Consociationalism in Iraq after 2003

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Abstract

This thesis explores whether Iraq was a consociational democracy both formally as well as in practice from 2003 to 2014. Consociational theories suggest that democracies that encompass the consociational principles of proportional representation, autonomy, power sharing government, and the protection of key community interests by mutual veto provisions are more stable. Consequently, consociational principles have frequently been promoted in conflict-affected environments, including in Iraq. The thesis examines how and to what extent each of these elements is reflected in the constitution, and in government practice in Iraq. The analysis is divided chronologically into three parts: the US-led occupation and drafting of the constitution (2003 – 2005), the first election and the continued US military presence (2005-2010), and the period after the second election and the withdrawal of coalition forces (2010-2014). The thesis examines the consociational character of Iraq's institutions and the degree of its implementation in the period in question through the analysis of key legal texts, and process tracing informed by primary documentary and news sources, as well as extensive elite interviews. On the basis of this empirical investigation, it finds four things. First, consociationalism is only partially reflected in the formal, constitutional provisions for Iraq's governing institutions. Important practices, such as power sharing, have no constitutional basis in Iraq, and are at best implicit. Despite this, they are at times a prominent aspect of governance practice in Iraq, but at other times (e.g. during the second Maliki government for 2010 and 2014) are undermined in practice. Second, there is strong path dependence in the interpretation and implementation of consociational provisions in Iraq. Thus, the way in which consociational provisions were formalised in the constitution and later implemented cannot be understood without reference to the consociational practices of the occupation regime, for example. Third, the degree to which consociationalism has been implemented depended on the political willingness of the political leadership of the country's major communities, and the political leverage of the US. When US forces withdrew, and commitment in particular of the Shiite political leadership around Prime Minister Maliki to power sharing and other consociational elements declined, the consociational character of the institutions was increasingly compromised. Fourth, the partial application of, and weak commitment to, consociationalism in Iraq meant that the institutional provisions implemented could not effectively work as a conflict resolution tool. While partially reflected in the constitution and in some legislation, it could only ever be partially implemented. Thus, it did not lead to peace, stability, and sustainability. The gap between communities widened, resulting in the Sunnis' emphasis on the creation of their own region, while the Kurds decided to hold an independence referendum in September 2017.

Dedication

This thesis is dedicated to my late father (Haji Mohammad Aziz Glejaly), who suffered severely under Saddam's regime. My father's house and business were destroyed in Saddam's military campaigns against the Kurds. He was a man of great optimism despite all these odds. He was convinced that sooner or later, the Kurds would be freed, and he dreamt of an independent Kurdistan. I know that if he were alive, he would be proud of me, because he had high aspirations for my future. He always encouraged me to work hard, which enabled me to become the person I am today.

Declaration of Original Authorship

I confirm that this is my own work and the use of all material from other sources has been properly and fully acknowledged.

Ibrahim Aziz

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I thank Allah for this achievement and *all Praise is for Allah by whose favour good works are accomplished.*

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List of Abbreviations

AV: Alternative Vote

CDC: Constitutional Drafting Commission

CoM: Council of Ministers

CoR: Council of Representatives

CPA: Coalition Provisional Authority

FC: Federation Council

GNPG: Genuine National Partnership Government

IAF: Iraqi Accord Front

IGC: Iraqi Governing Council

IHEC: Independent High Electoral Commission

IIG: Iraqi Interim Government

INA: Iraqi National Alliance

INC: Interim National Council

IS: Islamic State

ISCI: Islamic Supreme Council of Iraq

KIG: Kurdistan Islamic Group

KIU: Kurdistan Islamic Union

KRG: Kurdistan Regional Government

MP: Member of Parliament

NA: National Alliance

NUG: National Unity Government

PDK: Kurdistan Democratic Party

PR: Proportional Representation

PUK: Patriotic Union of Kurdistan

SC: Security Council

SCIRI: Supreme Council for the Islamic Revolution in Iraq

SoL: State of Law

STV: Single Transferable Vote

TAL: Transitional Administrative Law

TG: Transitional Government

TNA: Transitional National Assembly

UIA: United Iraqi Alliance

Table of Contents

List of Tables

Chapter 1 Introduction

1.1   Introduction

In the year 2003, the invasion of Iraq by the US and its allies altered the very fabric of Iraq's political system, consequently toppling Saddam Hussein's long regime. As a result of the invasion, Iraq could not return to its original political state. The question of the form that the new Iraqi regime would take was front and centre after the invasion: what would Iraq's new political institutions look like? The previous political structure was not widely accepted because a particular group of people had dominated the entire system. This situation was reported by Stansfield, who noted that "the dominance of Iraq by Sunni Arabs was striking."[1] In particular, they controlled high-level positions without considering representatives from other communities. This meant that a single community "dominated out of all proportion to their population size."[2] The regime change became, therefore, a good opportunity for other communities to participate in the political institutions in proportion to their populations. Thus, the US invasion, and the abandonment of Saddam Hussein's previous style of governance and highly personalised rule led to an opportunity to rebuild political institutions and reshape the political system.

At this point, the Iraqi people were presented with the chance to look for another political system, which would retain all communities' participation. This system was consociationalism. Consociational democracy is a system designed to draw disparate communities together to share power. Lijphart defines consociational democracy as "government by elite cartel designed to turn a democracy from a fragmented political culture into a stable democracy."[3] The creation of this kind of system should be attempted through consociational elements, consisting of "grand coalition, proportionality, mutual veto, and cultural autonomy."[4] These aspects are important for making power-sharing arrangements in deeply divided societies. They aim to reduce ethno-religious conflict and implement stability, with power balanced among different communities. Regimes change in a two-part process: first, the old regime is removed and second, it is replaced by a new regime.[5] Stansfield argued that in the case of Iraq the second part "proved to be more problematic and ultimately far more dangerous" than the first.[6] Power-sharing arrangements were one of the most critical problems facing those involved in Iraq's regime change. The US-led coalition forces were invested in working to form political order according to power-sharing arrangements, and recognised that they needed to do this by "bring[ing] Iraq's leaders together to negotiate a power-sharing deal."[7] Essentially, it was the main responsibility of the US-led coalition forces to rebuild the political system and outline new political institutions because the US was recognised as an occupying

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[1] Stansfield Gareth, *Iraq: People, History, Politics*, Hot Spots in Global Politics (Cambridge: Polity, 2007). P.47
[2] Ibid. P.47
[3] Lijphart, Arend, "Consociational Democracy," *World Politics* 21, no. 02 (January 1969): 207–25.
[4] Lijphart, Arend, *Democracy in Plural Societies: A Comparative Exploration* (New Haven: Yale University Press, 1977). P 36.
[5] Stansfield, Gareth, *Iraq*. P.159
[6] Ibid. P.159
[7] Khalilzad, Zalmay, *The Envoy: From Kabul to the White House, My Journey through a Turbulent World*, First edition (New York: St. Martin's Press, 2016). P.233

country.[8] The US kick-started the process by establishing the Iraqi Governing Council (IGC), a system founded on broad-based representation.[9] This meant that for the first time since Saddam's regime all communities could participate in the political process, and work towards achieving power-sharing arrangements.

Naturally, the question arises as to why a system of consociationalism should have been chosen in the first place. There are many reasons for selecting consociationalism in Iraq. First, consociational democracy leads to reducing conflict among ethno-religious groups. Since 1921 Iraq "has been plagued by political instability and violence."[10] Consociationalism is a mechanism designed to reduce violent conflict in divided societies, of which Iraq is very much an example. Second, in an ideal consociational democracy everybody has a voice and contributes to the political process. This can be attained when a society implements consociational elements. [11] There are many countries, previously divided, for which implementing a consociational system worked effectively in managing conflict resolution.[12] It is, therefore, a system that would suit Iraq in solving its issues and creating equal opportunity for all communities to participate in the political process.

Creating consociationalism after the regime change was the clear intention of the actors involved; however, was it able to be implemented in practice? There were many indications describing the operation of the system, and these did not seem to reflect the values of consociationalism. While formally the Iraqi system resembled a consociational system, it is difficult to describe the way that it has actually operated since 2005 as consociational. So, it is crucial to explore the main question: was Iraq a consociational democracy, in its formal institutions as well as in practice? This question is composed of multiple avenues of investigation. First, we must look at how consociational elements are reflected in the permanent constitution. Second, we need to examine the implementation of consociational aspects from 2005 up to 2014, the end of Maliki's government, through the legislative and executive power of the parliament and government. This thesis will concentrate on connections or divergences between formal or informal examples of consociationalism, and the actual practice of these during the period under investigation. This will assist in understanding the reality of consociational democracy in Iraq, which is a controversial point among proponents and opponents of the consociationalism of Iraq.

I argue that consociational elements are partially reflected in the permanent constitution, which is examined in chapter 4, but that the entire constitution contains provisions compatible with consociationalism. This is because there were several constitutional provisions that required collaboration among all communities, such as the two-thirds majority

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[8] "UN Doc. S/REG/ 1483," May 22, 2003.

[9] Bremer, L. Paul and McConnell, Malcolm, *My Year in Iraq: The Struggle to Build a Future of Hope* (New York: Simon & Schuster, 2006).

[10] Davis, Eric, *Memories of State: Politics, History, and Collective Identity in Modern Iraq* (Berkeley: University of California Press, 2005). P.11

[11] Lijphart, Arend, "The Puzzle of Indian Democracy: A Consociational Interpretation," *American Political Science Review* 90, no. 02 (June 1996): 258–68. P.258

[12] Arend Lijphart, "The Puzzle of Indian Democracy: A Consociational Al Interpretatio," *American Political Science Association* 90, no. 2 (June 1996): 258–68. p.259

of parliament required for forming federal council, as outlined in Article 65.[13] In addition there were agreements among political leaders from different factions for achieving a broad-based government, like the Erbil agreement.[14] Obviously, there were attempts to implement consociational elements through political institutions and the political process. From 2003 to 2014, the Iraqi people held four parliamentary elections and formed five cabinets. In each step there were different processes of implementation of consociational elements. These are subject to more discussion in order to investigate the actual practice of the consociational elements.

There were many actors affecting the political process in Iraq, which impacted the implementation of power-sharing arrangements. Two groups of actors had a strong role to play in the political situation: the US-led coalition (externally) and individual political leaders (internally). Internal actors consist of the different groups affected by the political process, on account of their participation in rebuilding the Iraqi state. The post-Saddam period brought new political leaders from among the Shiite, Sunni and Kurd communities to govern Iraq. Compared with the twentieth century, their roles had changed, and each one was allocated a different position under new circumstances, where all three groups were supposed to share power. At the beginning of the post-2003 period, Iraq's role was limited to simply following the US's orders through the Coalition Provisional Authority (CPA). This meant that while Iraqi leaders participated in the political institutions, the final decision was always taken by the CPA, which was headed by L. Paul Bremer.[15] After the CPA dissolved, the role of Iraqi politicians slightly increased, and they ran political institutions by themselves under the US-led coalition forces. Nevertheless, the US troops stayed until the end of 2010, and impacted the political process during that period. The post-2010 period was very different, because the political leaders in Iraq could finally act outside the bounds of US pressure. This, however, again changed the situation by increasing the level of threat from the Shiite community, particularly with Maliki as Prime Minister.

As mentioned, a number of external actors affected the political process in Iraq, but the role of the US and its overwhelming responsibility was the most dominant. According to Security Council Resolution 1483, the US and UK were recognised as an occupying country: "the Security Council recogniz[es] the specific authorities, responsibilities, and obligations under applicable international law of these states as occupying powers under a unified command (the "Authority")."[16] It gave the US and the UK the power to play a large role in rebuilding the Iraqi state and stabilising different ethnic groups. At the start of the process, the CPA formed and monopolised this power. The US supported the establishment of a new style of political system and the restructuring of political institutions in these new circumstances. Evidently, the US-led coalition's decisions and encouragement influenced the political process of adopting consociationalism because without its participation the Iraqi people would not be

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[13] Iraq, "Permanent Constitution," 2005.
[14] Bogaards, Matthijs, "Iraq's Constitution of 2005: Three Problems, Four Misconceptions, Some Suggestions," *None Published* - (2016). P.12
[15] Bremer, L. Paul and McConnell, Malcolm, *My Year in Iraq*. P.12
[16] "UN Doc. S/REG/ 1483."

ready to rebuild their political system.[17] Its impact was also felt after 2010 because when the US withdrew their troops, the implementation of consociationalism decreased. The government once again became more centralised, and instituted a political system that to all intents and purposes resembled one-man rule. This means that if you compare the period 2003-2010 to 2010-2014 in terms of the US's impact, you can see that the absence of the US resulted in a backtracking in the process of consociational democracy. Consequently, according to the above discussion, the role of the US-led coalition should form part of this investigation because its efforts affected the direction of the political process, particularly with regard to power-sharing arrangements.

As discussed earlier in this chapter, the implementation of consociational elements in Iraq is the main subject of this research, and the role of the US-led coalition plays a large part in this. While the internal actors played an important role, the most crucial role was played by the US from 2003 to 2014. Another important point is to show the reasons for the US's desire to implement consociationalism, and how the US pushed the Iraqi people to embody power-sharing in the political system. These efforts can be seen in the US's role in negotiations to form the cabinet from 2005 to 2014, especially after 2010, when they withdrew their troops.

There are two main points that will be covered in this research. The first one will pay more attention to the reflection and implementation of consociational elements in Iraq in light of Lijphart's theory. From that point, I shall investigate the question of whether Iraq was a consociational democracy in its formal institutions as well as in practice. This will be achieved through analysing the process of consociationalism step by step from 2003 to 2014. The second point is related to the impact of the internal and external actors in the process of forming power-sharing arrangements. I will particularly concentrate on the role of the US-led coalition as an external actor and how it affected that process. These two points allow this thesis to contribute to the area of consociationalism in practice. Moreover, this is the first detailed project to undertake a longitudinal analysis of the implementation of consociationalism in Iraq from 2003 to 2014, and it will therefore make an important contribution to the field of consociational democracy in Iraq. In the following subsection, I shall discuss the overarching and sub-questions that this thesis addresses, in order to show the value of this thesis in addressing the reality of consociational democracy in Iraq between 2003 and 2014, and the role of the US in that process

1.2   Research question

The research will examine the reflection and implementation of consociationalism in Iraq between 2003 and 2014. It does not aim to test the theory of consociationalism itself, nor to reconstruct it. Rather, it is a case study, focussing on Iraq. Iraq is an interesting case because consociationalism had been planned as a strategy for post-invasion Iraq in terms of regime change. It is therefore important to ask how it was reflected formally and implemented, and which actors were invested in its implementation, given that violence continued in Iraq. The Iraqi people had accepted the permanent constitution in 2005. This constitution was compatible with the key elements of consociational democracy. Thus, the research question

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[17] Shareef, Mohammed, "President George W. Bush's Policy Towards Iraq: Change or Continuity?" (Durham, 2010), PhD Thesis, p.150.

for investigation in the current dissertation is: was Iraq a consociational democracy in its formal institutions as well as in practice from 2003 to 2014? In light of the question the thesis contributes to understanding the political developments in Iraq during the period, through the lens of consociationalism, and that it contributes to understanding why the Iraqi institutions, which were intended by the US to have a broadly consociational character, have not looked and worked in that manner in actual practice. I will conduct it on the basis of unique empirical work, which is interviews with key Iraqi senior leaders from that period and through the analysis of key legal texts, meeting minutes, memoirs and public documents.

The contribution made by this thesis is threefold. First, it illuminates the actual practice of consociationalism in Iraq, as opposed to just examining the institutional design. It is interesting because a new political system was chosen and new political institutions formed in light of consociationalism. This was the first time that all ethno-religious groups participated in rebuilding political order and representing themselves in high-level positions in order to share the power. Second, it aids our understanding of the role of the US in that process during this time period. In this case, the implementation of consociational elements was affected by two different actors, one external and one internal: the US-led coalition which was more important and the Iraqi political elites. Third, the thesis makes an original contribution through the novel empirical data and insights generated from the elite interviews with Iraqi politicians that underpin this analysis. Thus, the question will be answered by investigating how actors thought and dealt with new situations and how consociational democracy was applied after Saddam Hussein's regime.

Another crucial point is the reasons for selecting the time period from 2003 to 2014. By 2003, the regime had changed, and a new political process had started, with the formation of political institutions by the US-led coalition, and the composition of the permanent constitution in 2005. The new political process followed, consisting of two elections and two cabinet governments until 2014. In order to clarify what motivated this particular choice of political process, the research is divided into three sections. The first part consists of the time period between 2003 and 2005. It involves the constitution-making process under formal US occupation. The second part covers the time period between 2005 and 2010, the post-election period, as well as a period that saw a large US presence. This period was also characterised by violent conflict among ethno-religious groups. The third period, from 2010 to 2014, consists of the time after the US withdrew troops, when the US presence had greatly lessened and therefore exercised less influence. This meant that Iraqi politicians had more autonomy than before. Accordingly, this thesis assesses the influence of external actors. It has the advantage of being able to analyse the fate of consociationalism both while the US was present and afterwards, in its absence. It also allows us to examine the evolution of different institutions over time, and the political dynamics that underpin this.

In light of the above, the research question can be divided into several sub-questions in order to provide an answer to the main research question. The first sub-question is: to what extent has the theory of consociationalism been reflected in the permanent constitution? This question is investigated in chapter four, which investigates the main part of the research question. This is a good foundation for the other empirical chapters, which deal with the

implementation of consociationalism. The second sub-question is: what was the process leading up to the permanent constitution in 2005? Chapter five focuses on this question and includes a sustained discussion about the political process from 2003 to 2005. It was during this crucial period that the constitution was drafted, and it was this document that encapsulated the fundamental framework for institution-building. Since the constitution offers a formalisation of the consociational model, studying this document, and the political processes that led up to it, is of high importance. Clearly, it is vital to discuss how the process was conducted, especially when attempts are made to apply the consociational model. The third question is: to what extent were consociational elements implemented between 2005 and 2014? The answers to this sub-question are located in two final chapters, chapters six and seven. The structures of both chapters are divided into four subsections: grand coalition, proportionality, mutual veto, and segmental autonomy. In both chapters, I examine the implementation of consociational elements to rate the success of each principle. This is very helpful in obtaining an answer to the main research question, especially that part related to the practice of consociational democracy in Iraq.

A number of smaller questions assist in investigating the main questions. These include: which actors were involved at each stage? What were their views on consociationalism? Did they want it? What did the actors do to pursue their wishes? What was their role during this period? What was the role of the US? How did the various actors interact with each other to produce outcomes? What were the processes through which the outcomes were reached? What were the outcomes? To what extent and in what ways did they embody consociationalism? To what extent were consociational arrangements in fact created?

Between 2003 and 2014 Iraq, as a country, faced political instability during the implementation of a new political system, which was incompatible with the main purpose of consociational theory. Empirically, there was no real power-sharing arrangement among all groups, although such an arrangement is necessary for maintaining political stability in deeply divided countries. The reason was that the political institutions were not inclusive, and an imbalance in contribution to the political process had occurred. Specifically, the Sunni community had been neglected in the governing process, which resulted in a lack of Sunnis participating in the political institutions. Another critical point was that instead of power-sharing among all communities, the form of the government looked like one individual against many. This meant that consociational democracy had not been applied perfectly, and did not create the balance and stability among Iraqi people that had been expected.

This study argues that while all groups formally accepted the consociational elements and demanded the implementation of them, this did not make them reflect and implement perfectly. The Iraqi case did not depend only on the internal political elite because the US played a large role in forming power-sharing arrangements. In addition, the implementation of consociational principles in Iraq has shown that the US affected that process. Investigating this argument requires looking for a reflection of consociational principles in Iraq's formal political institutions and in the implementation of them. Through this, this research will uncover what went wrong during that period and will develop suggestions for a better implementation of consociationalism. The implementation of consociational elements could

be improved in Iraq because it is one important option for creating a balance among ethno-religious groups, if all groups really do want to practise true consociationalism. The following sections explore the structure of the dissertation, chapter by chapter.

1.3   Structure of the Dissertation

The first section of the dissertation provides the theoretical background to consociationalism, and a review of the literature. The second section will look at formal institutions, and the formal reflection of consociationalism, as represented, for example, in the permanent constitution. The third section consists of an empirical analysis, which examines consociationalism in practice. It is divided into two periods, 2005-2010 and 2010- 2014, each corresponding to one election period. During the first period, Iraq was subject to the presence of the US-led coalition, while during the second, the US was no longer a presence in Iraq. Thus, through these three sections, the thesis examines the formal (institutions) and informal (practices) application of consociationalism in Iraq.

