binding document, the only document that binds

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<sup>14</sup> This was voiced by all the Turkmen and Kurds who were interviewed by the author when questioned on the Dijla operations.

us with Iraq, is the constitution; if it's not respected then it does not have any value for us (Mustafa, 2013).

These oil disputes have been ongoing for several years and with the constitution not clear on the matter and neither party willing to concede, it is difficult to see how these issues will be concluded (Mazouri, 2012).

In addition, at the end of March 2013, the Turkish Prime Minister announced that Turkey was discussing terms with the KRG for an energy agreement that would involve linking the KRG directly to the Ceyhan pipeline (IntelliNews, 2013). On 14 May 2013, Turkey's Prime Minister announced that the Turkish state-owned oil company, Turkish Petroleum International Company, signed a deal with Exxon to develop hydrocarbons in the KRG (IHS, 2013a). As a result of the turmoil in Iraq and the disagreement with the Kurds over a new hydrocarbon law, Iraq was forced to reduce its future oil production targets (Ingram, 2013a). Meanwhile, despite the threats by Baghdad, the oil being trucked to Turkey increased to as much as 70,000 barrels a day (Reuters, 2013a). The KRG energy minister, Ashti Hawrami, announced that the oil pipeline to Turkey would be completed by the end of September 2013 and would initially have the capacity to export 300,000 barrels per day (Reuters, 2013b). Thus, firmly announcing to Baghdad that the KRG are willing to go ahead without them and the onus is with Maliki to negotiate as the Kurds still maintain their role of kingmaker in 2014 national elections (IHS, 2013b).<sup>15</sup>

On 27 November 2013, the KRG and Turkey finalised their agreement for exporting oil and gas to and through Turkey (Khoudouri, 2013). The following month, the KRG began exporting oil to Turkey, with Turkey buying 50% and the remainder sold on the international market (Rudaw, 2013). Thus, the Kurds no longer have to rely on Baghdad for their 17% of the budget and will be free to manoeuvre as they please, leading to Maliki no longer being able to exert what little pressure he was able to. The hydrocarbon related issues are key in the disputes between the KRG

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<sup>15</sup>Due to the political makeup of Iraq there is no outright winner following the national elections and therefore the Kurds have the ability to make a government/prime minister through the number of seats they hold in parliament. This could have been the reason for Maliki's visit to the KRG in June 2013 and his meetings with Barzani, as he still needs the Kurds; the Sunni 'uprising' doesn't seem to be slowing down and during the provincial elections there was a decrease in votes for both his party and that of the moderate Sunnis. Therefore, the Kurds become important in forming a winning coalition.

and Maliki, but they are also part of the wider problem of Maliki's grab for power and the lack of power sharing which has led to the Sunni's discontent, an issue that has been discussed above.

## **6. Proposed Solution**

The difficulties that have arisen as a result of the 2010 election results, as documented in this paper, make it even more of a mistake that the election laws have not been changed. It also highlights the irresponsibility of the early withdrawal of the US from Iraq, as legislation such as this should have been passed whilst they still maintained a presence (Bezhan, 2013). Nevertheless, change is necessary, if the unity of the state and democracy in Iraq are to stand a chance. What follows is a proposal on how the current system should be adapted to better serve such a purpose.

Preventing the delay in Iraq's government formation is technically a relatively easy process and can be done by allocating ministerial portfolios through sequential proportionality rules (SPR). This would result in a broader coalition (in terms of parties that are not politically linked), as every party who chooses to join the government can, providing they have enough seats. In order to introduce this process, the current government would have to decide to introduce it into the constitution. Seeing as they did eventually form a coalition government consisting of all the major parties, implementing SPR would be the next logical step. However, this would have to involve those currently in power eradicating the very system that put them in power. Therefore, although SPR would be a fairer process for dividing the portfolios, would not take nine months to complete, and would prevent the forming of coalitions after the elections, its implementation would be difficult and should have been instigated by the US when they still maintained significant influence.