At the level of chapters, chapter 2, which follows this introduction, provides a literature review about consociationalism and its practise in Iraq. It is divided into three subsections: 1) the theory of consociationalism; 2) consociationalism in Iraq; and 3) US-led state rebuilding in Iraq. It focuses on Lijphart's theory and those who supported his approach to governing deeply divided societies. On the other hand, it puts forwards Horowitz's approach about integration, which is opposed to the theory of consociationalism. In addition, it discusses how existing literature contributes to the implementation of consociational democracy in Iraq. Thus, it helps to identify the research gap and determine a suitable question to address it. In other words, the literature review helps to know what work has already been done, and what has not yet been investigated.

Chapter 3 introduces the research methodology I have used for this research. In particular, it focuses on textual analysis and process tracing. When analysing the permanent constitution, I used textual analysis. The other method used, process tracing, was implemented wherever it was required and feasible. It is often used for single case studies, as it allows a detailed understanding of processes like adoption and implementation of practices, in this case of consociationalism in Iraq. Several pieces of data have been highlighted, and they form primary sources for the research (e.g. interviews with elite politicians, minutes of meetings). Secondary sources, written by those with expertise in the field, were also consulted.

Chapter 4 analyses two main points. First, it explores the consociational elements in the permanent constitution, and second, it compares these with similar elements in other consociational countries. It aims to understand the nature of the permanent constitution, and to what degree the theory of consociationalism is reflected in it. For that reason, the chapter is divided among four subsections, which are: grand coalition, proportionality, mutual veto, and cultural autonomy. Thus, this chapter compares the Iraqi case with other consociational countries, and aims to find out how Iraq's constitution is formally compatible with consociationalism.

Chapter 5 addresses the origins of the permanent constitution and the political process that led up to creating it between 2003 and 2005. There were many significant events that

happened during that period, which are analysed within this chapter, from which the constitution emerged. Therefore, it is crucial to explain how consociationalism was seen as a conflict resolution tool. During that time, significant actors thought that power-sharing arrangements would be the way to tackle issues among all communities. In several subsections, this chapter examines each of the new political institutions that were established between 2003 and 2005, starting with the Iraqi Governing Council (IGC) and ending with the Constitutional Drafting Commission.

Chapter 6 illustrates to what extent consociational elements were implemented between 2005 and 2010. It is structured in light of Lijphart's theory. Each section tries to examine the reality of these elements' implementation during that period. It includes crucial information and evidence supporting the arguments and answering the sub-questions. In addition, it provides external perspectives (like that of the US) about the consociational process.

Chapter 7 has the same structure and aims but covers a different time period, relating to the implementation of consociationalism from 2010 to 2014. Many interesting events took place during that time, leading to a change in the balance among participants within the political institutions. The significant change is related to the US's withdrawal of troops because directly after that Iraq experienced an increase in conflict. Thus, the implementation of consociationalism had created more instability in Iraq.

Chapter 8 is the conclusion of the thesis. It includes a discussion about the outcome of the dissertation and provides an answer to the main research question, posed at the beginning of the thesis. It is important to connect this last discussion with the aim of the study. The conclusion is based on the foregoing chapters, and the main points concern the success of the research and the answer to the research question. This final chapter draws out the overall conclusions of the work, generating new solutions and proving that the research gap that was determined at the beginning of the dissertation has been filled.

Chapter 2 Literature Review

2.1   Introduction

There is substantial literature available on consociational democracy with respect to Iraq; however, it is not specifically about Iraq from 2003 to 2014. This study focuses on those years alone. In addition, it takes as its theoretical basis Lijphart's theory of consociationalism as a conflict resolution tool. Finally, it covers the actual implementation of consociationalism in Iraq between 2003 and 2014. A number of scholars other than Lijphart have contributed to determining the features of consociationalism. Among them, there have been many debates between those who supported the idea as a solution for deeply divided societies and those who did not. Lijphart and his proponents supported the concept as a way of managing conflicts among ethno-religious groups in particular.

The aim of reviewing the literature is to demonstrate that there is a gap in scholarship. The literature currently available focuses more on formal consociationalism, and not much on its actual practice. This is the case in the context of Iraq. With that in mind, we should begin at the core of the concept, first to define it, and then to determine how far consociationalism has been implemented in Iraq. The current chapter, therefore, will discuss the main works on the subject and analyse the different arguments put forward. Within it, there are three subsections, the first setting out the literature on consociational democracy as a tool for conflict resolution, the second addressing consociationalism in Iraq in particular, and the third looking at US-led statebuilding in Iraq.

2.2   Consociational democracy as a tool for conflict resolution

As we have seen, consociational democracy is mainly based on Lijphart's theory, which was initially developed in 1968, beginning with *Typologies of Democratic Systems*, [18] *Consociational Democracy*,[19] and *Democracy in Plural Societies*.[20] In these works, he stated that deeply divided societies tend to be more stable if they apply consociationalism. He points out that "democracies with subcultural cleavages and with tendencies toward immobilism and instability which are deliberately turned into more stable systems by the leaders of the major subcultures may be called consociational democracies."[21] This type of democracy is "willing to accommodate a variety of groups of divergent ideas in order to achieve a goal of unity …"[22] In other words, a consociational democracy should make concessions for groups in order to bring all groups together in stable circumstances and "to ensure political stability in countries with deeply divided societies."[23] For Lijphart, consociational democracy involves "turning democracy from fragmented political culture into a stable democracy through

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[18] Lijphart, Arend, "Typologies of Democratic Systems," *Comparative Political Studies* 1, no. 1 (April 1, 1968): 3–44.

[19] Lijphart, Arend, "Consociational Democracy."

[20] Lijphart, Arend, *Democracy in Plural Societies*.

[21] Lijphart, Arend, "Typologies of Democratic Systems."

[22] Ibid. pp.20-21

[23] Doorenspleet, Renske and Ammar Maleki, *Understanding Patterns of Democracy: Reconsidering Societal Divisions and Bringing Societal Culture Back In. In Consociationalism and Power-Sharing in Erope, Jakala, Kuzu, and Qvortrup.*, 1st ed. (UK: Palgrave Macmillan, 2018). P.11

preparing government by the elite cartel."[24] O'Leary pointed out that "a cartel is anti-competitive, and outlawing of competition (and opposition) cannot be part of any consociations that is democratic."[25] However, might be historical tradition, memoires, and competing nationalist, religion, and ethnicity interpretations of the past affect the process of consociational institutions. [26] Lijphart pointed out, consociational government should incorporate four main elements: grand coalition, mutual veto, proportionality, and segmental autonomy; all of them work together, but the main feature is grand coalition, while the others are secondary elements.[27] Jarrett said, "if conditions are conducive, such as the willingness of former adversaries to participate in arrangements and engage with each other, consociationalism can prove to be a highly successful method of managing conflict."[28] Thus, these four elements are the building blocks for conflict reduction among ethno-religious groups in ethnically and religiously divided societies.

Later on, Lijphart classified these principles into primary and secondary elements. Primary elements include 1) grand coalition (all ethno-religious groups share political decision-making, mainly within the government), and 2) group autonomy (each group has the right to govern their own internal affairs).[29] Secondary elements include 1) proportionality (proportional representation, especially at the legislative level, proportional appointment to the civil service, and proportional allocation of public funds), and 2) mutual veto (each group has the right to exercise a veto, mainly to prevent the hegemony of political institutions by the majority group.[30] Consequently, both categories of consociational principles can take different forms, democratic or authoritarian, formal or informal, and liberal or corporate in different divided places.[31] Each of these elements performs a large role in reducing conflict among groups already divided. In short, these act as drivers for conflict resolution in a divided society, in terms of governing, participations, minority rights, and sharing power.

In 1999, Lijphart explored consensus democracy in his book *Patterns of Democracy*. It is not the same as consociational democracy, but there is little difference between consensus and consociational democracy. Lijphart pointed out that the "consensus model [is] characterised

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[24] Lijphart, Arend, "Consociational Democracy."
[25] O'Leary Brendan, ed., *The Logics of Power-Sharing, Consociation and Pluralist Federations. Settling Self-Determination Disputes: Complex Power-Sharing in Theory and Practice. M. Weller et Al., Ed* (Leiden ; Boston: Martinus Nijhoff Publishers, 2008). P. 50
[26] Loizides, Neophytos, *Arend Lijphart and Consociationalism in Cyprus. In In Consociationalism and Power-Sharing in Erope, Jakala, Kuzu, and Qvortrup* (UK: Palgrave Macmillan, 2008). Pp163-164
[27] Lijphart, Arend, *Consociationalism After Half a Century. In Consociationalism and Power-Sharing in Erope, Jakala, Kuzu, and Qvortrup.*, 1st ed. (UK: Palgrave Macmillan, 2018). P.1
[28] Jarrett, Henry, *The Limits of Consociational Power Sharing. In Consociationalism and Power-Sharing in Erope, Jakala, Kuzu, and Qvortrup.*, 1st ed. (UK: Palgrave Macmillan, 2018). P.35F
[29] Lijphart, Arend, *The Wave of Power-Sharing Democracy. The Architecture of Democracy, Andrew Reynolds* (Oxford University Press, 2002). P.39
[30] Lijphart, Arend, *Thinking about Democracy: Power Sharing and Majority Rule in Theory and Practice* (London ; New York: Routledge, 2008). P.8
[31] McEvoy, Joanne and O'Leary, Brendan, eds., *Power Sharing in Deeply Divided Places*, 1st ed, National and Ethnic Conflict in the Twenty-First Century (Philadelphia, Pennsylvania: University of Pennsylvania Press, 2013). P.27

by inclusiveness, bargaining, and compromise."[32] These characteristics are opposed to majority rule, which is exclusive, competitive, and adversarial.[33] Doorenspleet and Maleki said "while majoritarian democracy are characterized by a high concentration of political power, consensus system emphasize the importance of power sharing."[34] Therefore, consensus democracy totally opposes the majoritarian model, and concentrates on points which lead to the formation of political institutions based on power sharing arrangements. The consensus model is better at ensuring representation, particularly in terms of minority groups' participation in the political process.[35] This is in contrast to the majoritarian model, which does not allow the opportunity for minority representation, since political positions are usually dominated by the majority.

While Lijphart used consensus and consociational for power sharing in his works, there are some differences between both.[36] Bogaards pointed out that the "consociational democracy is explicitly defined in terms of both sociopolitical and political characteristics, consensus democracy is distinguished by political characteristics only."[37] Although the differences are slight, each system has its own boundaries and functions. The ten characteristics that shape consensus democracy are: executive power-sharing, executive-legislative balance of power, a multi-party system, proportional representation, interest group corporatism, federal and decentralised government, strong bicameralism, constitutional rigidity, judicial review, and central bank independence.[38] The issue with consensus democracy, as Lijphart worked out, is that it is more applicable to a society that is *not* broadly divided, and therefore functions more like an alternative to the majoritarian model.[39] This is why Lijphart strongly recommended consociational, rather than consensus, democracy for societies that are deeply divided by ethno-religious groups.[40] Thus, the preferable type of democracy for conflict reduction in the society strongly divided consists of consociational, rather than consensus, elements.

Moreover, Lijphart points out that "consociational theory challenges the two paradigmatic notions that democracy should be equated with majority rule, and that democracy is not a viable form of government in a deeply divided state."[41] In other words, in deeply divided societies, majority and minority rule cannot work as a tool for conflict resolution, because of

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[32] Lijphart, Arend, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (New Haven: Yale University Press, 1999). P.2

[33] Ibid. P.2

[34] Doorenspleet, Renske and Ammar Maleki, *Understanding Patterns of Democracy: Reconsidering Societal Divisions and Bringing Societal Culture Back In. In Consociationalism and Power-Sharing in Erope, Jakala, Kuzu, and Qvortrup.*

[35] Lijphart, Arend, *Patterns of Democracy*. P.275

[36] Lijphart, Arend, *Thinking about Democracy*. P.6

[37] Bogaards, Matthijs, "The Uneasy Relationship between Empirical and Normative Types in Consociational Theory," *Journal of Theoretical Politics* 12, no. 4 (October 2000): 395–423. P.410

[38] Lijphart, Arend, *Patterns of Democracy*. P.34-41

[39] Ibid. P.33

[40] Lijphart, Arend, *Thinking about Democracy*. P.8

[41] Lijphart, Arend, "Majority Rule versus Democracy in Deeply Divided Societies," *Politikon* 4, no. 2 (December 1977): 113–26.

the divisions between ethno-religious groups. In contrast, as O'Leary pointed out, "power sharing is intended to enhance effective and peaceful political participation, especially by minorities."[42] This is because if the majority dominate posts and ignore the minority, conflict violence is exacerbated. Thus, consociational democracy requires participation from both the majority and the minority in order to avoid a clash between both. Consociational elements function as ways to escape instability in countries facing ethno-religious conflict.

As discussed earlier, a compromise between majority and minority groups should be fundamental in deeply divided societies, because practising majoritarian democracy cannot lead to conflict resolution across ethno-religious groups. That was Lijphart's core reason for identifying the four main consociational characteristics for tackling this issue in deeply divided societies.[43]

In order to support the theory, Lijphart draws on many cases, including the Netherlands, Austria, Belgium, Switzerland, Lebanon, Malaysia, and Cyprus. By making reference to these cases, Lijphart points out that consociational democracy is an empirical and normative model, and that it is applicable to deeply divided societies.[44] He views consociational democracy as a compromise, which accommodates both the majority and minority, calling it "kinder and gentler".[45]

In light of the above, the main purpose of consociationalism is to ensure stability and peace through reducing conflict and violence. O'Leary emphasises that "power-sharing, rightly, is a standard prescription for protracted national, ethnic and communal conflicts in deeply divided territories."[46] For this reason, power-sharing is the main tool for conflict resolution, and attempts to both shape political institutions and promote collaboration among different groups. McGarry, however, believes that "peace and political stability need more than the creation of power-sharing or autonomous institutions, they also need a viable peace process."[47] According to O'Leary, the scope of consociationalism has hitherto been restricted to political institutions. As McGarry says, "consociationalists have focused narrowly on the design of political institutions, including executives, legislatures, and election systems."[48] O'Leary also argues that a narrow objective of consociationalism is "the arrangement of political institutions to prevent the monopoly, permanent or temporary, of executive, legislative, judicial, bureaucratic, military, or culture power."[49] Political institutions can, then, act as an important arena for conducting conflict management. It is through the distribution of posts among these institutions that divided countries can avoid the domination of posts by

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[42] McEvoy, Joanne and O'Leary, Brendan, *Power Sharing in Deeply Divided Places*. P.16
[43] Lijphart, Arend, "Constitutional Design for Divided Societies," *Journal of Democracy* 15, no. 2 (2004): 96–109.
[44] Lijphart, Arend, *Democracy in Plural Societies*. P. 1
[45] Lijphart, Arend, *Patterns of Democracy*. P.275
[46] O'Leary Brendan, *Settling Self-Determination Disputes*. P.47
[47] McGarry, John, *Power-Sharing Theory: Lessons from Complex Power-Sharing Project. Settling Self-Determination Disputes: Complex Power-Sharing in Theory and Practice. M. Weller et Al., Ed*, First (Leiden ; Boston: Martinus Nijhoff Publishers, 2008). P.703
[48] Ibid. P.700
[49] McEvoy, Joanne and O'Leary, Brendan, *Power Sharing in Deeply Divided Places*. P.4

a single group. Thus, resolving or reducing conflict violent among different groups in societies that are already divided is driven by consociational elements.

Another important point is the involvement of elite political leaders for achieving the aim of consociationalism. McGarry believes that "the central idea in consociational theory is that if ethnically, religiously, or linguistically-divided polities are to enjoy political stability, segmental leaders must share power."[50] Power sharing by political leaders is necessary, because if the elites do not cooperate, consociationalism does not work. More importantly, if leaders do not cooperate, conflict ensues. Consociationalism requires elites to coordinate and agree on the distribution of public resources. Supporters of consociationalism emphasise that this support of the elite can lead to a 'trickle-down' effect, as "they think that segmental leaders can engage in the politics of compromise, and persuade their followers to follow suit."[51] This is why Lijphart says "consociational democracy means government by elite cartel."[52]

It is absolutely essential for a divided society to have a power sharing system in order to ensure that decisions are made collaboratively, rather than by a majority at the top, and that is why some consociational countries such as Belgium, Lebanon, etc., have operated in this way for a long time. If there is cooperation at the highest levels of government, then this will be reflected positively among the people. There are three main factors encouraging elites to build power sharing arrangements in deeply divided societies. These consist of external threats, multiple balance of power among the subcultures, and relatively low total load on the decision-making apparatus.[53] Those factors motivate elites to cooperate to build a stable and peaceful country for different religious groups. When the leaders cooperate, the entire process moves towards reducing conflict violence between ethno-religious groups. Hence, the participation of those at the elite level is a fundamental part of consociationalism as a conflict resolution tool.

The electoral system has the important role of facilitating power sharing through the political leaders it selects. It contributes to the formation of political institutions, and shapes the relationship between parliament and government. Lijphart believes that the list forms of proportional representation (PR) are the best electoral system for building power-sharing arrangements in deeply divided societies, and recommends their use in the consociational system.[54] Because the PR system produces proportionality, it is preferable to single transferable votes. Within the PR system, the list may be open or closed.[55] Therefore, Grofman and Lijphart state that the "list PR is more attractive to established political parties

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[50] McGarry, John, *Power-Sharing Theory: Lessons from Complex Power-Sharing Project. Settling Self-Determination Disputes: Complex Power-Sharing in Theory and Practice. M. Weller et Al., Ed*.

[51] Ibid. P.691

[52] Lijphart, Arend, "Consociational Democracy." P.31

[53] Ibid. P. 217-218

[54] Lijphart, Arend, *The Wave of Power-Sharing Democracy. The Architecture of Democracy, Andrew Reynolds*. P.41

[55] Ibid. P.53

and hence much more widely used."[56] Divided societies require a system which includes representatives of all groups, and gives each group the opportunity to participate in political institutions. Political parties from each ethno-religious group try to obtain their due proportion through the electoral law, which is based on list PR. List PR, especially the closed list system, often gives political parties a good opportunity to form an "elite cartel".

Lijphart argues that "PR exists in many forms, all of which share the principle that political parties win roughly the same percentage of seats as the percentage of votes they receive."[57] This means that all ethno-religious groups will share power and contribute to the decision-making process according to the percentage of votes each entity receives in the election process. Supporters of power sharing emphasise that using a proportional representation system in the election process probably motivates consociational democracy.[58] Therefore, in ethno-religious divisions, the voting rule leads to the correct representation of voter preferences.[59] Thus, PR is a mechanism that makes cooperation among different entities highly likely, and produces proportionality for ethno-religious groups. PR makes it impossible for a single group to form political institutions, so that all groups will cooperate in structuring the House of Representatives and the government.

On the other hand, Donald Horowitz has a different vision about conflict reduction in deeply divided societies. His work concentrates on the integration of different groups, rather than managing conflict through consociationalism. In his book *Ethnic Groups in Conflict*, he suggests five main elements for reducing conflict in ethnically, religiously or linguistically divided societies. Those mechanisms consist of "1) dispersion of power, by proliferating the point of power, 2) devolution of power and arrangements that emphasize intraethnic competition, 3) incentives for interethnic cooperation, 4) strategies to encourage alternative alignments, and 5) reducing disparities between groups."[60] These elements are obviously different from the consociational elements which Lijphart proposed, as mentioned earlier in this section. Consociationalism is, then, not the only option to reduce conflict resolution in divided societies. As Brian Barry points out, generalizing consociationalism as a prescription for deeply divided societies is "much more doubtful than is commonly supposed."[61] The reason is that the cases Lijphart discusses from Switzerland, Austrian, Belgium and the Netherlands are not successful enough as evidence to support the consociationalists' claim.[62] This led to criticism that consociationalism was misrepresenting the evidence in order to support the outcome that it presumed. As an alternative to consociationalism, integrationists

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[56] Lijphart Arend and Grofman Bernard, eds., *Choosing an Electoral System: Issues and Alternatives*, American Political Parties and Elections (New York: Praeger, 1984).

[57] Lijphart, Arend, "The Alternative Vote: A Realistic Alternative for South Africa?," *Politikon* 18, no. 2 (June 1991): 91–101. P.91

[58] McEvoy, Joanne and O'Leary, Brendan, *Power Sharing in Deeply Divided Places*. P.387

[59] Grofman, Bernard, *Electoral Rules and Ethnic Representation and Accommodation: Combining Social Choice and Electoral System Perspectives. The Architecture of Democracy, Andrew Reynolds* (Oxford University Press, 2002).

[60] Horowitz, Donald L., *Ethnic Groups in Conflict* (Berkeley: University of California Press, 1985). P.598-599

[61] Barry, Brian, "Review Article: Political Accommodation and Consociational Democracy," *British Journal of Political Science* 5, no. 04 (October 1975): 477. P.481

[62] Ibid.

proposed reinforcing the central government instead of reinforcing minorities and self-governance. There are some controversial points between proponents and opponents of consociationalism in terms of managing conflict reduction.

Horowitz criticises Lijphart because, as he points out, many of the places that Lijphart mentioned (including Lebanon, Malaysia, Surinam, and Netherlands Antilles) did not have grand coalition government.[63] Horowitz points out that "each had an inter-ethnic coalition of some political parties, opposed by other parties representing the same groups."[64] This kind of coalition is not grand coalition, and does not lead to conflict reduction because it does not accommodate all main groups. Centripetalists like Horowitz proposed an alternative instrument in order to build coalition among groups: preelection agreement. The main reason for this was that centripetalists doubted that elites could really collaborate in a deeply divided society. Thus, they preferred cooperation by voters rather than elites. In light of Horowitz's approach, Reilly states that centripetalists "advocate institutions which encourage inter-communal moderation by promoting multi-ethnic political parties, crosscutting electoral incentives and intergroup accommodation."[65] Thus, integrationists demand the formation of institutions designed to induce ethno-religious groups to move towards a centre. The way in which political institutions are formed can play an important role in implementing "cooperation, accommodation and integration across ethnic divides."[66]

According to centripetalism, integration replaces accommodation through encouraging the election of moderate representatives. [67] Horowitz argues that the electoral system or electoral incentives have a huge impact on achieving coalition by political parties and voters across ethno-religious groups.[68] In discussing the position of the integrationists relative to that of the consociationalists, Stefan Wolff points out that integrationists emphasise that consociational democracy is "morally unacceptable and practically prone to collapse"[69]. As an alternative, the integrationists' proposed solution consists of "mainly electoral mechanisms to induce moderation and conflict reduction, primarily the use of the Alternative Vote, a majoritarian preferential electoral system."[70] It seems that the alternative approach mainly relies on the electoral system, especially the alternative vote (AV).

While Lijphart preferred list PR for producing proportional representation, Horowitz states that "list PR is likely to produce a great deal of party fragmentation."[71] He prefers the

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[63] Horowitz, Donald, *Constitutional Design: Proposals versus Processes. Andrew Reynolds, The Architecture of Democracy* (Oxford University Press, 2002). P.22

[64] Ibid.

[65] Reilly, Benjamin, "Institutional Designs for Diverse Democracies: Consociationalism, Centripetalism and Communalism Compared," *European Political Science* 11, no. 2 (June 2012): 259–70. P.260

[66] Ibid. P.265

[67] Horowitz, Donald, "Electoral Systems: A Primer for Decision Makers," *Journal of Democracy* 14, no. 4 (2003): 115–27.

[68] Horowitz, Donald L., *Ethnic Groups in Conflict*. P.507

[69] Wolff, Stefan, "Conflict Resolution between Power Sharing and Power Dividing, or Beyond?," *Political Studies Review* 5, no. 3 (September 2007): 377–93. P.377

[70] Ibid.

[71] Horowitz, Donald, "Electoral Systems." P.122

alternative vote (AV) because it brings moderate representation results through a process of preferences. [72] Reilly pointed out that "the apparent benefits of preferential voting in comparison to first-past-the-post for divided societies are persuasive."[73] For this reason, the centripetalists recommended the AV as a suitable mechanism for "encouraging accommodation between competing groups, by rewarding moderation in policy positions and by providing a more representative legislature."[74] This kind of outcome relies on the electoral system. Under the AV, coalitions form among ethno-religious groups *prior* to instead of after the election, because this leads to increasing their share of the vote.[75] On the other hand, list PR encourages *post*electoral coalitions that rely heavily on the performance of the elite political leaders involved. While Lijphart proposes single transferable vote (STV) in some cases, he prefers list PR to the STV, and closed list or almost closed to open list PR.[76] Arguing against Lijphart, Horowitz states that "STV provides weaker incentives to compromise than preferential systems with majority thresholds do."[77] It is for this reason that he thought the electoral system should produce "incentives for interethnic cooperation and for preelection coalitions based on vote pooling."[78]

In accordance with Horowitz's approach, the AV should effectively encourage the establishment of a multi-ethnic coalition, such as that which won the election according to the 1997 Fijian constitution.[79] These types of election are very complicated, and require a long process. In some cases, such as the Austrian election in 1990, the candidate won the seat only in the seventh round of preferences by AV.[80] Centripetalists assert that AV leads to collaboration among voters in a broad based political party system, because the they will recognise that a preferred candidate needs a majority of votes. But if centripetalism really did encourage voter collaboration, then the Austrian election would have been resolved long before it reached the seventh round of votes. Horowitz's evidence was criticised by Lijphart, who pointed out that Horowitz's evidence of AV was based on Sri Lanka's 1982 and 1988 presidential elections, which did not require second preferences, since both were won in the first round.[81] Surely if one political party or one ethno-religious group already maintained an absolute majority in a deeply divided society, then the election would be finished in the first round, without requiring second or third preferences. In that case, political institutions would be dominated by the majority group, increasing, rather than reducing, conflict violence.

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[72] Ibid. P.123

[73] Reilly, Benjamin, "Preferential Voting and Political Engineering: A Comparative Study," *The Journal of Commonwealth & Comparative Politics* 35, no. 1 (March 1997): 1–19. P.16

[74] Ibid. P.17

[75] Horowitz, Donald, "Electoral Systems." P.124

[76] Lijphart, Arend, *The Wave of Power-Sharing Democracy. The Architecture of Democracy, Andrew Reynolds*. P.53

[77] Horowitz, Donald, "Electoral Systems." P.124

[78] Horowitz, Donald, "Democracy in Divided Societies," *Journal of Democracy* 4, no. 4 (1993): 18–38. P.35

[79] Horowitz, Donald, *Constitutional Design: Proposals versus Processes. Andrew Reynolds, The Architecture of Democracy*. P.24

[80] Reilly, Benjamin, "Preferential Voting and Political Engineering." P.5

[81] Lijphart, Arend, "The Alternative Vote." P.95

Furthermore, integrationists believe that the mechanism that leads to reducing conflict violence among ethno-religious groups is the AV, which produces preelectoral coalitions. As Wolff pointed out, "it is clear that conflict reduction is to be achieved through inducing interethnic cooperation before and at the polls rather than after elections."[82] In addition, Horowitz asserts that "preelectoral coalitions across group lines required compromise on ethnic issues."[83] Thus, this type of electoral system tries to "break down the political salience of social divisions rather than foster their representation."[84] Sisk argues that "minorities should have more than representation, they should have influence." [85] In this way, integrationists concentrate on how minorities can become *stronger* in the political institution, rather than just how they can be represented. This is very much against the approach of consociationalism, which works to reinforce ethno-religious group representation through list PR. However, Reilly pointed out that the list PR offers some motivation for avoiding political fragmentation in deeply divided societies such as Iraq.[86] In the case of Iraq, it seems unlikely that the AV could bring stability and peace. The situation in Iraq requires power sharing rather than integration.

Another controversial point between centripetalists and consociationalists is the political party system. In fact, the political party system has an impact on shaping political institutions, especially in deeply divided societies, in order to manage conflict. Political parties in a consociational approach are formed along ethnic, religious and linguistic lines. According to Lijphart, a multi-dimensional party system "is very likely to occur in plural societies with three or more segments and proportional representation."[87] In addition, consociationalists prefer "parties which represent social cleavages explicitly."[88] This kind of party system is based on small vote thresholds, which commonly yield to an inclusive multiparty parliament, which encourages political leaders to cooperate in order to be a part of the coalition government.[89] On the other hand, Horowitz argues that the ethnic party system that consociationalists recommended actually fosters ethnic conflict. Because each party is ethnically-based, it will focus on its own interests.[90] Alternatively, integrationists recommended an aggregative party

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[82] Wolff, Stefan, *"Consociationalism, Power Sharing, and Politics at the Centre." In The International Studies Encyclopedia, Ed. Robert A. Denemark* (London: Blackwell Publishing, 2010). P.11

[83] Horowitz, Donald, *Constitutional Design: Proposals versus Processes. Andrew Reynolds, The Architecture of Democracy*. P.22

[84] Reilly, Benjamin, *Elections and Post-Conflict Political Development. In: Berdal, Mats and Zaum, Dominik, (eds.) The Political Economy of Statebuilding: Power after Peace*, Routledge Studies in Intervention and Statebuilding (New York: Routledge, 2013). P. 40

[85] Sisk, Timothy, *Power Sharing and International Mediation in Ethnic Conflicts*, Perspectives Series (Washington, D.C: United States Institute of Peace Press, 1996). P.42

[86] Reilly, Benjamin, *Political Economy of Statebuilding*. P.40

[87] Lijphart, Arend, "Non-Majoritarian Democracy: A Comparison of Federal and Consociational Theories," *Publius: The Journal of Federalism* 15, no. 2 (1985): 3–15. P.10

[88] Reilly, Benjamin, *Centripetalism, in Karl Cordell and Stefan Wolff (eds), The Routledge Handbook of Ethinc Conflict*, First (London: Routledge, 2010). P. 289

[89] Norris, Pippa, "Stable Democracy and Good Governance in Divided Societies: Do Powersharing Institutions Work?," *SSRN Electronic Journal*, 2005, http://www.ssrn.com/abstract=722626. P.4

[90] Horowitz, Donald L., *Ethnic Groups in Conflict*. P.291-292

system that bridges ethnic groups.[91] As we have seen, there are major differences between both approaches for dealing with the party system, because "majoritarian electoral systems are thought to encourage 'bridging' cross-identity appeals."[92] However, consociationalism supports a bonding strategy through advocating "the presence of ethnically based parties and party system."[93] A party system based on bridging conflict between ethnic groups produces institutions based on cooperation and integration among voters (across identities), rather than political leaders. Such a system leads to weak collaboration among political leaders in the parliament. In short, according to centripetalists the best instrument for conflict reduction in a plural society is the establishment of party bridging.

The creation of federal regions as one consociational element for reducing conflict violence in deeply divided societies is another debatable point. As mentioned above, consociationalists propose autonomy and federation, but centripetalists suggest centralisation. Lijphart pointed out that "in order to be able to make the federal dividing lines coincide as much as possible with the ethnic boundaries, consociational theory recommends federalism."[94] It is a good opportunity for each group to determine its territory with geographical boundaries, which leads to reducing issues among ethno-religious groups. On the other hand, Horowitz is more sceptical. He states that in a country ethnically or religiously divided, federalism and autonomy reinforce minority groups' conflict and that "the most potent way to assure that federalism or regional autonomy will not become just a step to secession is to reinforce those specific interests that groups have in the undivided state".[95]

According to Horowitz, consociational theory does not succeed in taking into account cultural and political autonomy. This is particularly because in conflict reduction there are issues regarding equality, and minority groups having to make concessions to the majority group, so it is not a simple issue.[96] Cultural and political autonomy reinforce sectarian identities, rather than tackling the issues relating to the division. In addition, implementing federalism means that the country would be divided into two or more parts, prompting harsher competition for narrow interests, and therefore increasing conflict among them. On this basis, Horowitz argues that the best method to guarantee that autonomy will not develop as a stage to separation is "to reinforce those specific interests that groups have in the undivided state."[97] The most suitable strategy is for all groups to take responsibility for the whole country, not just concentrating on their own interests, giving each group "a strong stake in the center,

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[91] Reilly, *Centripetalism, in Karl Cordell and Stefan Wolff (Eds), The Routledge Handbook of Ethnic Conflict*. P.290

[92] Norris, Pippa, *Driving Democracy: Do Power-Sharing Institutions Work?* (Cambridge ; New York: Cambridge University Press, 2008). P.29

[93] Reilly, Benjamin, "Institutional Designs for Diverse Democracies." P.264

[94] Lijphart, Arend, *The Wave of Power-Sharing Democracy. The Architecture of Democracy, Andrew Reynolds*. P.51

[95] Horowitz, Donald L., *Ethnic Groups in Conflict*. P.628

[96] Horowitz, Donald, *Constitutional Design: Proposals versus Processes. Andrew Reynolds, The Architecture of Democracy*. P.22

[97] Horowitz, Donald L., *Ethnic Groups in Conflict*. P.628

[since] devolution can help avert separatism."[98] So in that context, autonomy "is the product of the reduction of inter-ethnic conflict, not an ingredient of a conflict-regulating prescription at the threshold." [99] Autonomy can lead to different outcomes. For instance, within a homogeneous society, intra-group competition will be raised, but in a heterogeneous society, the competition stirs inter-group rivalries.[100] In short, the solution from integrationists for conflict reduction is a unitary system, and they believe that segmental autonomy may lead to secession.

Both approaches have been discussed above, along with the evidence for their arguments. There is no resolution for this kind of debate, especially where different countries will always have different (and very nuanced) features, but there are key arguments that consociationalists propose, which consist of particular elements of consociationalism. The consociational advocates argue that Iraq is a strong case for applying this approach because it has clear sectarian division, a common legacy domination by a single group, and domination by other groups. For example, the Kurdish population has always been very separate and very difficult to integrate. The Iraqi political system as it now stands formed in accordance with the aims of a power sharing arrangement: to share power among ethno-religious groups, and to stabilise Iraq. I will discuss consociationalism in Iraq in the next section.

2.3   Consociationalism in Iraq

After the collapse, the USA and its allies, alongside UN advisers, formed the Iraqi Governing Council (IGC) and cabinets, and prepared an election process. The crucial step towards practising consociationalism was the structure of IGC, because it included all the main ethno-religious groups, and considered their aims to manage conflict. At that time, all of them accepted being a part of the resulting coalition of elites, a coalition based on PR, because it was "a logic of institutional design that Iraq was moving to embrace."[101] This logic enabled the establishment of a political system that reinforced each group's impact, since "each group should expect to have a share of power roughly proportional to its weight in society."[102] It was clear in the wake of the invasion that Iraqi society would require an alternative system, based on PR and decentralising power, which would accommodate all groups. The regime change provided the opportunity to apply this type of solution. Larry Diamond argues that ethno-religious groups should make an agreement among themselves to decide how power should be shared, which political concessions should be made, and how conflict violence can be avoided.[103] Diamond states that in the case of Iraq, three conditions are essential: "the political arena must be made more inclusive; there must be a balance of power among Iraqi

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[98] Horowitz, Donald, "Democracy in Divided Societies." P.36

[99] Horowitz, Donald, *Constitutional Design: Proposals versus Processes. Andrew Reynolds, The Architecture of Democracy*. P.22

[100] Ibid. P.25

[101] Dawisha, A. I. and Diamond, Larry Jay, "Iraq's Year of Voting Dangerously," *Journal of Democracy* 17, no. 2 (2006): 89–103. P.91

[102] Ibid. P.91-92

[103] Diamond, Larry Jay, *Squandered Victory: The American Occupation and the Bungled Effort to Bring Democracy to Iraq*, 1st ed (New York: Times Books, 2005). P. 316

groups, and Iraq's major politicians and parties must evince the elite's pragmatism and flexibility."[104]

Wimmer, however, advocates the AV vote instead of PR. He frames "as an alternative to power sharing, an electoral system that fosters moderation and compromise across the ethnic divides[...]".[105] Wimmer argues that the AV "provides a good incentive for moderation across the dividing lines of ethnicity and religion."[106] It is clear that Wimmer supports the centripetalists' approach to governing Iraq and rebuilding sustainable political institutions.

Ali Gokpinar argues that *both* approaches, consociationalism and centripetalism, should be used in analysing the case for power sharing in Iraq.[107] It is impossible to discuss how both models would function in Iraq with regard to power sharing arrangements, because each has its own boundaries and specific structural characteristics that would lead to different outcomes.

Some scholars (such as Horowitz, Barry, and Wimmer) encouraged a political system for Iraq that was the same as in integrated countries, that is, a centralising political system. However, others supported consociational democracy as the best style for the new Iraqi state. For example, Lijphart, McGarry, and O'Leary strongly recommended consociationalism for Iraq. Despite the fact that particular scholars advocated implementing an integrative approach, there was no chance for it to become part of the political system. This is partly due to the fact that centripetalism cannot be compatible with Iraq's current conditions and the history of its political development. If Horowitz's approach was applied to Iraqi institutions, political institutions would mostly involve followers of the Shi'ite majority, which, as Lijphart pointed out, is hard to imagine.[108] Since they were aware of this possible outcome, the Kurd and Shiite communities were against the centripetalists' approach, and advocated power sharing arrangements.[109] McGarry and O'Leary also came to the conclusion that consociationalism would be better for Iraq, as it is a deeply divided place, and this concept is clearly reflected in the permanent constitution.[110] The majoritarian principle has consistently been ignored in Iraq because of the challenges the country would face if a Shiite majority governed Iraq: this political system would lead to authoritarianism.[111] Byman points out that the democratic process in Iraq was not based on majoritarian rule because there was no opportunity to implement it in a country that contains such diverse religious and ethnic groups.[112] To sum

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[104] Ibid. P.320

[105] Wimmer, Andreas, "Democracy and Ethno-Religious Conflict in Iraq," *Survival* 45, no. 4 (December 2003): 111–34. P.122

[106] Ibid. P.123

[107] Gokpinar, Ali, "Power Sharing in Iraq: Liphartian or Horowitzian Approach?," April 16, 2012, http://www.aligokpinar.com/power-sharing-in-iraq-lipjhartian-or-horowitzian-approach/.

[108] Lijphart, Arend, "Constitutional Design for Divided Societies." P.98

[109] J. McGarry and B. O'Leary, "Iraq's Constitution of 2005: Liberal Consociation as Political Prescription," *International Journal of Constitutional Law* 5, no. 4 (September 28, 2007): 670–98. P.698

[110] Ibid. P.692

[111] Byman, Daniel, "Constructing a Democratic Iraq Challenges and Opportunities," *International Security* 28, no. 1 (Summer 2003): 47–78.

[112] Ibid.

up, consociationalism is the only approach that can suitably explain the case of Iraq, because it was formally enshrined in the constitution and contributed to the structuring of formal political institutions.

Political leaders tried to place some consociational elements in the permanent constitution formally, especially elements relating to the structure of political institutions. This could happen because the permanent constitution was drafted mainly by Shiites and Kurds, while the rights of the Sunnis, who boycotted the process, were neglected. Therefore, the permanent constitution gained acceptance by the majority of Shiites and Kurds but only some Sunnis, because the majority of Sunnis boycotted the constitution referendum. This meant that the Shiite and Kurdish agendas succeeded. Dodge noted that this was the result of an exclusive elite bargain pact, and one of the core features of the political system in 2005, then becoming a cause of civil war in Iraq.[113] That is one of the reasons that Horowitz states that "the future of an inclusive government will therefore turn on Sunni success in achieving fundamental change in these constitutional arrangements."[114] The permanent constitution needs to include the Sunnis' proposals in order to avoid conflict violence.

Another important point is that Iraq's constitution is based on a liberal consociation, which permits each group to self-determine its administration and representation.[115] McGarry and O'Leary pointed out that this kind of liberal approach "focused on democratic preferences rather than on predetermined ethnic or communal categories."[116] Furthermore, it is an example of formal consociational government, because consociational elements are stipulated by the constitution of 2005.[117] These are the subject of chapter four, where I discuss each element, and where it can be found in the permanent constitution, separately.

There is no doubt that the permanent constitution was developed by consensus among the key communities. However, there are surprisingly few consociational elements in the constitution.[118] Although the permanent constitution contains some consociational elements, there are no stipulations for grand coalition in it. The inclusion of consociational elements was a real issue that the Iraqi people faced during the formation of the cabinet. Younis worked out that the Iraqi constitution was based on Lijphart's recommendations for applying consociational features, but that it did not bring peace, and in fact undermines political stability.[119] She argues that the permanent constitution was clearly unsuccessful in identifying the vital "role that it could play in post-conflict reconciliation, and has instead instituted clauses that have directly retarded the reconciliation process."[120] She openly criticises the theory of consociationalism, and prefers an alternative approach for managing conflict

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[113] Dodge, Toby, *Iraq: From War to a New Authoritarianism*, Adelphi 434-435 (London: The International Institute for Strategic Studies, 2012). P.147

[114] Horowitz, Donald, *The Sunni Moment*, vol. 14 (Wall Street Journal, 2005).

[115] McEvoy, Joanne and O'Leary, Brendan, *Power Sharing in Deeply Divided Places*. P.27

[116] McGarry and O'Leary, "Iraq's Constitution of 2005." P.687

[117] McEvoy, Joanne and O'Leary, Brendan, *Power Sharing in Deeply Divided Places*. P.27

[118] Bogaards, Matthijs, "Iraq's Constitution of 2005: Three Problems, Four Misconceptions, Some Suggestions."