SPR allows for proportionality in the cabinet and leads to the creation of a power sharing cabinet. SPR results in the immediate election of a government; rewards parties based on votes rather than political manoeuvring; prevents individuals and parties from amassing unwarranted power; prevents boycotts or resignations from blocking the political system; and allows for issues to be addressed in parliament rather than on the ground. Therefore, its implementation would prevent

the issues with power sharing that have led to the current discontent and the resulting intensification of conflict in Iraq.

The two main methods of SPR are d'Hondt and Sainte-Laguë. Both these methods allow for a different amount of parties to be involved in the cabinet. Table 1 and Table 2 demonstrate the differences that would occur if the same results were used to decide a cabinet with the different methods. Table 1 demonstrates how the positions would be allocated following the d'Hondt rule (O'Leary, Grofman & Elklit, 2005).

Table 1

Position	Party 1	Party 2	Party 3	Party 4	Party 5	Party 6
[1]	39	20	17	15	10	11
[2]	19.5	20	17	15	10	11
[3]	19.5	10	17	15	10	11
[4]	13	10	17	15	10	11
[5]	13	10	8.5	15	10	11
[6]	13	10	8.5	7.5	10	11
[7]	9.75	10	8.5	7.5	10	11
Total won:	3	1	1	1	0	1

Table 2

Position	Party 1	Party 2	Party 3	Party 4	Party 5	Party 6
[1]	39	20	17	15	10	11
[2]	13	20	17	15	10	11
[3]	13	6.7	17	15	10	11
[4]	13	6.7	5.7	15	10	11
[5]	13	6.7	5.7	5	10	11
[6]	4.3	6.7	5.7	5	10	11
[7]	4.3	6.7	5.7	5	10	3.7
Total won:	2	1	1	1	1	1

As Party 1 has the highest number of seats, 39, they win the first position or cabinet. Their total number of seats is then divided by the first divisor, two, giving them a total of 19.5. The highest total in the next round is the 20 seats that Party 2 hold, therefore they win the next position and their total is divided by the first divisor, leaving them with 10. In the third round Party 1 has the



highest total again, 19.5, therefore gaining them another position. Now their original total is divided by the second divisor (as this is their second seat) of 3, leaving them with 13 for the next round. This process continues until all the positions are allocated.

Table 2 demonstrates how the positions would be allocated following the Sainte-Laguë method (O'Leary, Grofman & Elklit, 2005). By changing the divisors to 3, 5, 7, etc. the smallest party, Party 5, wins a position that it was unable to win following the d'Hondt method. This demonstrates how the Sainte-Laguë method allows small minority parties a greater chance of winning a position in the cabinet. Therefore, although both these systems create proportionate power sharing, the levels differ and the feasibility of each option must be analysed within the dynamics of the situation.

When analysing the feasibility of these two systems for Iraq, the 2006 cabinet will be used as a benchmark, as through the negotiations to form the government following the 2010 elections, even more ministries were created in an already ministry-heavy parliament. The cabinet in 2006 consisted of 40 ministers, including the prime minister and his deputies and not including the president and his deputies (BBC, 2006). This figure (although even this is unnecessarily high) will be used to analyse the affects that the two leading SPR methods, d'Hondt and Sainte-Laguë, would have on the formation of the government using the 2010 election results. For this analysis the prime minister and his deputies will be chosen through SPR, although this could easily be changed so that they are allocated separately to the parties with the three highest numbers of seats, as done in, for example, Northern Ireland. Table 3 demonstrates the results using d'Hondt and gives the number of portfolios each party would win based on the principles demonstrated above.<sup>16</sup> Under this system both al-Iraqiya and State of law (SLA) would win 12 portfolios each, however as al-Iraqiya has the most seats they would get to elect the prime minister.

The coalition created through the d'Hondt method would consist of five parties, including the Kurdish Alliance (KA) and Gorran. In this system al-Iraqiya and SLA would each have 30% of the portfolios in the cabinet, which is relatively close to the percentage of seats they won. This system

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<sup>16</sup> This table is calculated using the DHSLSysCalc.xls developed by Michael Gallagher and is available from [http://www.tcd.ie/Political\\_Science/staff/michael\\_gallagher/EISystems/index.php](http://www.tcd.ie/Political_Science/staff/michael_gallagher/EISystems/index.php)

would prevent the current situation where SLA and the National Iraqi Alliance (INA) were able to form a coalition after the election, which thus prevented al-Iraqiya from electing the prime minister.