[119] Younis, Nussaibah, "Set up to Fail: Consociational Political Structures in Post-war Iraq, 2003–2010," *Contemporary Arab Affairs* 4, no. 1 (January 2011): 1–18. P.4

[120] Ibid. P.4

violence. The reason she gives is that consociationalism did not create stability and sustainability in Iraq from 2005 to 2010. Concurring with this, Bogaards pointed out "the sad fact, though, is that post-Saddam Iraq has never been a democracy and never been at peace." [121] He emphasises how the issue is related to the constitution, because "the constitutional process lacked the spirit of accommodation." [122] This led to a lack of consociational characteristics, which hindered the process.[123] Thus, while some elements of consociationalism can be found in the constitution, the document has been criticised in terms of its allowances for power sharing. Both centripetalists and consociationalists criticised the formal reflection of consociational elements in the constitution.

As discussed above, a power-sharing arrangement is applicable to Iraq, as recommended by consociationalists. The fact that power sharing is embodied in the permanent constitution should mean that, as consociational theory advocates, conflict resolution is one of its primary goals. So, conflict reduction is the main incentive to implement the principles of consociational democracy in Iraq. However, Horowitz emphasises that the permanent constitution does not encourage conflict reduction. As he stated, "it is difficult to identify in that document any institutions designed to reduce ethnic or sectarian conflict." [124] Furthermore, Bogaards noted that "Iraq's constitution fails to prescribe executive power sharing." [125] This means that grand coalition government is nowhere prescribed in the constitution. Despite the fact that it does not appear formally, political leaders designed cabinets and distributed high-level posts by agreement among the three main groups: Shiite, Sunni, and Kurd. Thus, informal political agreements contributed to the formation of political institutions between 2003 and 2014. Bogaards worked out that the power sharing process has three main weaknesses: "an imbalance between self-rule and shared rule, a lack of consociational features, and an open-ended process of regionalization and federalization."[126] These points are controversial because they can take different forms in different divided societies.

Although some consociational elements were placed in the permanent constitution, the document was criticised in terms of its approach to power sharing arrangements. Centripetalists who have written about power sharing in Iraq claim that the permanent constitution needs to change, because consociationalism does not lead to conflict resolution and has failed Iraq.[127] Younis argued that consociational democracy is not suitable for divided societies, especially Iraq. The alternative approach is an integration model, and the amendment of the permanent constitution and electoral law.[128] Bogaards likewise demands constitution reform in terms of the three crucial points mentioned above. He is doubtful

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[121] Bogaards, Matthijs, "Iraq's Constitution of 2005: Three Problems, Four Misconceptions, Some Suggestions."
[122] Ibid.
[123] Ibid.
[124] Horowitz, Donald, "Conciliatory Institutions and Constitutional Processes in Post-Conflict States," *Wm. & Mary L.Rev* 49 (2007). P.1230
[125] Bogaards, Matthijs, "Iraq's Constitution of 2005: Three Problems, Four Misconceptions, Some Suggestions."
[126] Ibid.
[127] Younis, Nussaibah, "Set up to Fail."
[128] Ibid.

about whether Iraq remains a united country or not, because if it continues as a united country, then all groups should share power in the centre.[129] Thus, Bogaards highlighted some flaws in the representation of consociational elements in Iraq's permanent constitution and in practice.

Abu Ltaif agrees that the current constitution does not include all consociational characteristics. It suffers from not mentioning grand coalition and mutual veto, and from its limitations in terms of power sharing arrangements.[130] Dixon pointed out that Iraq had challenged the absence of consociational features, but that the country could not manage conflict and bring peace because "consociationalism has become increasingly vague, ambiguous and even contradictory."[131] As discussed earlier in this section, grand coalition was organised only by informal agreement among politicians, and mutual veto has also existed in different forms. For example, Article 138 section four is obvious evidence for the mutual veto, because it states that "the presidency council shall issue its decisions unanimously," [132] meaning that if any one of them disagrees the decision will be rejected. The Presidency Council contained Shiite, Sunni, and Kurd members. The provision was, however, only in place for the first term of the presidency, from 2005 to 2010. After 2010 there was only an informal veto between the president and two vice presidents. Thus, Abu Ltaif suggested some ways to improve the implementation of consociationalism, including changing the electoral law for predetermining seats for each group, instituting more parliamentary consultation to nominate the Prime Minister, and giving all groups the opportunity to create real proportionality in the military sector. These changes would mean that consociationalism still has a chance to be an instrument for conflict reduction.

The criticisms of consociationalism that we have examined focus mostly on the operation of formal institutions, like how to achieve a grand coalition government, how to balance power among institutions, and how electoral law can be modified so that a vote translates to a parliamentary seat. For this reason, many have demanded the reform of some of the consociational characteristics already present in the Iraqi constitution in order to improve power sharing arrangements. Others advocate centripetalism as an alternative approach to replacing consociationalism in the constitution. In particular, integrationists demand that the permanent constitution should be amended in order to shift the political system directly from consociationalism to centripetalism. As we have seen, however, all efforts concentrate on formal institutions, rather than actual practices. This, therefore, is the gap that I want to address in this dissertation, and it forms my main contribution to the actual implementation of consociationalism in Iraq.

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[129] Bogaards, Matthijs, "Iraq's Constitution of 2005: Three Problems, Four Misconceptions, Some Suggestions." P.19-21

[130] Abu Ltaif, Eduardo, "The Limitations of the Consociational Arrangements in Iraq," *Ethnopolitics Papers* 5, no. 38 (2015). P.1

[131] Dixon, Paul, "Is Consociational Theory the Answer to Global Conflict? From the Netherlands to Northern Ireland and Iraq: IS CONSOCIATIONAL THEORY THE ANSWER?," *Political Studies Review* 9, no. 3 (September 2011): 309–22.

[132] Iraq, "Permanent Constitution."

2.4   US-led state rebuilding in Iraq

Discussing the role of the US in Iraq is important, because the US contributed directly to state rebuilding after the invasion, and its impact on Iraq fluctuated from 2003 to 2014. Over this decade, political development involved working out a new political system based on consociationalism. The US played different roles in Iraq, from occupying country to influential external actor. Questions arise regarding who actually chose the new approach for Iraq? Was it the decision of the US or Iraq to establish consociational institutions? It is clear that the US-led coalition for state rebuilding was in control at the beginning of the invasion, from 2003 to 2005. Then, during the transition period, from 2005 to 2010, with the US troops present in Iraq, the US did not authorise the Iraqi people to take absolute responsibility, especially regarding security. Thus, internal actors in Iraq were not even presented with the opportunity to control the power. After the withdrawal of the US troops, the Iraqi people regained full responsibility from 2010 to 2014. The US took a step back, and decreased its influence. Thus, the role of the US changed over time, and this is one of the areas the research will discuss in detail in terms of the practice of consociational elements.

When George W. Bush appointed Bremer to lead the Coalition Provisional Authority (CPA), Bremer told him that he was "fully committed to bringing representative government to the Iraqi people."[133] He asserted that "all Iraqis must have a voice in the new government, and all citizens must have their rights protected."[134] The Bush administration aimed to ensure that all communities shared the power, without neglecting any ethno-religious group, but Bremer did not recommend any particular method for translating this idea from theory into practice. Byman believed that working towards the establishment of a new political system that gathered together all communities would require consensus among political leaders.[135] A consensus among the political elite was one way of gathering all communities together in the new state structure. As Zalmay Khalilzad said, "our policy of regime change would seek a broad-based representative government in Iraq."[136] This was one reason why the US did not accept Jay Garner's approach for forming an interim Iraqi government by forming a coalition between the Shiites and Kurds, because the Bush administration wanted a more inclusive government in Iraq.[137] Thus, the literature suggests that the US was intent on gathering all groups together to share the power, without excluding any group.

Along these lines, Toby Dodge worked out that "building a new political order will ultimately mean guiding Iraq towards a government that is in broad agreement with US foreign-policy aims."[138] The US-led coalition force's purpose was to build a political system compatible with US policy and interests. Their plan included reducing the role of previous participants in Saddam's regime, but marginalising other political parties that were opposed to the US's

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[133] Bremer, L. Paul and McConnell, Malcolm, *My Year in Iraq*. P.12
[134] Byman, Daniel, "Constructing a Democratic Iraq Challenges and Opportunities." P.47
[135] Ibid. 78
[136] Khalilzad, Zalmay, *The Envoy*. P.151
[137] Galbraith, Peter, *The End of Iraq: How American Incompetence Created a War without End* (New York: Simon & Schuster, 2006). P.116
[138] Dodge, Toby, "Rebuilding the Iraqi State," *The Adelphi Papers* 45, no. 372 (March 2005): 25–42. P.25

occupation and aims.[139] This meant that the US drafted the new political system in Iraq in light of its *own* policy in Iraq, rather than with an awareness of each community's right to be represented in the new government. Co-operation among groups was an issue that confronted the US-led coalition forces, because there was no collaboration among significant communities, especially with Sunni groups. The Shiites and Kurds were, however, able to create a kind of partnership for facing challenges.

By contrast, there were voices that demanded a majority government, rather than consociational institutions. The Shiites enjoyed a majority in Iraq, and their role had been neglected for long periods. As Peter W. Galbraith stated, "many of the Shiites believe their majority status entitles them to run all of Iraq."[140] Their demand for a majoritarian approach was strongly rejected, especially by the Kurds, because they also wanted to participate in the political institutions. For this reason, senior Kurdish leaders informed Bremer that they would not agree with a "tyranny of the majority."[141] This was due to "the Kurds' unwillingness to accept a strong Arab-controlled center."[142] On the other hand, the Sunnis raised the issue because they were against the CPA and wanted to take back some authority again. Regarding this, Khalilzad said that the "Sunni Arabs took a hostile position against their rivals, the Shia and the Kurds."[143] That was why the US demanded that the government should be based on broad representation, and should include the Sunni community in particular. To tackle that issue, Khalilzad "worked with Iraqi leaders of all factions to ensure that the December 2005 election, under the new constitution, would involve all groups and produce a fully representative government."[144] This shows that the US really wanted all communities to participate in the political process and have a stake in rebuilding the political order. According to the above, the US's policy aimed at restructuring political institutions to ensure broad representation from all communities in Iraq.

In practice, the US started rebuilding political institutions in Iraq, beginning with the Iraqi Governing Council (IGC), which was based on representatives from all communities: 13 Shiites, 5 Sunnis, 5 Kurds, 1 Assyrian, and 1 Turkoman.[145] It was the first consociational institution formed by the US, through negotiation with the UN and seven senior Iraqi political leaders. Nevertheless, Bremer controlled membership of the IGC. [146] Thus, while apparently consociational, in fact the CPA controlled the authority in Iraq, and the IGC "had no autonomy to make decisions without the approval of Bremer." [147] This meant that rebuilding and

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[139] Ibid. P.25

[140] Galbraith, Peter, "What Went Wrong," in *The Future of Kurdistan in Iraq. Brendan O'Leary, John McGarry, and Khaled Salih*, First (U.S: University of Pennsylvania Press, 2005). P.243

[141] Galbraith, Peter, "Kurdistan in a Federal Iraq," in *The Future of Kurdistan in Iraq. Brendan O'Leary, John McGarry, and Khaled Salih* (U.S: University of Pennsylvania Press, 2005). P.275

[142] Khalilzad, Zalmay, "Lessons from Afghanistan and Iraq," *Journal of Democracy* 21, no. 3 (2010): 41–49. P.44

[143] Ibid. P.43

[144] Ibid. P.46

[145] Diamond, Larry Jay, *Squandered Victory*. P.43

[146] Dodge, Toby, "Chapter Two." P.33

[147] Manning, Carrie, "Political Elites and Democratic State-Building Efforts in Bosnia and Iraq," *Democratization* 13, no. 5 (December 2006): 724–38.

structuring the new Iraqi state actually fell to the US-led coalition forces, which created a political system that was compatible with its post-war agenda.

While Iraq "lost its administrative and coercive capacity,"[148] the US tried to rebuild political institutions and establish a state with a high level of administration, which would represent all significant communities, an aim that was reflected partly in the IGC. Reidar Visser criticised the IGC, because he believed that through its creation Bremer attempted "to enshrine ethno-sectarian identities in the governing structure of the Iraqi state […]".[149]He pointed out that the US strongly encouraged "ethno-sectarian power-sharing arrangements." [150] Visser obviously did not believe that power sharing arrangements would tackle conflict among the different identities, and blamed the US for persisting with such an approach.

The role of domestic elites in Iraq in the formation of the political institutions is also a point of contention. They were not able to fulfil a real role because the US and its allies controlled the power at the first stage of occupation. In theory, under a consociationalist's government, elite cartels should play a large and beneficial role in implementing the system's four main elements, especially grand coalition. This means that politicians should work in a positive way towards supporting consociational institutions. But this did not work in the case of Iraq, because politicians were not ready to take responsibility. During the transition period (2010-2014), mistakes were made by the US, which led to weakness in political development.[151] Dodge notes that after that, when the Iraqi people took more active positions in the government, they worked against the democratisation process. In particular, the role of Maliki was problematic, and his behaviour during his second turn "posed the main threat to Iraqi democracy."[152] This occurred after the withdrawal of US troops in 2011. On the last day of the US occupation, Maliki attacked three key Sunni leaders, al-Hashemi, al-Issawi, and Mutlaq. That was strong evidence that compromise among internal actors, especially the Shiites and Sunnis, did not exist. While present in Iraq, the US-led coalition forces maintained a kind of equilibrium among political leaders, preventing one-man rule. Thus, the presence of the US and its allies was crucial for maintaining conflict reduction between different communities.

According to the above discussion, it is obvious that the process of choosing a new approach to rebuild the political system in Iraq was highly controversial. The US-led coalition wanted to form a government that represented all significant communities, but it is not clear whether its plan was based on power sharing arrangements or not. Was it the case that the US-led coalition pressured the Iraqi people to accept that kind of system? Or did other factors motivate the process, such as Iraq's division into ethno-religious groups and the history of its political development since Iraq was first established as a state? Whether consociational theory was actually a part of the US's policy in Iraq after the regime change remains uncertain.

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[148] Dodge, Toby, "The Causes of US Failure in Iraq," *Survival* 49, no. 1 (March 2007): 85–106. P.86

[149] Visser, Reidar, *A Responsible End?: The United States and the Iraqi Transition, 2005-2010* (Charlottesville, VA: Just World Books, 2010). P.12

[150] Ibid. P.13

[151] Visser, *a Responsible End?* P.11-14

[152] Dodge, Toby, "Iraq's Road Back to Dictatorship," *Survival* 54, no. 3 (June 2012): 147–68. P. 149

While the Shiites wanted a majority political system, the Sunnis and Kurds did not accept an approach which would lead to a dominant majority, and each community demanded its rights within the new political institutions. The US-led coalition strongly encouraged the Iraqi people to adopt a system of broad representation. But was it the decision of the US-led coalition or the Iraqi people to establish consociational institutions? My research pursues the role of the US, from occupying country to external actor. Iraq offers a new case for studying consociationalism because of the pivotal role of the occupying country. In other cases, such as Northern Ireland, it was external actors who affected the process of consociational democracy.

2.5   Conclusion

As noted in the previous sections, the gap I specifically want to fill concerns the practice of consociationalism by focusing on one key question: was Iraq a consociational democracy in its formal institutions as well as in its practice during the period 2003 to 2014? Answering this question requires concentrating on the actual implementation of consociationalism in Iraq and how worked as a conflict resolution tool, this is my main contribution. Another important gap in the scholarship is a lack of work on the US-led coalition's role in state rebuilding, in terms of its role for implementation of consociationalism, from 2003 to 2014, transitioning from occupying country to external actor. In this research, I examine how the US affected the political process, from selecting the new political system to creating consociational institutions to acting externally. It is evident that the US played a crucial role in Iraq from 2003 to 2011. After that, with the withdrawal of US troops, the situation in Iraq became more authoritarian. The absence of the US-led coalition had a negative impact on the Iraqi situation. Thus, issues regarding the implementation of consociational democracy and external factors (such as the role of the occupying country) are linked in Iraq. These points will be addressed throughout my work.

Chapter 3 Methodology

3.1 Introduction

In the previous chapter, this thesis identified the research gap and the research questions for this study. The current chapter introduces the research methodology I have used for this project, which relies on process tracing and qualitative analyses of documents and elite interviews. The investigation will trace events related to consociationalism from 2003 to 2014, dividing the whole period into three main periods: from 2003 to 2005, 2005 to 2010, and 2010 to 2014. Using constitutional textual analysis, it aims to explain how consociational elements are reflected in the permanent constitution. After that, it examines the implementation of those consociational elements in Iraq's political institutions during the chosen period, in order to get answers to this question 'to what extent were consociational arrangements in fact created and how did they operate?' The discussion of the research design and research methods is divided into four sections: research design, methodology, data collection, and methodological challenges.

3.2 Research design

The research design for the current PhD dissertation was conceived to investigate the development and implementation of consociational elements in Iraq. In other words, it does not aim at testing the theory of consociationalism itself. Owing to the constraints of the thesis, one period of time during which consociationalism was implemented was selected as a case study. Thus, the case study of this thesis is Iraq during the period 2003 to 2014. Before proceeding further, it is worthwhile to explain two things: first, why was Iraq chosen as a case study for analysing consociationalism? Second, why was this particular time period selected?

Iraq is an interesting case because consociationalism has been promoted as a conflict resolution tool, and it was partly with this in mind that it was proposed for post-invasion Iraq. Moreover, international and local policy makers consciously decided to use power sharing as a conflict resolution tool in Iraq – it is therefore important to ask how it was implemented, and what factors shaped its implementation, given that violence continued in Iraq. To elucidate this, Iraq adopted a permanent constitution entailing the major elements of consociationalism in 2005. Similarly, Iraqi authorities implemented at least two elements of consociationalism, for instance, crucial political institutions such as parliament and the cabinet were rebuilt in light of consociational democracy. All this, however, could not produce substantial peace and stability inside the state.

The second important point is related to the selection of the time period. Following the 2003 invasion, the government in Iraq had collapsed and a new political process had begun. The new political system was involved in two elections and the constitution of two cabinet governments until 2014. This period of 2003 to 2014 in Iraq, therefore, represents a period of time when consociationalism was applied. It is hoped that an examination of the events and developments that took place at that time, including the ways in which power sharing was practised, may be beneficial to an understanding of current political developments in Iraq, as well as in the field of conflict management. In order to clarify what has driven this particular choice of political process the research is divided into three sections (chapters 5, 6 and 7). The

first part consists of the time period between 2003 and 2005. It involves the constitution-making process under formal US occupation. The second part covers 2005 to 2010, which is the post-election period as well as a period that saw a large US presence. This period is also characterised by violent conflict among ethno-religious groups. The third period from 2010 to 2014 consists of the time after the US withdrew troops and when the US presence greatly lessened and had less influence as well. This meant that Iraqi politicians had more autonomy than before. All three parts illustrate aspects of the implementation of consociationalism and warrant separate, in-depth studies in order to examine consociationalism at each stage. This will then enable a clearer understanding of the path dependency of consocial elements, and will reflect how consociationalism was utilised as a conflict resolution tool during this time. Accordingly, this research design allows the thesis to assess the influence of external actors, as it can examine the fate of consociationalism while the US was present and afterwards. Also, it allows the thesis to examine the evolution of different institutions over time, and examine the political dynamics that underpin this. In order to create a better understanding, the following sections explore each time period individually.

The constitution itself and the constitution-making process are the subject of the first period under investigation. This will be dealt with through two main chapters, one focusing on the reflection of consociationalism in the permanent constitution (chapter 4), and the second concentrating on the activities leading to the drafting of the permanent constitution (chapter 5). This will help to ascertain to what extent the theory of consociationalism has been reflected in the permanent constitution. The answer to this should be obtained through performing textual analysis, which is the appropriate method for this type of data. These two chapters cover knowledge about the elements in the constitution and how consociational elements have emerged in the constitution. This analysis will be complemented by an exploration of the thinking and objectives of those involved in the drafting of the constitution process.

Two main factors contributed to the formation of the constitution during this period. First, this period included external and internal actors' efforts. The US-led coalition strongly affected the decision-making process but Iraq's role has been marginalised. Secondly, through this time there were different views about rebuilding political institutions and the way of operating consociational elements. As this thesis explores the implementation of consociationalism later on it is crucial to know the root of this theory and how it developed. From that point, if the US and its allies did not assert power-sharing arrangements, consociational elements were not reflected in the constitution.

After this, the elections are taken as the start and end points of the periods under examination (2005-10, and 2010-14). During the first period (2005-10), one can see the implementation of consociational elements found in the constitution in practice. In this case, there was a grand coalition government, proportionality in the parliament and government, practising mutual veto through the Presidency Council, and attempting to create another federation region in the south of Iraq. Therefore, forming political institutions in light of the constitution helped to evaluate between formal and practical elements of consociationalism. Moreover, during the transition period orchestrated by the US and its allies, the US had a huge impact on the

political process because of the considerable US troops in the country. This means Iraqi politicians could not act independently because the situation was controlled by the US.