Table 3

	Total	al-Iraqiya	State of Law	INA	KA	Gorran
Seats	325	91	89	70	43	8
Quotas	45.77	12.82	12.54	9.86	6.06	1.13
Portfolios	40	12	12	9	6	1
% seats	100.00	28.00	27.38	21.54	13.23	2.46
% portfolios	100.00	30.00	30.00	22.50	15.00	2.50
(s-v)sq	23.23	4.00	6.84	0.92	3.13	0.00
(seats)sq	0.22	0.08	0.07	0.05	0.02	0.00
(portfolios)sq	0.25	0.09	0.09	0.05	0.02	0.00

Table 4

	Total	al-Iraqiya	State of Law	INA	KA	Gorran	Tawafuq	KIU	Unity of Iraq
Seats	325	91	89	70	43	8	6	4	4
Quotas	40.63	11.38	11.13	8.75	5.38	1.00	0.75	0.50	0.50
Portfolios	40	11	11	9	5	1	1	1	1
% seats	100.00	28.00	27.38	21.54	13.23	2.46	1.85	1.23	1.23
% portfolios	100.00	27.50	27.50	22.50	12.50	2.50	2.50	2.50	2.50
(s-v)sq	7.27	0.25	0.01	0.92	0.53	0.00	0.43	1.61	1.61
(seats)sq	0.22	0.08	0.07	0.05	0.02	0.00	0.00	0.00	0.00
(portfolios)sq	0.22	0.08	0.08	0.05	0.02	0.00	0.00	0.00	0.00

Table 4 demonstrates the formation of the cabinet using Sainte-Laguë. Although by using Sainte-Laguë the allocation of the prime minister and his deputies remain the same, al-Iraqiya and SLA each see their percentage of the portfolios decrease to 27.5%. This also sees the addition of three extra parties to the coalition, with one portfolio each. Due to the high amount of positions within the cabinet in Iraq, a party with as little as 1.23% of the total seats could win a portfolio within the cabinet using Sainte-Laguë. For this reason Sainte-Laguë is not suitable for Iraq as it would result in minor parties gaining too much power and would create a coalition too large to operate successfully. Therefore, if Iraq is to prevent the situation created following the last two elections – where it took nine months to form a government – d’Hondt is the SPR system most suited to the

dynamics within Iraq. By using d'Hondt the cabinet would be chosen within days and negotiations involving important issues would not be able to take place before the government was formed. Furthermore, this would also prevent the creation of more cabinet portfolios and it would not allow parties that do not have the highest number of seats to elect the prime minister. Thus, this process would result in more stability within the political system and would prevent negotiating and bargaining prior to the formation of the cabinet. Therefore, the Iraqi political system would benefit greatly by introducing d'Hondt for the allocation of the cabinet portfolios and the lack of a government would no longer be a factor in creating uncertainty. Another key benefit of SPR is that a party cannot threaten to leave a coalition in order to disrupt the government, as the next party in line would merely replace them.

This is not to say that d'Hondt does not have its own problems and that its installation will prevent other issues from arising. It does have some issues, but the question is whether these are greater than the issues that exist without it. One such issue is in the selection of ministries, where parties are not selecting them entirely on their first preference, but rather as part of a strategy to limit the ministries that will be available to the other parties. This includes not selecting first choice ministries due to knowledge that this will not be selected by the party who has the next choice; not selecting ministries because of knowledge that a favourable party (usually one from the same ethnic/religious sect) will select this ministry next; and finally selecting a ministry purely to prevent it from going to another party, even when a more prestigious ministry is available (O'Leary, Grofman & Elklit, 2005). There is also the possibility that SPR can result in ministerial fiefdoms; by running d'Hondt immediately after the elections without deciding on government policies ministers can run their ministries as they see fit without any coherence towards an overall government strategy (Neale, 2011). However, the bottom line is that, in Iraq, it took nine months to elect a government, therefore any ministerial fiefdoms that are created through d'Hondt are a better option than no ministries being created all together. Moreover, these ministerial fiefdoms, if indeed created, are far better than the current government, which is bordering on authoritarianism. Although issues do arise through using

d'Hondt to select ministerial portfolios, these issues have a lesser effect on the governance of the country than the option of not using d'Hondt at all.<sup>17</sup>