Moreover, Iraqi politicians took part of the political process in order to govern Iraq by themselves. It is important to examine how internal actors dealt with the new political system especially as Shiites, as the majority population, took the most important high positions. Another crucial point is that the US presence altered slightly. In the previous period, it governed Iraq, but during this period, it in part transferred authority to the new Iraqi institutions. However, the US still contributed to the direction of the political process and the military actions because Iraq's ability to take full responsibility was extremely weak.

The third period included the second round of elections from 2010 to 2014, which was the second attempt to implement consociationalism. It continued the previous period but with a different implementation of consociational aspects because Maliki was in charge for the second time. At the beginning of this period, the US withdrew its troops and Iraqi politicians became independent, acting without the US's pressure as they had done before. This means Iraqi politician had more independence than before with full responsibility for governing Iraq. It was an interesting point because after the presence of the US there was a huge change in politicians' attitudes towards the political dominance of a single individual, especially in terms of Maliki's erratic behaviour. The important point from this period is comparing last two periods (2005-10 and 2010-14) in terms of external impact on the political process, especially in terms of the US presence. Therefore, during this period there were challenges that changed the direction of the political process from working on adopting consociationalism toward ignoring its development, and its replacement by authoritarianism.

According to the research question, there is another important point that should take place in that investigation, which is the relationship between what was reflected in the constitution and how it was implemented. While the design of institutions is very important, institutions do not reflect ideas (e.g. consociationalism in the Iraqi constitution) fully or quickly.[153] Horowitz in his important work "*Constitutional Design: Proposals versus Processes*" discussed "the gap between constitutional design and the constitutions that actually emerge from process of constitutional innovation."[154] It is important to address that kind of link because, when constitutional designers are accepting political system, it is essential to follow how it will be practised. Furthermore, Horowitz pointed out that "there is no guarantees of success for any prescription or mix of prescriptions."[155] This means that, while approving particular features for a specific approach to the constitution are important, there are no assurances for succession even if implemented. However, the main assumption during the drafting constitution should be based on the higher possibility of practising what the designers mapped in the constitutions. Issues arise when incompatibility occur in practice.

There is a literature highlighted there is occasionally mismatch between institutions' design and their functionality. Pierson pointed out "Institutions may not be functional because

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[153] Horowitz, Donald, *Constitutional Design: Proposals versus Processes. In Andrew Reynolds, The Architecture of Democracy*. P.18
[154] Ibid. P.19
[155] Ibid. P31

designers make mistakes."[156] It is one of the reasons that he highlighted which may affect the adoption of institutions based on what designers calculate because "actors expect that particular features will produce specific consequences," [157] which is not accurate. This suggests reflecting features of particular designs does not matter, what matters is the way that political leaders shape it, and sometimes there is a mismatch between what is in the constitution and the implementation of it. The Canadian case is one of the examples of that perspective because "The designers of the Canadian federation sought a highly centralized form of federalism—in part as a reaction to the ways in which decentralization contributed to the horrors of the Civil War. Yet the Canadian federation is now far less centralized than the American one."[158] There are many reasons for that kind of mismatch - historical tradition, memories - and competing nationalist, religious, and ethnic interpretations of the past affect the process of consociational institutions.[159] Therefore, that kind of perspective is one of the main points in this particular research to address the reality of adoption and implementation of consociational elements in Iraq. In the Iraqi case there is a mismatch between what is reflected in the constitution (consociational elements) and its implementation. This requires further discussion which takes into account the way that consociationalism has been operated.

Consequently, the organisation of this dissertation will, in turn, help to grasp the dynamics of consociational developments in Iraq. Three different periods are shaping the thesis, which allows readers to understand how consociational elements really occurred in Iraq. This is a clarity for using each period from 2003 to 2014, which contributed to designing the project in order to investigate the implementation of consociational aspects in the particular case of Iraq. Moreover, this type of design is comfortable with the process tracing method because, as Collier says, "process tracing focuses on the unfolding of events or situations over time."[160] Thus, in the following pages process tracing will be the main method used.

3.3   Methodology

This study is a case study looking at political development in Iraq from 2003 up to 2014 in terms of consociationalism. This research will be the realisation of the qualitative analytical approach which concerns the mere presence and absence of the particular characteristics. In order to achieve the aim of the study, the best method is process tracing wherever it is required and feasible. This method allows a detailed understanding of the adoption and implementation of consociationalism in Iraq, and what explains it. Also, it examines different dynamics and explores how they led to particular outcomes. Therefore, the thesis is tracing out details of the decision-making process in the adoption of consociationalism, and the implementation (or not) of it, which are elements to explain the outcome. This fits with

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[156] Pierson, Paul, "The Limits of Design: Explaining Institutional Origins and Change," *Governance* 13, no. 4 (October 2000): 475–99. P.483

[157] Ibid. P.478

[158] Ibid. P.484

[159] Loizides, Neophytos, *Arend Lijphart and Consociationalism in Cyprus. In In Consociationalism and Power-Sharing in Erope, Jakala, Kuzu, and Qvortrup*. Pp163-164

[160] Collier, David, "Understanding Process Tracing," *PS: Political Science & Politics* 44, no. 04 (October 2011): 823–30. P.824

process tracing because it focuses on decision-making, investigating discussions, and understanding development of that decision making. [161] Therefore, the process tracing method has been selected as an ideal methodology for conducting this study.

Furthermore, I used textual analyses as a method for analysing the first part of the empirical chapter which is about formal consociationalism in the constitution. Textual analysis has been used to map out the actual consociational elements in the constitution. Thus, there are two methods that have been used in this dissertation, which investigates the two main points involved in a formal consociational democracy and its practice. Therefore, conducting this thesis depends upon four main parts and in light of them, I applied two different methods. The first should be about the best method for analysing this particular subject, textual analysis and the second empirical part about the adoption of consociationalism.

There are two ways for conducting textual analyses in this research. Firstly, through reading the constitution the thesis examines the term grand coalition, proportionality, mutual veto, and segmental autonomy in the constitution. It is difficult to find the exact terms because the wording of the constitution differs from theoretical writings about consociationalism. For instance, if I look at the term 'mutual veto' it does not exist with the same wording but it is implicitly included. Secondly, I will investigate the meaning of consociationalism through articles, which indicate the terms of consociational elements. In this way, I will determine the reflection of those characteristics upon the meaning of consociationalism. This is does not make any difference because there are many ways for making sense depending on what texts are analysed.[162] This form is called 'realist' perspective because the researcher investigates for the particular text which they consider embodies reality most accurately, and judge all other texts against that one.[163]

Moreover, to complement the constitutional analysis through a textual method requires looking at the thinking of those involved in the drafting and preparing of the permanent constitution. The main point of doing that is to explore their attention to consociationalism aspects whilst drafting the constitution and then to see whether they paid much attention to, or wanted, consociationalism. This process should be undertaken through process tracing during the particular period from 2003 to 2005 and the political activities at that time which led to the last draft of the permanent constitution. This research traces that event to investigate the thinking behind making the decision to embody consociationalism in the constitution. Hence, process tracing comes up in the second part of the empirical chapters to complement the first step of constitutional analysis.

It is important to know which type of process tracing I have used because there are three different types of process tracing, which are theory-testing, theory-building and explaining-

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[161] Brady, Henry and Collier, David, eds., *Rethinking Social Inquiry: Diverse Tools, Shared Standards* (Lanham, Md: Rowman & Littlefield, 2004). P.110

[162] McKee, Alan, *Textual Analysis: A Beginner's Guide* (London ; Thousand Oaks, Calif: Sage Publications, 2003). P.12

[163] Ibid. P.12

outcome.[164] This research used the explanation-outcome process tracing method, which "attempts to craft a minimally sufficient explanation of a puzzling outcome in a specific historical case."[165] In line with this, the current research is aimed at tracing a sufficient explanation about a puzzling outcome: was Iraq a consociational democracy in its formal institutions as well as in practice from 2003-2014? Because it is not clear whether consociationalism was truly practiced, fully implemented, or partially applied during the period despite the constitutional provisions, and why it did not lead to the expected outcome. As the theory of consociationalism is well tested elsewhere, the current research focuses on the implementation side of the theory to produce a sufficient answer to the research question.

Process tracing fits with this dissertation because one of its types focuses on a single case study, which is here political development in Iraq through the particular period between 2003 and 2014. Another important point is that this type of process tracing is more common in practice than others.[166] Therefore, this study does not test the theory, or construct a theory, because both these approaches aim to develop a particular theory, which is not the object of the underlying research question. Instead, this study concentrates on the evaluation of certain elements crucial for the proper functioning of consociationalism in producing the expected outcome of peace and stability.

In light of the above exploration, this study required empirical evidence, which it was possible to collect from different sources, especially elite interviews, in order to identify each part of the thesis. It aims to explore the adoption and the implementation of consociationalism, and examines the process leading to that particular outcome. This means my contribution focuses on the practising of consociationalism within political development in Iraq.

3.4   Data collection

There are three types of data that contributed to this study, which involved texts, elite interviews, and secondary literature on developments in Iraq after 2003. Those are appropriate methods for collecting data in process tracing and textual analysis. Through process tracing the analyst "examines histories, archival documents, interview transcripts, and other sources to see whether the causal process a theory hypothesizes or implies in a case is in fact evident in the sequence and values of the intervening variables in that case."[167] In the following subsections, I will discuss each of the three kinds of data which have been used in this research and then address their methodological challenges.

3.4.1   Primary sources

This type of data includes the permanent constitution in Iraq and primary sources such as meeting minutes, memoirs, and public documents. This research got benefits from each of them during the investigation and whilst researching the thesis. Therefore, those texts played a big role in the research structure and the investigation of the reflection of consociational

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[164] Beach, Derek and Pedersen, Rasmus Brun, *Process-Tracing Methods: Foundations and Guidelines* (Ann Arbor: University of Michigan Press, 2013). P.3
[165] Ibid. P.3
[166] Ibid. P.11
[167] George, Alexander and Bennett, Andrew, *Case Studies and Theory Development in the Social Sciences*, BCSIA Studies in International Security (Cambridge, Mass: MIT Press, 2005). P.6

elements in the constitution. Primary sources form the core of the study, which relies on information and evidence available in those sources from different backgrounds. That is the aim of using the texts because some "documents tell us something about what goes on in that organisation and will help us to uncover such things as its culture or ethos."[168] This means texts from different types of sources are needed to build up a frame for the project and the researcher has to use them to answer the research question. In the following paragraphs, I will try to answer the questions of, what kind of texts I have used, how I used them and how they contributed to the project.

The permanent constitution is an essential source for conducting this study because it is crucial to know where and how consociational elements were placed. There are many constitutional articles located in different sections within the Iraqi constitution that are related to the consociationalism. Those articles are subject to analysis in order to identify the degree to which consociationalism is reflected in formal institutions. Moreover, the permanent constitution has been approved by majority groups and it got acceptance through a referendum. This means it is accepted by all groups. Therefore, investigating implementation of consociationalism requires looking at the style of consociationalism and which type of consociationalism is present. Is it adopted by agreement? Or by constitution? Or mixed between both?

Another important point is that the permanent constitution is the source of law and is a powerful document: people should follow it and it is not easy to amend its articles. Consequently, these type of texts contributed strongly to frame the starting point of this study in order to get a better understanding of consociationalism in formal political institutions.

In analysing the constitution's articles, there are two points raised as an indication of the degree to which consociationalism is reflected in the constitution. The crucial one is that consociational elements are also located in different places than the constitution. Moreover, the grand coalition does not exist in the constitution; instead I found it within the informal agreement between political leaders. Hence, the new political system in Iraq after 2003 is based on consociationalism with three elements are reflected formally and just one element organised by agreement, which is called the informal element.

There is one type of meeting minutes that has used in this thesis, which is the meeting minutes of the Committee to Prepare the Constitution. Analysing the permanent constitution using meeting minutes is essential because it enables a knowledge of politicians' discussions about each part of consociational aspects. Moreover, it included plenty of data about how they decided on consociationalism and how other factors affected that process. Then it provides the different positions of ethno-religious groups about each part of the permanent constitution. When I visited Baghdad, I got a copy of meeting minutes of the Committee to Prepare the Constitution but they were not complete because all of the meetings' data has not transcribed to hard copy and they are still working on it. I asked the first deputy speaker of the Council of Representatives for access to more data in relation to meeting minutes but he said that I had the only thing he can provide. It includes 33 meetings from 24/5/2005 to

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[168] Bryman, Alan, *Social Research Methods*, 4th ed (Oxford ; New York: Oxford University Press, 2012). P.554

8/8/2005 and is around 275 pages.[169] This helped me to analyse a fundamental part of this study especially in chapters four and five. I read all of the document and highlighted the relevant information and then translated this from Arabic into English; this was then analysed during the whole process. At some points I also used it to verify attitudes of the politicians who participated in this committee and if they were one of the participants in the interviews.

As noted, there are many types of texts, which contributed to this study. There are some memoirs have been used, which have written by people who had a role in Iraq after 2003. Ayad Allawi, for example, is one of the Iraqi leaders who wrote a book about his contributions during that period. It includes important information about his positions and participation in the political process after 2003. It is helpful in understanding how his political party dealt with consociationalism and how he contributed to the political process. In addition, he was a former member of the IGC and Prime Minister after the Coalition Provisional Authority (CPA) in 2004.[170] Lewis Paul Bremer and Zalmay Khalilzad have also each written a book about how they acted in Iraq after 2003. Both were used in this research and included useful data, which has been utilised in different chapters. In particular, they both represented the US authority in Iraq and they had an impact on the political process. In addition, there is another memoir that has been written by Peter W. Galbraith called *The End of Iraq*.[171] Galbraith was an advisory member of the Kurdish committee that participated in preparing the constitution. It includes important data about the role of the US and how the Iraqi people negotiated after 2003 in order to make the new constitution. This mechanism paid attention to finding out the most accurate information and evidence in order to verify what the interviewees provided and to improve the answer to the research question. Consequently, memoirs have been used throughout the chapters and they contributed to the structure and theme of the study.

Another important source for getting more evidence and information was official websites, which are often a useful source for of official documents. In this research I used many official websites including the Coalition Provisional Authority (CPA), the Council of Representatives (CoR), the Council of Ministers (CoM) and the Independent High Electoral Commission (IHEC) as well as, to a lesser degree, the Security Council (SC). My study required me to get information from those websites from across the period of 2003 to 2014. After 2003, the US and its allies rebuilt political institutions by the CPA according to SC Resolution 1483 and following others resolutions.[172] Moreover, the CPA itself made many decisions during its period of operation to reorganise the Iraqi state. On that point, I looked at their websites to find out how they decided to choose consociationalism, which should be dependent on their regulations and the decisions they made. In addition, through websites I found their position on consociationalism and why they chose it to govern Iraq. That helped in chapter five to build up the structure and to develop the themes of the subsections.

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[169] Committee to prepare Constitution, "Meeting Minutes," 2005.

[170] اياد علاوي, "صورة عراقي مراجعة توثيقية لمواقف الزعيم السياسي اياد علاوي," 2014.

[171] Galbraith, Peter, *The End of Iraq*.

[172] "UN Doc. S/REG/ 1483."

Another important website was The Independent High Electoral Commission (IHEC) as chapters six and seven required information on the elections from 2005 to 2014. I accessed all of this through the official IHEC websites. Analysing that information was very useful for building the last two chapters and for pulling out how ethno-religious groups were represented on the Council of Representatives (CoR). I then used the CoR's website to find out how they formed the parliament and how they contributed to issuing laws.

That was the method I have used to conduct the information from official websites for different time periods. Thus, websites played an important part in this research and contributed to the structure and themes of the study.

Newspapers were another source used for getting more information and evidence in this research because they are one of the "potential sources for social scientific analysis."[173] In addition, Beach and Pedersen state "newspaper and other journalistic sources can, in certain circumstances, provide accurate observations of what we intend to measure." [174] This research, in some points, was based on analysing information and evidence found in a number of newspapers, which were issued in Arabic and Kurdish. Therefore, I translated what was essential and required from them whilst writing the chapters. In fact, during the period of this study there were large numbers of newspapers being published, which contain many data about the political process.

When I was in Baghdad and Erbil in October 2015, I got a large number of issues of three newspapers – *Azzaman*, *Alsabaah*, and *Xebat* – which covered the period 2004-2014. I used two ways to search these: firstly, I read through relevant issues to identify pertinent articles and reports. Secondly, I used search engines for those available online to find suitable data. This is sufficient information to help this research to develop its structure and get more evidence. There was missing information that no one recorded, but I found useful data in the newspapers. For example, when I was looking for a group's position on consociationalism after 2003 and how they acted during that period, newspapers helped me to find out what it was. Moreover, analysing data from interviews sometimes required me to go back to what the participants said about a particular aspect, which could be found in the newspapers. This meant that verifying information and developing the analysis to the research was an outcome of using the newspapers.

3.4.2 Elite interviews

Elite Interviews are a crucial method for collecting data in social science research, particularly in qualitative research. Alan Bryman states that "the interview is probably the most widely employed method in qualitative research."[175] Tansey argues that "interviews can facilitate the collection of data that is highly relevant and specific to the research objectives being pursued."[176] This research is a case study in political science, and analyses the political process

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[173] Alan Bryman, *Social Research Methods*, 4th ed (Oxford ; New York: Oxford University Press, 2012). P.552

[174] Beach, Derek and Pedersen, Rasmus Brun, *Process-Tracing Methods*. P.142-143

[175] Bryman, *Social Research Methods*.

[176] Tansey, Oisín, "Process Tracing and Elite Interviewing: A Case for Non-Probability Sampling," *PS: Political Science & Politics* 40, no. 04 (October 2007): 765–72. P. 771

in terms of consociational elements. This is a core element of the process tracing method because "it frequently involves the analysis of political developments at the highest level of government, and elite actors will often be critical sources of information about the political processes of interest." [177] It is clear that elite interviews should help to determine the direction of the analyses and an important part for applying process tracing method. In fact, the data come out with elite interviews has contributed every single step and identify the causal mechanism.

I chose this method to collect as much data as possible from key leaders and decision-makers. I am interviewing a sample of politicians who have been or are currently MPs in the Iraqi Parliament, Kurdistan Parliament or Ministers of government from each group, including some who have been directly involved in the constitution-making process and some who have not. There are two main types of interviews: unstructured interviews and semi-structured interview, however, "semi-structured interview techniques would be appropriate for process tracing related interviews." [178] I have used the second type, which is more suitable to the analysis in this research. Elite interviews will find out unknown information and the reality of what had happened in terms of consociationalism in Iraq. Furthermore, finding relations between implementation of consociationalism and key actors is vital during that period. In order to build up this research, connections between the research question and the list of interview questions are necessary. That requires determining a list of questions to ask the interviewee although, during a face-to-face interview, you can also ask more questions that come up from their responses.

I conducted the interviews in two main stages. The first stage ran from 10th July 2014 to 12th September 2014 in Kurdistan and included 21 interviews. The second stage was between 2nd October 2015 and 17th October 2015 in Baghdad for 16 interviews. I did all interviews (37) face to face except two of them: one was done by email and the other one by Facebook. While they are divided among different ethnic religious groups, the majority of respondents are Kurdish politicians (Kurd (21), Sunni (8), Shiite (7), and Assyrian (1)). The reason for this was a security issue, because Kurdistan is a secure place you can contact with politicians easily, however, it is very difficult to move from place to place in Baghdad, especially within Green Zone so it was difficult to get more interviews with Shiite and Sunni politicians. While getting acceptance from politicians to do the interviews was hard, I had the chance to do it with key politicians including former the Prime Minister, Speaker, former Speaker, and a member of the Council of Representatives (CoR).

Another important point is I made a plan for dividing all interviewees by time period. For instance, I chose members of the IGC in 2003, then a Minster in the first government along with members of the committee for making the permanent constitution. After that I chose Nuri Al-Maliki, former Prime Minister from 2006 to 2104 and some Ministers during that period. I also included members of the CoR at different times from 2003 to 2014. Thus, the

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[177] Oisín Tansey, "Process Tracing and Elite Interviewing: A Case for Non-Probability Sampling," *PS: Political Science and Politics* 40, no. 4 (October 2007). P. 766

[178] Bryman, *Social Research Methods*. p. 771

structure of the interview covered the whole period as well as ethnic religious backgrounds and positions.