Iraq did eventually amend its electoral law for the April 2014 national elections and this did include the addition of Sainte-Laguë. Unfortunately, this was not for the allocation of portfolios, but rather for that of seats in the parliament (Visser, 2013a). Furthermore, the change was for a modified version of Sainte-Laguë (adjusting the divisors to make it less proportionate), and according to Reidar Visser it might not necessarily lead to more proportionality than the current largest-remainder system. The system was changed due to the fact that the Federal Supreme Court of Iraq ruled the previous system to be unconstitutional following a complaint from the Iraqi Communist Party (Visser, 2013b). Therefore, although any addition to the electoral law that makes the parliament more representative can be seen as a positive, this amendment may not necessarily result in such a development. Furthermore, the main issue of creating a government and preventing the boycotts, changing of lists, etc. was not addressed. Thus, we may have to wait a lengthy period for the formation of the government whilst Iraq is in a precarious situation, which will only deepen without a valid operating government.

## 7. Conclusion

As shown in this paper, ethnic and sectarian violence is happening across Iraq at its highest level since 2008. With months of extreme sectarian and ethnic violence, it is hard to avoid the conclusion that Iraq has indeed entered into a de facto civil war. For example, a spokesperson for the *Asayesh* (Kurdish security police) in Kirkuk claimed: 'There is a civil war on the ground, but they haven't declared it, but they are killing everybody, they are killing by car bombs, by guns, they are killing everybody and there is a civil war on the ground (Azad, 2013).'

This paper draws to two key events – the storming of the Hawija protest camp and the arrest of Iraqiya MP Ahmed al-Alwani under terrorism charges – where the government's actions have led to the Sunni dissatisfaction translating into violence. It also examined the core problems that have

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<sup>17</sup> d'Hondt is successfully used in Northern Ireland, where they previously had trouble in forming a power sharing government.

led to a breakdown in relations between the Kurds and the central government, with the creation of the Dijla operations bringing them to the brink of war. This article has argued that the issues that have caused dissatisfaction (amongst both Kurds and Sunnis) stem from the system of governance in Iraq and it is therefore imperative that this system is changed to better suit the needs of the Iraqi society. As the political situation and the violence in Iraq is far worse than at the time of the last national elections, the prolonged formation of the government could revert Iraq back into the turmoil it witnessed in the early days following 2003.

It is of utmost importance to address the issues that undermine and perpetuate the rise in conflict in Iraq. This paper is an investigation into the causal structures of violence and conflict and through an examination of these it has formulated policy recommendations for Iraq that can prevent the escalation to all-out ethnic conflict following the elections. This paper has analysed the current situation in Iraq and has outlined how changes to the election law, by using d'Hondt for the allocation of cabinet portfolios, can positively alter the entire political process in Iraq and create power sharing where all ethnic groups are represented, rather than the current model, which is verging on authoritarianism. There is a fine line between success and failure in power sharing and in a country that suffers from ethnic and sectarian conflict this is only magnified. Therefore, the formation of a power sharing government cannot be left to negotiations by politicians, but must rather be backed by strong institutional methods.

It is imperative that the current system is replaced as dissatisfaction with it has caused ethnic and sectarian violence. With Iraq in such a perilous position, and with the electoral system not being changed for the national elections, one fears that Iraq may reach the stage of all out sectarian or ethnic war during the protracted formation of the government. The cost of such developments are likely to be extremely high for the people of Iraq, as well as for the region as a whole.

Since this article was written (spring 2014) ISIL have significantly strengthened their position in Iraq and have captured even more territory (beginning on 6 June 2014). The lack of an elected government has allowed for this issue to gain force and it has brought Iraq towards a real crisis. It is of paramount importance for the future of Iraq that the issues responsible for the growth of ISIL are addressed adequately and in a timely manner. The lack of a government and the problems

with power sharing within the government are partly responsible for the re-emergence of ISIL. It is therefore imperative that the system for the allocation of portfolios is changed as soon as possible, a matter that this article has addressed.

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