In light of the semi-structured interview, I wrote some questions connected with the research questions. I started with a general question and then smoothly I focused on the implementation of consociationalism. This included several questions divided into three main groups in one list to get the views of the politicians, which was crucial to understanding the issue of governance in Iraq from 2003 to 2014. To come up with each group of interview questions I connected them with sub-questions because it helped to get an evidential basis for the research. Also, some questions could be useful for the first period, and others might be relevant to the previous or the current period. The first group of interview questions involved many questions such as: which principles for rebuilding political institutions were used? Was consociationalism one of those principles? What was the first step toward applying this concept? Why did politicians decide to choose consociationalism as a fundamental principle? Is consociationalism reflected in The Law of Administration for the State of Iraq for the Transitional Period (TAL)? How? Is consociationalism reflected in this new permanent constitution? How was the permanent constitution made? What was the principle of establishing the Iraqi Interim Government? Generally, those questions connected with how consociationalism is reflected in the permanent constitution are addressed in chapter four.

These then help to gather evidence for tracing the process leading up to the permanent constitution in chapter five. In addition, when I found a proper time for asking another question outside written questions I did it with the aim of getting more important data. This means, sometimes I asked questions that did not exist in the question list because participants provided information I did not expect.

The second sort of interview question included some questions connected with other sub-questions. In order to get more evidence and data I asked the interviewee why, in the first election on 31st January 2005, did the Sunni group not participate? How did all groups participate to make constitution during Committee of Making Constitution? Which groups supported consociationalism as a main solution? How? Why? Which groups were against this idea? How? Why? How did the US deal with that situation? What do you think about the three state solution? Do you think any groups have changed how they think about consociationalism during the last decade? How? How can the federation of Iraq be explained according to the permanent constitution? Through those questions, I got useful data about the implementation of consociationalism and how the US affected that process, especially during the two terms of Maliki's government.

The data is used in chapters six and seven because both these have the same structure in light of the four main elements of consociationalism. Also, both chapters tried to investigate three questions, the first being, to what extent did ethno religious groups actually pursue consociational arrangements? The second is, to what extent did they implement four main elements? The third is, to what extent were consociational arrangements in fact created? Therefore, it is vital to know who was involved in the political process and how much power they had in different periods. Thus, the interview data contributed widely to the core of the

study and makes the thesis stronger. Moreover, discussing those questions with various participants was useful for analysing the implementation of consociationalism.

I recorded and transcribed the interviews, and translated all of them into English myself. I conducted the interviews in Kurdish and Arabic, and then I translated into English for use in this thesis. Generally, not all the interviews are used throughout the thesis because in some interviews, there was irrelevant information and repetition. I used the thematic technique to minimise the data and focusing on particular subjects which are relevant to the topic. For that reason, I translated what was relevant to the topics into different chapters and subsections. For example, when I conducted interviews with former IGC members some points about rebuilding and structuring political institutions were the same. I transcribed the interviews, and I printed out all of them because I thought it was easier to highlight what was useful to my topic.

I think it is normal that some politicians provide information when you ask them questions, but sometimes it is not easy to get what you want. That happened to me because one of the participants had an impact in the political process after 2003, but he answered the questions generally. When I turn off my recorder, he said did you turn it off, I said absolutely yes, and then he provided useful information. Moreover, the majority of interviewees agreed to let me use their name in the thesis but two of them declined the request for personal reasons. In sum, I got useful information from the interviews which were not available in the literature and helped me for building up the research and generating a new study. This means the research relies on the primary data from who have been directly involved in the political process.

3.4.3   Secondary literature on developments in Iraq after 2003

There are secondary sources that have been used in this research and played a part in the analysis, such as journal articles and books. In fact, a large number of journal articles have been written about consociationalism. This research used some of those articles especially those written by scholars and politicians. This includes, for instance, the scholars Lijphart, O'Leary and John McGarry, who have written many articles about consociationalism and political development in Iraq. There are also many politicians who have written articles about political progress in Iraq such as Zalmay Khalilzad, who has written, for example, "Lesson from Afghanistan and Iraq."[179] The contribution of the secondary literature factors into all aspects and themes in the different chapters. Many books have contributed to the constitutional analysis, such as *Constitution Making Under Occupation*[180], *Negotiating in Civil Conflict*[181] and Faleh A. Jabar who wrote about paradoxes in the permanent constitution (متضادات الدستور الدائم) in a book about the constitution in Arabic.[182] In addition, there are other books related to

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[179] Khalilzad, Zalmay, "Lessons from Afghanistan and Iraq."

[180] Arato, Andrew, *Constitution Making under Occupation: The Politics of Imposed Revolution in Iraq*, Columbia Studies in Political Thought / Political History (New York: Columbia University Press, 2009).

[181] AlaHamoudi, Haider, *Negotiating in Civil Conflict: Constitutional Construction and Imperfect Bargaining in Iraq* (Chicago: The University of Chicago Press, 2014).

[182] Faleh A Jabar, مأزق الدستور (Bagdad-Beirut: Iraq Institute for Strategic Studies, 2006).

political development such as *Iraq, People, History, Politics*[183] and many books by Toby Dodge, which have been mentioned in the previous chapter about literature. Therefore, journal articles and books as secondary sources have contributed to building up the research structure and have supported the thesis toward achieving its main goal.

3.5 Methodological challenges

As discussed earlier in this chapter, the research was based on data collection through documentary and elite interviews. While there are strengths of using different sources, this study faced some challenges in collecting and using them too. Firstly, I will try to summarise some of the issues faced in this research in terms of documents. Secondly, I will illustrate challenges have faced in using elite interviews as well.

There is a plenty of information located in different documents and each of them provides a little information about the events that happened from 2003 to 2014. Looking at all documents to find appropriate information and supporting evidence is a challenge and the main methodological challenge is evaluating competing claims about the same event. This thesis balanced different types of sources and then selected important sections in different sources to contribute to the explanation of a particular subject. When I needed more information about, for example, the elections in 2005, I went back to documents that mentioned specific aspects relating to that election. Thus, the triangulating technique was the best way for tackling the issue of different claims, and for assessing their plausibility in light of the evidence that has been provided.

In terms of elite interviews challenges, there are three main points faced in this research during collecting and analysing appropriate data. The first issue with interviews was that it was difficult for some participants to remember accurate information and provide evidence. That is a real issue faced by my research because building a historical narrative requires participants to talk about past events and what happened but is difficult for some of them to remember what happened twelve years ago. Moreover, they may not be able to tell me what they thought but instead they tell me what they are thinking now. For that reason, it is important to trace events in order to pull out useful information very carefully. For instance, one of the interviewees could not remember accurately which Sunni was asked for more rights during the writing of the permanent constitution because he had an illness and forgot some information. I tried to remind him of events which had happened during that time and when I used this information, I went back to documents to fill this gap, especially meeting minutes and newspapers.

Another issue was confusion between two things related together by participants. In other words, a participant was confused between the Transitional Administration Law (TAL) and the constitution. He talked about an article which is in the TAL but he said it was from the constitution. I understood he was confused, but I did not interrupt because I knew what he meant and how to use it in the thesis. Thus, I tried to tackle this issues through data triangulation from another interviews independently with text copy documents in order to increase the validity of evidence. This is the triangulation approach, which leads to

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[183] Stansfield Gareth, *Iraq*.

"increas[ing] the credibility of findings that are supported across multiple sources, and can reveal the weakness of some sources that might otherwise have been viewed as reliable."[184]

The second challenge was the danger of bias: my identity caused issues whilst conducting some elite interviews, especially from Shiites and Sunnis. In a divided society, identity sometimes raises an issue for the researcher because politicians are divided among different ethnic groups, and they are part of the issue. From that point, when I eventually conducted an interview with politicians from Shiite and Sunni backgrounds they assumed I was a Kurd when they answered the question. Even so, I tried to ignore that point and closely stay on the topic, not identity politics.

In addition, the letter from the University of Reading helped me to tell them formally at the beginning that I am from a university far removed from politics, and that they had the right not to answer any questions that they were unhappy with. In that situation, I avoided being biased by dealing equally with all the data I obtained from different participants.

I also adhered to the data very consciously by doing analyses objectively, ignoring any effect that came from identity. It was not easy for me to do that because in some cases I already had information about what was going on. To avoid being biased, I tried to find some information in the literature or from other sources to support what I analysed. This means the triangulation of data has been applied through going back to original sources that could help prevent being biased. Moreover, it is important to see the events in different ways than other people have seen it. In order to do that, I consciously tried to consult different sources from a variety of perspectives and paid more attention to those sources which verified the information I had. Hence the consideration of many perspectives could be the best way avoid that problem and to ascertain the reality of what happened.

Another difficulty relating to bias was that it was unbalanced among participants because the majority of them were Kurdish people. I had planned to ensure a balance among interviewees from different ethno-religious groups but security issues did not allow me to do that. In addition, it was hard to find appropriate participants for each period because some of them live outside of Iraq, several did not response when I contacted them, and the Islamic State (IS) war negatively affected people's participation. However, the question is how can I ensure a balance? In order to get a comprehensive picture, I used the triangulation strategy through different kinds of sources especially newspapers, books, and personal websites. For instance, I used three different kinds of newspapers from different backgrounds: two of them are Arabic and issued in Baghdad *Azzaman Arabic Daily Newspaper* [185] and *Alsabaah* newspaper.[186] The third one is Kurdish from Kurdistan called *Xebat*.[187] I got the majority of their issues since 2003 and I used them as required for getting a comprehensive picture about political developments in Iraq. Whilst this is not the only way I used for an inclusive image about political progress in Iraq, I used books and other sources to increase the reliability of

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[184] Tansey, Oisín, "Process Tracing and Elite Interviewing." P.766
[185] http://www.azzaman.com/
[186] http://www.alsabaah.iq/
[187] http://www.xebat.net/

data, which has been used in this thesis to ensure a level of balance for conducting appropriate analyses.

Finally, security issues were another problem faced by this research whilst conducting face-to-face interviews in Baghdad. The nature of the study requires doing interviews with politicians from three main groups – Shiite, Sunni and Kurd – from different periods. Those leaders were divided among different places, which are not easy to access. Some of them were available in the Kurdistan region and the Green Zone in Baghdad, which are the most secure parts of Iraq. However, other parts are not secure and are not easy to travel to, particularly the one third of Iraq that is under the control of Islamic State (IS). In light of this circumstance, the best way to tackle this problem was to focus on people who were available in the Green Zone and in the Kurdistan region, and then I conducted interviews with two participants by email and Facebook. In Kurdistan, I did not face any difficulty in conducting interviews with people who were available, but in Baghdad it was more difficult because I needed permission for every step, including arriving there with a secure car and special bodyguard. I have friends in Baghdad (a Minster and a member of the CoR) who helped me; without them, I could not have conducted the interviews. This means there was a limitation on my movements when finding participants and conducting face to face interviews. Despite this, I have collected crucial data from senior politicians such as Nuri Al-Maliki, Humam Hamoudi (the chairman of the committee to prepare the constitution) and the Speaker of Parliament. In doing so I tried hard to minimise the challenges by conducting the interviews systematically in order to achieve the aim of the interview.

3.6   Conclusion

In general, different methods have been used within this research. The process tracing and textual analysis are a big part of this and have had a huge impact on the whole thesis. The time period from 2003 to 2014 has been divided among different subjects and chapters with regards to the election period, especially from 2005 to 2014 in order to consider to what extent the theory of consociationalism has been implemented in Iraq since 2003. It was important to analyse that topic using a process tracing approach because it helped to trace the events and to focus on the four main elements of consociationalism between 2003 and 2014.

Also, textual analysis contributed to this study and helped the investigation. The first empirical chapter (Chapter 4) depends on constitution analysis, especially of those constitution articles relevant to consociational democracy. Chapter four discusses how consociationalism is reflected in the permanent constitution, what is in the constitution and what is not in the constitution. This type of method works well with those questions, and I will investigate the four consociational elements and to what extent the Iraqi case matches other cases of consociationalism. Therefore, integrating two different analyses is a significant process in building up the research structure and getting an answer for the research question. This means integrating different methods is important for better understanding and analysing particular cases.

Furthermore, elite interviews and documents played a big role in this study. It was not easy to find out truthful but uncovered information without using face to face interviews and

searching through different documents. Both contributed to this research and helped the researcher to get an answer to the research questions. While I used both in this study, elite interviews played a bigger part in the research and brought more benefits than the documents. That fact is related to the topic because Iraqi political development is connected with elite behaviour from 2003 to 2014.

It also helped a lot when I looked at the US's role in Iraq and how it affected the political process after 2003. There were unreported events and positions taken and the best way for discover them is through interviews with politicians. The research questions required elite interviews without ignoring the documents. However, both have strengths and weakness, some of which were faced whilst the researcher was conducting investigation. As noted, I tried to minimise the difficulties and develop the strengths in order to get a better understanding of political development in terms of the implementation of consociationalism.

Chapter 4 how is consociationalism reflected in the permanent constitution in Iraq?

4.1 Introduction

This chapter will seek to find out how consociational elements are reflected in Iraq's permanent constitution of 2005. This particular investigation contributes to answering the main question: was Iraq a consociational democracy, in its formal institutions as well as in practice, from 2003 to 2014? Analysing the Iraqi constitution is vital. Understanding the actual reflection of consociationalism in the document is necessary for investigating whether or not this corresponds to actual practice. Traditional consociationalism is based on four main elements, identified by Lijphart. These consist of proportionality, grand coalition, mutual veto, and autonomy.[188]

This aim of this chapter is to determine how these four elements of consociationalism are reflected in the permanent constitution. What is in the constitution? What is not in the constitution? How do these elements emerge in the constitution? Why does it matter? To answer the overarching question, I will approach these sub-questions first. Before conducting this process, it is important to know that there is no a single, precisely-defined structure of consociationalism. However, many countries have been listed as consociational cases. Many countries have been identified as consociational democracies, for example Canada from 1840 to 1867, Austria from 1945 to 1966, Lebanon from 1943 to 1975, Cyprus from 1960 to 1963, Malaysia since 1955 with a temporary breakdown from 1969 to 1971, South Africa from 1994, Bosnia from December 1995, and Northern Ireland from 1999.[189] These cases could be helpful in understanding that the nature of each case is different, and that each country may shape its consociational institutions differently. Consociationalism has two main forms: formal, according to the constitution or law, and informal, through an agreement. Both have the potential to offer advantages and disadvantages.

In this chapter I will describe the characteristics of each recognised element of consociationalism, beginning with proportionality, and examine the extent to which each is reflected in the constitution. From this, we may establish whether consociationalism in Iraq operates, at least in principle, according to one of the two forms, formal or informal, or may be in between.

4.2 Proportionality

Proportional representation is one of the most essential elements of consociational democracy. According to Lijphart, proportionality has three main functions. The first crucial role of proportionality is making political appointments, that is, "to delegate the most difficult and fateful decisions to the top leaders of the segments."[190] The second one is the creation of "a method of allocating civil service appointments."[191] The third one is a method of "scarce financial resources in the form of government subsidies among the different segments."[192] Giving some power, in the form of civil service and political appointments, to different

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[188] Lijphart, Arend, *Democracy in Plural Societies*.

[189] Lijphart, Arend, "The Puzzle of Indian Democracy." See as well: John McGarry and Brendan O'Leary, 2006 "Consociational Theory, Northern Ireland's Conflict, and its Agreement."

[190] Lijphart, Arend, *Democracy in Plural Societies*. P.40

[191] Ibid. P.38

[192] Ibid. P.38

communities, bestows on each one greater potential to shape the political system and decision-making process. The aim is for each single community to be represented within the wider political institutions of the country, to have right, and to share in the power. In conducting these three procedures, electoral law plays a crucial role. It can determine each community's size and standing within the society, and can thus function as their basis for demanding rights. Thus, proportionality shapes the political system through the distribution of political posts, especially high-level positions, allowing each community a voice in the political institutions. Moreover, proportionality is an instrument for conflict reduction among diverse groups. It would be through making political institutions each community represent its own group. Therefore, while it is important to concentrate on offering members of diverse community's high-level positions, there is also a need for "promoting proportionality throughout the public sector, not just in the executive and legislature but also in the bureaucracy, including the army and the police." [193] This could be reflected in formal documents or by informal agreement among political leaders. Taking this into consideration, it is important to highlight how proportionality is reflected in the Iraqi constitution, concentrating on points that are linked to it.

In the Iraqi constitution, there are many articles designed to promote proportionality in various respects. The reality of proportionality in Iraq is that it relies on ethnic religious groups, which includes Shiites, Sunnis (as a sectarian group), and Kurds (as an ethnic group). There are also other minority groups, such as Turkomen and Christian. Each single group has a right to obtain its due proportion in the political system. However, the political process depends on the three main groups (Shiite, Sunni, and Kurd) for achieving proportionality in the political system. Ideally, this would lead to plurality within political institutions without any discrimination or the neglect of any particular community. This is obvious in Article 9, section one, which asserts that the "Iraqi armed forces and security services will be composed of the components of the Iraqi people with due consideration given to their balance and representation without discrimination or exclusion." [194] In reality, the constitution makes provision for the army, allowing for different representation, but it does not mention proportionality. It seems to decree that proportionality should take place in the organisation of one of Iraq's most important institutions, the armed forces. It offers a positive way of preventing monopoly in the armed forces by one or two communities, because it prescribes the building of that institution by *all* Iraqi people. Its members would, it suggests, be loyal to Iraq, rather than to a specific community. Also, it is designed to alleviate concerns that the army will be used in support of one side in sectarian conflict.

The Council of Representatives is an important political institution for gathering all communities to represent all the Iraqi people. Constitutionally, it should include proportionality based on the electoral system, which leads to the proportional appointment of representatives. This is enshrined in Article 49, section one, which says "the Council of Representatives shall consist of a number of members, at a ratio of one seat per 100,000 persons representing the entire Iraqi people, they shall be elected through a direct secret general ballot, the representation of all components of the people shall be upheld in it." [195] This clearly states that the principle of proportional representation should be reflected in the

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[193] McGarry and O'Leary, "Iraq's Constitution of 2005." P.671
[194] Iraq, "Permanent Constitution."
[195] Ibid.

parliament. This conforms to the aim of proportionality in Iraq, wherein each particular group wants to have a voice in the parliament based on its population. This could bring a kind of plurality, composed as it is of individuals from various places who represent the whole country. Consequently, while a limited number of constitutional articles indicate proportionality, proportionality in the constitution is not actually explicit for most institutions, and it is left to other pieces of legislation, such as electoral law and informal practices, to enshrine proportionality.

In addition, the electoral system ensures that no single community could monopolise the parliament, allowing proportionality to take place. According to the electoral law, parliamentary seats should be distributed among governorates through pre-election methods.[196] Each governorate has a number of seats according to its population in order to achieve proportionality in the parliament.[197] Therefore, each community has a supermajority in a number of governorates. For example, the Shiite community has a supermajority in at least seven of eighteen and always attains all the seats of parliament from these places, the Sunni community in three, and the Kurd community in three. Others are mixed among at least two of them, such as Kirkuk, which has 12 members of parliament. Kurd and Sunni each obtained 6 in 2010. Thus, the outcome of the process is proportionality in the parliament in light of electoral system not the constitution. However, the voice of each ethno-religious community is directly transferred to a seat in the parliament.

On the other hand, there were informal agreements among political leaders for distributing high-level positions among key Shiite, Sunni, and Kurd communities. There is no constitutional article enshrining the division of posts among these communities. However, political leaders emphasise that high-level positions and ministry posts should be managed by an agreement. In fact, constitutional articles encourage them to make such agreements, because there is no chance for a single community to form the cabinet without getting support from other communities. There were two main 'Erbil' agreements, one in 2006 before the parliament approved the cabinet, and the other in 2010 to appoint Maliki for a second turn. According to both agreements, primary posts were distributed under particular formulae based on seats in parliament and on key components, especially Shiite, Sunni, and Kurd communities. This brought all communities into power, especially the Shiite community, because they had a majority in Iraq and won more parliamentary seats than others. In this way, proportionality was arranged informally by agreement, rather than by constitutional articles. This kind of informal proportionality has worked in some cases, such as Lebanon, Malaysia, and India, but not in Cyprus, where formal proportionality was more effective.

Therefore, proportional representation can take on different forms, depending on the structure of the political system and the nature of the political environment. As shown above, the Iraqi constitution consists of many articles that emphasise representation, but not proportional representation, and provides for proportionality of key ethnic and religious groups through other legislations and informal additional agreements. Therefore, consociationalism is compatible with the constitution but not explicitly prescribed by it. Rather, it is present in other legislations and informal agreements. An example of formal representation is the case of Cyprus. Proportionality was enshrined in certain articles in its

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[196] Election Law for Council of Representatives, 2013.
[197] Iraq, "Permanent Constitution." Article 49.

Chapter 4 how is consociationalism reflected in the permanent constitution in Iraq?

1960 constitution (Articles 46, 47, 48-50, 67, 72, 77-78).[198] These gave different groups the right to represent their interests through the allocation of civil service appointments and scarce financial resources. Similarly, in the Iraqi constitution, proportionality is reflected in Articles 9, 49, and 112. This means that proportionality is formally reflected in a few constitutional articles, and furthermore that electoral law has been drawn under those articles. Informally, proportionality in Iraq can be seen in the appointment of people to high-level positions based on informal agreements, like in Lebanon and Malaysia. Since proportionality in Iraq is managed by both the constitution and informal agreements, it is in fact a combination of both methods, formal and informal, allowing it more flexibility.

4.3   Grand coalition

According to Lijphart's theory, grand coalition is one of the most important principles for producing power-sharing arrangements. It achieves this by forming political institutions that encompass key groups in a divided society.[199] The government should contain "all sizable communities in executive institutions provided they wish to participate."[200] Forming the government from significant groups is important for achieving the main aim of consociationalism because "broad agreement among all citizens seems more democratic than simple majority rule."[201] Moreover, as with proportionality, there are different forms of grand coalition, formal and informal. Formal grand coalition is enforced by the constitution or written law, while informal grand coalition is not.[202] Cyprus is a good example of formal consociation because a grand coalition government was introduced in its 1960 constitution.[203] The formula for finalising Cyprus' grand coalition was placed in its constitution. It "had to consist of seven Greek ministers designated by the president and three Turkish ministers designated by the vice president."[204] Therefore, both communities attained posts and participated in the political institution.

On the other hand, Lebanon from 1943 to 1975 is an exemplary case of informal grand coalition government. Lijphart stated, "the informal and unwritten "national pact" concluded at the time of independence prescribed government by a kind of grand coalition of top officeholders."[205] Senior political leaders decided to distribute all high positions among communities, following a particular formula. The available positions included "a Maronite president, a Sunni prime minister, a Shiite chairman of legislature, and a Greek Orthodox deputy chairman and deputy prime minister."[206] Thus, grand coalition government worked for more than three decades but eventually ended in 1973 when the civil war occurred in spite of neglecting the grand coalition. As can be seen from both cases, grand coalition government does not have a particular form, but rather depends on individual countries and

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[198] Ram, M. and K. W. Strom, "Mutual Veto and Power-Sharing," *International Area Studies Review* 17, no. 4 (December 1, 2014): 343–58.

[199] Lijphart, Arend, *Democracy in Plural Societies*. p.25

[200] McGarry and O'Leary, "Iraq's Constitution of 2005." P. 671

[201] Lijphart, Arend, *Democracy in Plural Societies*. P. 27-28

[202] McEvoy, Joanne and O'Leary, Brendan, *Power Sharing in Deeply Divided Places*. P.27

[203] Lijphart, Arend, *The Wave of Power-Sharing Democracy. The Architecture of Democracy, Andrew Reynolds*. P.43

[204] Lijphart, Arend, *Democracy in Plural Societies*. p.159

[205] Ibid. P.148

[206] Ibid. p.148

their situations. In some countries, grand coalition operates in the constitution, while in others it is implemented by an agreement.

In the case of Iraq, there is no explicit article in the permanent constitution supporting grand coalition government and division of high-level positions. By contrast, there is an article that gives the largest bloc the right to form the government. This is explicitly stated in Article 76, section 1: "the President of the Republic shall charge the nominee of the largest Council of Representatives bloc with the formation of the Council of Ministers."[207] This seems to be the majoritarian model, but there are many articles that instead show that the cabinet formation requires consensus among key communities: Shiite, Sunni, and Kurd. The reason for this is that the constitution does not allow a single community to govern, even if they get an absolute majority. However, if one of the communities forms the largest bloc, it needs an absolute majority for its confidence from parliament, as is stated in Article 76, section 4.[208] Practically, getting an absolute majority is hard to imagine because none of the key communities has an absolute majority in the parliament. In addition, the current reality of electoral politics in Iraq is that the party system largely runs along ethno-religious lines. Each group cast the vote for its group, it is therefore highly unlikely that a single ethnic group could successfully govern without some form of grand coalition. This means that it is hard for any community to form the government by itself. One group cannot govern Iraq without support from the others, and there is no guarantee of getting an absolute majority for approving the cabinet in the parliament. Moreover, passing laws and practising several constitutional articles requires a two-thirds majority.

This 'stalemate' situation therefore encourages all communities to form a grand coalition government rather than a majority government. There are many other decisions within the permanent constitution that require two-thirds of parliamentary members to be in agreement. These include Federation Council Article 65, constitutional amendment Article 126, section 2, and Article 138, section 2, for electing a President Council, which emphasises that "the Council of Representatives shall elect the President of the State and two Vice President who shall form a Council called the "President Council," which shall be elected by one list and with a two-thirds majority."[209] The President Council consisted of three members from three main communities. Obviously, electing a president and two vice-presidents through one list looks like a kind of grand coalition conducted for the purpose of distributing three posts among the three main communities. However, this kind of coalition was formally enacted only for the presidency council during the transitional period from 2005 to 2010.[210] It ended after the first term of the Council of Representatives.[211] In other words, it was a limited article, linked to the first period of parliament and limited to presidency posts. Visser pointed out that "the degree of formal power-sharing at the level of the central government is in fact quite limited." [212] This means there is no grand coalition in the permanent

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[207] Iraq, "Permanent Constitution."
[208] Ibid.
[209] Ibid.
[210] Ibid. Article 138 section one.
[211] Bogaards, Matthijs, "Iraq's Constitution of 2005: Three Problems, Four Misconceptions, Some Suggestions." P. 11
[212] Visser, Reidar, "The Emasculation of Government Ministries in Consociational Democracies: The Case of Iraq," *International Journal of Contemporary Iraqi Studies* 6, no. 2 (November 15, 2012): 231–42. P.232

constitution, but he does not indicate there are many constitutional articles encouraging all communities to from the grand coalition government.

In Iraq, therefore, grand coalition takes different forms. On the one hand, it was formal for a specific period under Article 138. On the other hand, there was an informal grand coalition based on an agreement among the three main communities to govern Iraq together, inclusively.[213] Since 2005, all governments have formed under the informal agreements of 2006 and 2010, which were signed by senior political leaders. Furthermore, many existing constitutional articles implicitly require collaboration among communities for taking important action and making decisions. Formally there is no chance for a single community to govern Iraq without getting support from other significant communities. Thus, grand coalition in Iraq is mostly managed informally by an agreement. It was only during the transitional period from 2005 to 2010 that a formal grand coalition formed part of the presidency.

4.4   Mutual veto

Another crucial element of consociationalism is mutual veto, which gives minority communities a great opportunity to protect their rights and resist the dominant majority. Lijphart states that "only such a veto can give each segment a complete guarantee of political protection."[214] Moreover, he pointed out that "the mutual veto can be an informal and unwritten understanding or a rule that is formally agreed on and possibly anchored in the constitution."[215] Therefore, any mutual veto existing either formally or informally with other consociational elements in a country should count as a consociational case.

In Iraq, the permanent constitution includes several articles based on mutual veto for each significant community. Each community could use mutual veto for protecting its interests and obtaining and exercising its rights, while regarding the rights of others. Two types of veto occur in the case of Iraq. The first is the presidency veto located in Article 138, sections 1 and 4, which states that "the Presidency Council shall issue its decisions unanimously."[216]It gives each community the authority to use the veto, because each has a representative in the Presidency Council. This provides the Council with the chance to reach a consensus about passing laws and making decisions. Formally, this type of veto was only intended for the first election period between 2006 and 2010. According to Article 138, section one, the Presidency Council will take the place of the president and "the provisions related to the President of the Republic shall be reactivated one successive term after this Constitution comes into force."[217] After that, constitutionally, the president does not have a formal veto because there is no provision enshrining the presidency veto after 2010.

In addition to the formal presidency veto, as mentioned earlier in this section, there is a provision for two-thirds majorities, which has an effect that is very similar to a veto. Actually, there is another type of formal veto that is present in the permanent constitution. This is the regional veto on accepting amendments to the constitution. Article 126, section 4 states that

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[213] Bogaards, Matthijs, "Iraq's Constitution of 2005: Three Problems, Four Misconceptions, Some Suggestions." P.12

[214] Lijphart, Arend, *Democracy in Plural Societies*. P.36-37

[215] Ibid. P.38

[216] Iraq, "Permanent Constitution."

[217] Ibid.

"articles of the Constitution may not be amended if such amendment takes away from the powers of the regions…, except by the approval of the legislative authority of the concerned region and the approval of the majority of its citizens in a general referendum."[218] It is obvious that the constitution gives individual regions the power to accept or reject the amendment of articles that may affect the region. This is a way of protecting the region's rights, because if the central government wants to harm a particular region by amending the constitution, the region will be able to use its veto. Moreover, Article 142, section 4 emphasises, "the referendum on the amended articles shall be successful if approved by the majority of the voters, and if not rejected by two-thirds of the voters in three or more governorates."[219] This means that the amendment of constitution articles could face a veto from two-thirds of the voters in three governorates. With this two-thirds majority veto applicable for the three main communities, it is not easy for anyone to amend the permanent constitution. It is, therefore, a way of balancing power between the majority and the minority.

Furthermore, informal mutual vetoes can occur in particular cases, based on certain constitution articles. As mentioned above, there are several articles that require a two-thirds and absolute majority to pass a law in parliament or take a decision in the government. In practice, this means that if any of the key communities does not accept a particular case or if it withdraws its members during the voting process, then the decision-making process cannot succeed. Therefore, mutual veto is present informally, and may affect the political process for achieving power-sharing among different communities.

To summarise the above, the Iraqi constitution contains mutual veto for key communities in order to protect their rights when they see that they are being neglected. The Iraqi people instituted the same mutual veto as Cyprus did in its 1960 constitution. The permanent constitution covers mutual veto in two main areas, the Presidency Council, and the potential for amending the permanent constitution. In addition, 12 areas require two-thirds majority of seats in the CoR and two-thirds of voters in three or four provinces, and any of the key communities can use this right to stop the particular process by rejecting it or by withdrawing its members from the CoR. This means that each key community can use a veto to block any decision or any project that may infringe one of its rights. Thus, the Iraqi permanent constitution has a mutual veto in order to avoid the majority rule that Cyprus and Belgium possess formally, and Malaysia and Lebanon possess informally.

4.5   Autonomy

Autonomy is one of the primary principles of consociationalism. It has three main forms cultural, economic, and political autonomy. Cultural autonomy has three formulas; the first is "the right of religious and linguistic minorities to establish." The second one is the right to "administer their own autonomous schools." The third one is a "separate "personal laws"."[220] In other words, it affords each community the right to govern its own activities, particularly education and culture.[221] Lijphart mainly discussed cultural autonomy, but also referred to political and economic autonomy as being a part of consociational theory, which is also associated with federalism. Political autonomy is crucial for those countries that have a

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[218] Ibid.
[219] Ibid.
[220] Lijphart, Arend, "The Puzzle of Indian Democracy." P. 260
[221] Lijphart, Arend, *The Wave of Power-Sharing Democracy. The Architecture of Democracy, Andrew Reynolds*. P.39

territorial basis. Lijphart says "consociational theory recommends a federalism with relatively many and relatively small constituent units."[222] According to the principles of federalism, political authority is given to the sub-national unit. This could be in the form of the power to regulate taxation, the power to make political decisions on provisions for public services, and even a degree of formal representation. Ideally, through federalism, each community could implement its right to form a region for its own activities. Additionally, federalism of course suggests having a territorial basis to practise economic autonomy, which gives the right to a particular group to administrate its own economic activities. Therefore, in consociational countries, federalism and autonomy should be instituted in the constitution. This would allow all communities the ability to shape the political system autonomously, according to their own needs.

Generally, autonomy has been applied in consociational countries. Lijphart asserts that "Indian democracy has had all these three forms, the last two from the very beginning and linguistic federalism since the 1950s."[223] Those types of cultural autonomy were explicitly reflected in Indian's constitution to demonstrate that power was shared among the different communities. Because of this constitutional backing, the Indian government proposed linguistic federalism for the minorities and tried to establish power-sharing among all of them. Other consociational cases have similar reflections of culture autonomy in their constitutions in different forms, as is the case with Belgium, Canada, Switzerland, Belgium Cyprus, and Lebanon.[224]

The Iraqi constitution covers political autonomy in several articles. The first is Article 116, which says that "the federal system in the Republic of Iraq is made up of a decentralized capital, regions, and governorates, as well as local administrations."[225] This means the political system is a federation arrangement that individual administrations are able to govern each region and keep their own interests in hand. For example, Kurdistan is recognised as a federal region In Iraq with the boundaries that it had before its collapse in 2003.[226] This recognition need not just be for Kurdistan, but for all communities in Iraq that are able to designate themselves as a region through the procedure outlined in the constitution. Article 117, section 2 emphasises this point, noting that "this Constitution shall affirm new regions established in accordance with its provisions."[227] In addition to giving governorates the right to make a region, the permanent constitution also "leaves the decision about what the number of regions and their boundaries should be to the governorates."[228] Article 119 states that "one or more governorates shall have the right to organize a region based on a request to be voted on in a referendum."[229] To implement this article, the constitution emphasises in Article 118 that the law should be enacted to identify the government's stake in and ability

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[222] Ibid. P.51

[223] Lijphart, Arend, *Democracy in Plural Societies*. P.43

[224] Lijphart, Arend, *The Wave of Power-Sharing Democracy. The Architecture of Democracy, Andrew Reynolds*. P.51-52

[225] Iraq, "Permanent Constitution."

[226] Ibid. Article 117 Section 1.

[227] Ibid.

[228] Bogaards, Matthijs, "Iraq's Constitution of 2005: Three Problems, Four Misconceptions, Some Suggestions." P.16

[229] Iraq, "Permanent Constitution."

to arrange a region.[230] The Council of Representatives enacted this law in 2008. It includes details of the procedure for establishing a new autonomous region in Iraq.

Another critical point addressed in the permanent constitution is economic autonomy, dealing specifically with the allocation of scarce financial resources among the Iraqi people. More precisely, Article 112, section 1, emphasises that "the federal government, with the producing governorates and regional governments, shall undertake the management of oil and gas extracted from present fields, provided that it distributes its revenues in a fair manner in proportion to the population distribution in all parts of the country." [231] It is, then, determined to undertake one of the core activities of proportionality and autonomy by distributing resources among the Iraqi people and giving regional governments and governorates to right to be part of administrating that process. This article is clearly linked to the idea of proportionality and autonomy among diverse groups. This is in order to ground the system in autonomy and proportion, with all parties sharing the benefits of oil and gas. Moreover, it is related to autonomy as well as proportionality, because according to this article, the constitution provisions indicate the formal decentralisation of management of oil, gas, and natural resources.[232] As Bogaards summarises, "the implicit understanding is that new fields will be controlled and managed by the regions and governorates where oil is discovered." [233] Therefore, this creates a kind of balance in power-sharing among communities, where all of them obtain advantages from rare resources.

According to constitution Article 121, the region has the power to "exercise executive, legislative, and judicial powers in accordance with this Constitution, except for those authorities stipulated in the exclusive authorities of the federal government."[234] It is clear that the constitution gives the right to people to run their own internal policy, since power has been decentralised. More than this, the federal region has the right to modify national legislation if it clashes with regional interests. This means that the permanent constitution "leaves open the extent of self-rule."[235] This is located in Article 121, which states that "In case of a contradiction between regional and national legislation in respect to a matter outside the exclusive authorities of the federal government, the regional power shall have the right to amend the application of the national legislation within that region." [236] This means that the regional authority is free to adapt federal legislation in its area.[237] Therefore, the federal region has the real power to exercise its own rights through its political institutions. Thus, federalism is the main characteristic of consociationalism, and is formally reflected in the permanent constitution.

Another type of autonomy is cultural autonomy, the basis of which is establishing autonomous schools for minority groups. The permanent constitution maintains the right for each ethno-religious group to exercise its right in terms of religious identity, education, and

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[230] Ibid.

[231] Ibid.

[232] McGarry and O'Leary, "Iraq's Constitution of 2005." P.681

[233] Bogaards, Matthijs, "Iraq's Constitution of 2005: Three Problems, Four Misconceptions, Some Suggestions." P.13

[234] Iraq, "Permanent Constitution."

[235] Bogaards, Matthijs, "Iraq's Constitution of 2005: Three Problems, Four Misconceptions, Some Suggestions." P.16

[236] Iraq, "Permanent Constitution."

[237] McGarry and O'Leary, "Iraq's Constitution of 2005." P.687

schools. Article 2, section 2 states that "this Constitution guarantees the Islamic identity of the majority of the Iraqi people and guarantees the full religious rights of all individuals to freedom of religious belief and practice, such as Christians, Yazedis, and Mandi Sabeans."[238] This means that while Islam is the religion for the majority of the people, other religions have the right to practise what they believe. Furthermore, Article 2, section 1 strikes a balance between the provisions of Islam and the principles of democracy, because no law may be enacted that opposes any one of them.[239] The constitution accounts for two main languages, Arabic and Kurdish. Article 4, section 1 decrees that "the Arabic language and the Kurdish language are the two official languages of Iraq. The right of Iraqis to educate their children in their mother tongue, such as Turkmen, Assyrian, and Armenian shall be guaranteed in government educational institutions in accordance with educational guidelines, or in any other language in private educational institutions."[240] This means that each ethno-religious group has the right to teach children in its own language, and that the government should take responsibility for providing the resources to do so. But Arabic and Kurdish are not only official languages in Iraq. According to Article 4, section 4, the Turkomen and Syriac languages are "two other official languages in the administrative units in which they constitute density of population."[241] Thus, this type of culture autonomy formally exists in the permanent constitution for all ethno-religious groups. It is the government's responsibility to maintain it.

The final type of culture autonomy is the stipulation for separate personal laws according to ethno-religious groups. Article 41 states that "Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices, and this shall be regulated by law." [242] That involves many aspects related to personal life for people in each particular community, such as marriage, divorce, succession, and adoption of children. Formally, the Kurdistan region had its own personal law, which in some cases differed from central personal law. It is clear that the Iraqi constitution determines freedom in personal laws, allowing all separate groups the right to practise their own personal law in Iraq.

Autonomy is, then, strongly reflected in the permanent constitution of Iraq. It is similar to other consociational countries that practise power-sharing among ethno-religious groups. This means that the majority of consociational countries have the same situation. Formally, all of them emphasise consociational principles in their constitutions in order to provide equal rights without neglecting any community. Therefore, federalism is the core of autonomy, and plays a significant role in the process of consociationalism in deeply divided places. However, it is not compulsory that all consociational countries should be at the same level in regard to the representation of autonomy in their constitution.

4.6   Conclusion

In light of this examination, we may conclude that certain characteristics of consociationalism are reflected in the Iraqi constitution, but not all of them are explicit. Autonomy is strongly reflected in the permanent constitution. There are some veto provisions, but these are actually not very strong, especially after 2010, when the formal presidency veto was

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[238] Iraq, "Permanent Constitution."
[239] Ibid.
[240] Ibid.
[241] Ibid.
[242] Ibid.

abandoned. There are limited provisions for formal proportionality, mainly in the army, but provisions for proportionality occur across a wider range of legislations and agreements. There are, however, no provisions for grand coalition government. In light of this, the constitution is only partially consociational. (Table 1 shows it more clearly). However, one can see consociationalism represented in various legislations (e.g. electoral law) and Erbil Agreements. Consequently, Iraq should be counted as one of the consociational countries. It is crucial to highlight the nature of the constitution and how consociationalism is reflected in it, because without this it is hard to investigate and assess the actual practice of consociational elements in Iraq. We must, then, turn to the constitution drafting process, which is the subject of chapter five.

Rating the reflection of consociational elements in the permanent constitution 2005				
Consociational elements	Fully reflected	Partially reflected	None reflection	Notes
1 Grand coalition			√	There is no provision for grand coalition government in the permanent constitution, however, it is reflected by the agreement among key communities such as the Erbil agreement.
2 Proportional Representation		√		There are few provisions of proportionality in the constitution but it is reflected broadly in the legislations, such as electoral law.
3 Mutual Veto		√		Veto provisions are not very strong, especially after 2010, when the formal presidency veto was unruly.
4 Autonomy	√			Autonomy is strongly reflected because there are many provisions for segmental autonomy and creating new regions.

Table 1: Rating the reflection of consociational elements in the constitution 2005

Chapter 5 Origins of the Constitution

5.1 Introduction

In the previous chapter, I discussed how consociationalism is reflected formally and informally in the constitution. That chapter demonstrated that Iraq is a consociational country and that consociational aspects are partially reflected in the constitution. Therefore, in the following chapter we will examine to what degree consociationalism was deliberately pursued in the drafting of the constitution. I will seek to investigate the process leading up to the permanent constitution from 2003 to 2005 in order to identify why there are so few consociational provisions in the constitution. It is important to know how consociational elements became embedded in the constitution, the writing of which required discussions about bargaining power between diverse groups in Iraq. This chapter adopts a path dependence construction that emphasises the significance of key actors' choices, and the structuring of the political institutions in terms of consociational elements. It was a critical moment that affected the political development afterwards because during that time there were different options for forming the new political institutions and the actors selected one of them which was consociationalism. After that the critical moment "led to the formation of institutions that tend toward persistence and that cannot be easily transformed."[243] In the Iraqi case, political institutions formed according to consociational elements starting with IGC in 2003 that triggered others in following years.

Establishing political institutions in its new form which was based on consociationalism led to the reflection of consociational elements in the permanent constitution in 2005. Mahoney said, "a path-dependent approach emphasizes how actor choices create institutions at critical moments, how these institutions in turn shape subsequent actor behaviours, how these actors' response in turn culminate in the development of the new institutional pattern."[244] In light of that method, the chapter focuses on the political process that led to the constitution and how the new political institutions outline the main communities' performances during critical moments. Pierson investigated the concept of a path dependence, stating "preceding steps in a particular direction induce further movement in the same direction."[245] Thus, tracing the political process, in particular forming the new political institutions from 2003 to 2005 and the impact of actors, will be examined in this chapter. The reason is when a path dependence approach is practiced "adequate explanation will require identifying key historical process that set cases on particular trajectories of development, even if these processes rest in the distant past."[246] In light of that, I am arguing that the period of 2003-2005 was a critical stage that led to the selection of the political institutions based on consociational elements. So, it is difficult to understand mapping consociational elements in the constitution without looking the political development from 2003 to the permanent

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[243] Mahoney, James, "Path-Dependent Explanations of Regime Change: Central America in Comparative Perspective," *Studies in Comparative International Development* 36, no. 1 (2001): 111–41. P.114

[244] Ibid. P.115

[245] Pierson, Paul, "Increasing Returns, Path Dependence, and the Study of Politics," *American Political Science Review* 94, no. 02 (June 2000): 251–67. P.252

[246] Mahoney, James, "Path-Dependent Explanations of Regime Change: Central America in Comparative Perspective." P.111

constitution in 2005. This entails not just looking at the outcome of the constitution: it is crucial to look at the processes of the constitution design process. This explains my path dependence argument.

Accordingly, I shall examine how each political group negotiated and imposed its own interests in the constitution in order to ensure that power was shared. I shall explore various leaders' expectations at that stage about how they would interact with each other to produce positive outcomes. What was each actor's role during this period? What were the processes through which outcomes were reached? What were the outcomes? I shall address these questions in eight subsections, moving from the motivation for re-establishing new political outcomes to the effects of the establishment of several political, administrative, and legal bodies related to the process of writing the constitution. Finally, I shall conclude the chapter with a summary of the findings.

5.2   The Creation of New Political institutions after the 2003 Invasion

In this section, I shall discuss the political process immediately following the invasion. Obviously, when the USA and its allies invaded Iraq, the entire government was dissolved. After that, the decision had to be made about whether the political system should be re-built by the US-led coalition or by internal players. Among the internal actors were the main ethno-religious groups (Shiite, Sunni, and Kurd). Among the external actors were the US-led coalition, and the UN. It is crucial to explain who had real authority influence on the plans for rebuilding the political system, and how those with authority and influence acted during that period.

The fundamental resolution from the Security Council about Iraq after the invasion was Resolution 1483 of 22 May 2003, which contained key points regarding Iraqi involvement in organising their own situation. It started with "the right of the Iraqi people freely to determine their own political future and control their own natural resources."[247] Moreover, the UN strongly supported Iraqi people's desire to govern their own country. The same resolution "express[es] resolve that the day when Iraqis govern themselves must come quickly."[248] In addition, it pointed out "that the United Nations should play a vital role in humanitarian relief, the reconstruction of Iraq, and the restoration and establishment of national and local institutions for representative governance."[249] The regulation gave the UN the right to participate in humanitarian and political fields, and identified the role of the Coalition Provisional Authority (CPA) as well, stating that "the Security Council recogniz[es] the specific authorities, responsibilities, and obligations under applicable international law of these states as occupying powers under a unified command (the "Authority")."[250] So, the resolution recognised the US and UK as occupying powers, and with that came certain rights and responsibilities. But the occupying powers began to create a number of political institutions, an act that was not compatible with occupation law. David J. Scheffer argues that in the early stages, the occupying powers ignored occupation law because their action was not

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[247] "UN Doc. S/REG/ 1483."
[248] Ibid.
[249] Ibid.
[250] Ibid.

compatible with it.[251] On the ground, the CPA and the UN collaborated in the institution-building process of the occupying powers, which required discussing rebuilding political institutions together. Furthermore, this attempt aimed at "encouraging efforts by the people of Iraq to form a representative government based on the rule of law that affords equal rights and justice to all Iraqi citizens without regard to ethnicity, religion, or gender."[252] Hence, the participation of the Iraqi people in these efforts were crucial, because without inside support, external actors would be unable to make the political institution work effectively.

Following the invasion in March 2003, the US-led coalition established an administration to govern Iraq under the name of the CPA. In other words, the US-led coalition took responsibility, as the occupying power, and Iraq was recognised by the UN as an occupied country. Following this, the US-led coalition built up its authority under Security Council regulations. The aim of this was to create a powerful authority to take responsibility for rebuilding the Iraqi state, since there was no existing authority in Iraq that had such powers. The CPA was responsible for rebuilding all political institutions and preparing the government for upcoming transitions. It received recognition from the Security Council regulation mentioned earlier, and its functions were outlined in Section 1: "the CPA shall exercise powers of government temporarily in order to provide for the effective administration of Iraq during the period of transitional administration, to restore conditions of security and stability."[253] The aim of that process was to support attempts to rebuild the political system, emphasising that the "Iraqi people can freely determine their own political future, including by advancing efforts to restore and establish national and local institutions for representative governance and facilitating economic recovery and sustainable reconstruction and development."[254] That process was the first step that the US and its allies made towards authorising a new government, legalised by the UN. In light of this, the CPA took responsibility for controlling the entire country under its own administration. The final decision was taken by the chair of the CPA, Lewis Paul "Jerry" Bremer, who was appointed by President Bush on May 9, 2003.[255] Consequently, there were two main actors with political power at the beginning of the process, the UN mission led by De Mello and the CPA led by Bremer. This meant that internal actors did not have any impact on the US-led coalition's functions, because Iraq was considered an occupied country.

The question is: how was this new political system perceived by both the external actors who created it, and the internal actors, who were not consulted? According to Resolution 1483, the UN supported the Iraqi people in moving towards governing their own country after the occupation. However, the leading role depended on the US-led coalition, which went through the CPA. When President Bush appointed Bremer, he told him "I am fully committed to bringing representative government to the Iraqi people."[256] It was clear that the US-led

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[251] Scheffer, David, "Beyond Occupation Law," *The American Journal of International Law* 97, no. 4 (October 2003): 842. P.845

[252] "UN Doc. S/REG/ 1483."

[253] "CPA Doc./REG/ 01," May 16, 2003.

[254] Ibid.

[255] Bremer, L. Paul and McConnell, Malcolm, *My Year in Iraq*. P.12

[256] Bremer, L. Paul, McConnell, Malcolm, and Boyd Gaines, *My Year in Iraq: The Struggle to Build a Future of Hope*, sound recording (New York: Simon & Schuster Audio, 2006). P.12

coalition wanted a broad-based government, which would include all ethno-religious groups, because it was part of the US policy of regime change in Iraq not to exclude any group.[257] Despite their intentions, they did not in fact have any formula to ensure that the three main groups (Shiite, Sunni, and Kurd) would each have a say. Barham Ahmed Salih, former Prime Minister of Kurdistan said "the US looked at Iraq situation from their perspective on the basis of the state of citizenship [i.e. regardless of ethno-religious affiliation, all communities were comprised of citizens of Iraq] and they did not agree on formal division at the beginning of the process."[258] In addition, Barham Salih pointed out that if a single majority [e.g. Shiite] governed Iraq, it would be harmful for minority rights, because the majority people would neglect the rights of minorities. That situation encouraged Kurds to demand consensus among communities as a fundamental principle for rebuilding Iraq.[259] Moreover, Mahmoud Othman, a Kurdish leader, pointed out that the US and UK did not like that division, but when they saw the reality, and what the Iraqi people wanted, they accepted it as necessary in dealing with the new situation. [260] They therefore accepted an arrangement that had previously been made among opposition parties in Iraq before the collapse of Saddam's regime. Each group would be represented according to the following formula: Shiite 60%, Sunni 20%, and Kurd 20%. [261] Therefore, division in Iraq according to three main ethno-religious groups helped to ensure a system that was compatible system with previously-acknowledged power-sharing arrangements. The main point at that stage was that Shiites and Kurds wanted to be in a real partnership with other sects through a power-sharing arrangement.

Consequently, at that stage all sects started negotiations with the CPA to find out how the political system could be arranged. The Shiite majority stood with the Kurds to apply power-sharing in the political system in order to ensure their own participation in governing Iraq. According to the above discussion, the US-led coalition accepted the deal to operate with the three clearly-delineated communities: Shiite, Sunni, and Kurd. This meant that power had to be shared among all three groups. The already-existing partnership between the Shiites and Kurds meant that power-sharing would have a greater chance of success. According to the US-led coalition policy, the Iraqi Governing Council (IGC) was formed, appointed by the CPA. It was the first establishment to include representatives from all three groups. I shall discuss this in the following section.

5.3   Iraqi Governing Council (IGC)

Before the US-led coalition occupied Iraq, there was a group of seven leaders who had been chosen by the Iraqi opposition leaders at their London Conference in 14-16 December 2002. They are referred to as the G-7.[262] After the collapse, Bremer wanted to expand the G-7 because he considered this body not to be a truly representative group, and he wanted to

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[257] Khalilzad, Zalmay, *The Envoy*. P.150

[258] Interview with: Barham Ahmed Salih, August 20, 2014.

[259] Ibid.

[260] Interview with: Mahmoud Othman, October 8, 2015.

[261] Interview with: Salahuddin Bahaddin, October 20, 2014.

[262] Interview with: Mahmoud Othman. And see: Chris Toensing, "U.S. Support for the Iraqi Opposition", Foreign Policy in Focus, 1 January 2003. http://fpif.org/us_support_for_the_iraqi_opposition/

make a broad-based government with representation from all communities.[263] There was no significant opposition from internal actors to expand the group; however, the Shiite majority feared that the expansion of the G-7 would affect them, because the ratio of Shiite members would be reduced. Bremer assured them that they would not be affected.[264] The Kurds did not object to the expansion.[265] From that point, the Iraqi Governing Council (IGC) was established on 13 July 2003 by the CPA as a first step towards rebuilding formal political institutions.[266] It consisted of 25 members from all Iraqi communities: 13 Shiites, 5 Sunnis, 5 Kurds, and two seats for Christian and Turkmen minorities.[267] Table 2: *Rating Members of the Iraqi Governing Council* provides more details of these members, all appointed by Bremer. In addition, a new, significant role was "a presidency that rotated among nine of the council members. It had no autonomy to take decisions without the approval of Bremer, who retained veto power over all IGC decisions."[268] Hence, the formula that shaped the IGC was crucial, because it was the first time that the posts were divided among the three main communities. This became a grounding principle for participation in the political process from 2003 onwards. This was a fundamental step towards power-sharing based on ethno-religious groups, based on appointment rather than election.

Internally, the formula used to ensure cross-community participation in both the IGC and the cabinet was accepted by all communities. The formula reflected the reality of the country and gave each ethno-religious group the opportunity to be represented in it. In accord with this, Qubad J. Talabani, Kurdish deputy Prime Minister in the Kurdistan Regional Government (KRG) said, "the structure of the IGC means a new political system in Iraq will be thought three main communities Shiite, Sunni, and Kurd."[269] Therefore, it was a starting point for all communities to work together and make decisions in consensus, a new method for sharing responsibility in the political institutions of Iraq.[270] The Shiites as a majority community accepted the new political process, and participated in it eagerly, because it was the first time that they had shared the responsibility of high-level positions in Iraq. However, also at that time, the Shiites had been warned by Bremer "not [to] commit the mistake they had made in 1920", when they rose against the British, who occupied Iraq.[271] The absolute majority of posts granted to Shiites meant that they dominated both the IGC and the cabinet. That was one of the biggest reasons that the Shiites agreed with that formula, and were in a rush to start rebuilding political institutions.[272] On the other hand, while the IGC and the cabinet included Sunni people, many of them opposed the political process, and demanded ending the authority of the Americans occupying Iraq.[273] This led to controversy, as the Sunni community divided into two groups, one – the stronger of the two – wanting to resist the occupation, and the other

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[263] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.49

[264] Ibid. 82-84

[265] Interview with: Salahuddin Bahaddin, interview.

[266] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.99

[267] Manning, Carrie, "Political Elites and Democratic State-Building Efforts in Bosnia and Iraq."

[268] Ibid.

[269] Interview with: Qubad J.Talabani, November 9, 2014.

[270] Ibid.

[271] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.88

[272] Interview with: Hussein Balisani, August 4, 2014.

[273] Interview with: Alaa Makki, March 8, 2014.

– less powerful – wanting to collaborate with it. The opposition group called all groups to boycott any political process that included the IGC, which was under the occupation's authority.[274] However, there were some Sunni leaders in the IGC who represented the views of the Sunni community that was willing to work with occupation. Consequently, Shiites, Kurds and part of the Sunni community participated in the political process, and obtained posts that allowed them to share the (limited) power in the political system.

While the IGC consisted of 25 Iraqi members, the US-led coalition monopolised the political process, and the final decision came through the CPA, always requiring approval from Bremer. This meant that the US-led coalition had real power, while other actors simply gave advice and followed its decisions. Despite this, Bremer claimed that "the Council will have real power and the Coalition stands ready to help in any way possible." [275] This, however, was the opposite of reality. Members of the IGC emphasised that the CPA and Bremer in particular had real power, not the IGC. Ayad Allawi, Shiite secular former Prime Minister, pointed out that the IGC had no real power, but was considered to be an advisory council, because it was Bremer alone who had real authority at that time.[276] Thus, the role of the IGC was only consultative and gave legitimacy to the process.

However, the role of the IGC and the cabinet was marginalised by the CPA, particularly by Bremer. Obviously, the CPA was one of the main actors to have a significant impact during this period, but this does not mean disregarding other actors who played a positive role. Security Council Resolution 1483 specifically allowed the US and UK to possess the power of an occupying country, and it was under that logic that the CPA and Bremer appointed the members of the IGC. This was clear in the CPA's regulations, which stated: "the Governing Council met and announced its formation as the principal body of the Iraqi interim administration referred to in paragraph 9 of Resolution 1483."[277] This meant that the IGC was granted ostensible authority to govern Iraq during that period, but in reality, the power was held by the CPA, especially Bremer, who "decided to give no authority to the IGC independent of the CPA."[278] It was based on the thought that the Iraqi people "was not ready to govern Iraq, or even to share substantially in such responsibilities."[279] It was in this way that the CPA became a main actor, and exerted more influence on rebuilding formal political institutions, starting with the institution of the IGC. The IGC continued as the first political institution in post-occupation Iraq until 1 June 2004, and ended through the agreement of all members. This was enshrined in CPA Regulation number 9 on the 9th of June, which reported "the actions by the Governing Council to dissolve itself on June 1, 2004 as part of the ongoing evolution in the structures of the interim Iraqi administration, as contemplated by Resolutions 1483 and 1511."[280]

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[274] Ibid.

[275] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.101

[276] Ayad Allawi, صورة عراقي،مراجعة توثيقية لمواقف الزعيم السياسي العراقي أياد علاوي, First (Baghdad: الكنز للطباعة الفنية الحديثة, 2015).

[277] "CPA Doc./REG/ 06," July 13, 2003.

[278] Shareef, Mohammed, "President George W. Bush's Policy Towards Iraq: Change or Continuity?". P.150

[279] Ibid. P.150

[280] "CPA Doc./REG/ 09," June 9, 2004.

	Rating Members of the Iraqi Governing Council from 13 July 2003 to 1 Jun 2004.[281]			
	Name	Position	Ethnicity	Bloc and Political Party
1	Ahmed Chalabi	Member and President	Shiite	Iraqi National Congress
2	Ibrahim Jaafari	Member and President	Shiite	Daawa Islamic Party
3	Mohammed Bahr al-Ulloum,	Member and President	Shiite	Cleric from Najaf
4	Abdel-Aziz al-Hakim,	Member and President	Shiite	Supreme Council for the Islamic Revolution
5	Ahmed al-Barak,	Member	Shiite	Human rights activist
6	Raja Habib al-Khuzaai	Member	Shiite	Southern tribal leader
7	Aqila al-Hashimi,	Member	Shiite	Foreign affairs expert
8	Hamid Majid Mousa	Member	Shiite	Communist Party
9	Ezzedine Salim	Member and President	Shiite	Daawa Islamic Party
10	Iyad Allawi	Member and President	Shiite	Iraqi National Accord
11	Wael Abdul Latif	Member	Shiite	
12	Mouwafak al-Rabii	Member	Shiite	
13	Abdel-Karim Mahoud al-Mohammedawi	Member	Shiite	Hezbollah from Amara
14	Samir Shakir Mahmoud	Member	Sunni	
15	Naseer al-Chaderchi	Member	Sunni	National Democratic Party
16	Adnan Pachachi	Member and President	Sunni	
17	Ghazi Mashal Ajil al-Yawer	Member and President	Sunni	Tribal figure
18	Mohsen Abdel Hamid	Member and President	Sunni	Iraqi Islamic Party
19	Massoud Barzani	Member and President	Kurd	Kurdistan Democratic Party
20	Jalal Talabani	Member and President	Kurd	Patriotic Union of Kurdistan
21	Salaheddine Bahaaeddin	Member	Kurd	Kurdistan Islamic Union
22	Mahmoud Othman	Member	Kurd	Independent
23	Dara Noor Al-din	Member	Kurd	Judge
24	Younadem Kana,	Member	Assyrian	(Christian)
25	Sondul Chapouk	Member	Turkomen	
	Note: Under the principle of rotation, 11 out of 25 members got presidency of IGC for one month.			

Table 2: Rating Members of the Iraqi Governing Council

Running parallel to the IGC was the cabinet government. Bremer worked hard to form the cabinet government based on the same formula for participation used for forming the IGC. Directly after the declaration of the IGC, Bremer said, "the Governing Council is the first step on a journey we will travel together toward our mutual goal of a democratic and representative Iraqi government."[282] Obviously, the UN regulation called for this, and Bremer tried to put it in place as soon as possible. That was why after the establishment of the IGC, he set out to do the same for the cabinet government.[283] Formation of the first cabinet did not take long, because it was based on the IGC's formula, with each community receiving the same percentage of posts. Abdulrahman S. Kareem, a Kurdish former minster in Bremer's cabinet, said, "the government I have been minster in formed in the similar ratio of the IGC and all the decision should get his approval and issued by him." [284] The only difference between the IGC and the cabinet members was that the ministers were suggested by the IGC

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[281] BBC, Monday, 14 July 2003, 12:14 GMT 13:14 UK,
http://news.bbc.co.uk/1/hi/world/middle_east/3062897.stm

[282] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.101
[283] Ibid. P.83
[284] Interview with: Abdulrahman S. Kareem, October 7, 2014.

to Bremer, who appointed them. The government formation commenced in September 2003, and contained 25 minsters, divided in the same way as the IGC. For more details, see Table 3.

	Rating Ministers in the first Cabinet, 1st September 2003 to June 2004. [285]			
	Name	Position	Ethnicity	Bloc and Political Party
1	Rotated among 11 members	Prime Minister	Diversity	Different political parties
Powerful Ministers (Sovereign Ministers)				
2	Nori al-Badran	Interior Minister	Shiite	Iraqi National Accord
3	Ibrahim Mohamed Bahr al-Uloum	Oil Minister	Shiite	Independent, the Future Iraq Grouping.
4	Mahdi al-Hafidh	Planning Minister	Shiite	Iraqi Independent Democrats
5	Kamil Mubdir al-Gailani	Finance Minister	Sunni	
6	Dissolved by Bremer	Defence Minister		
7	Hoshyar Zebari	Foreign Affairs Minister	Kurd	KDP
Low Powerful Minister (Service Ministries)				
8	Khudayer Abbas	Health Minister	Shiite	Daawa
9	Mohammed Jassem Khudair	Immigration and Refugees	Shiite	Supreme Islamic Iraqi Council
10	Ali Allawi	Trade Minister	Shiite	
11	Sami Azara al-Majun	Labour and Social Affairs Minister	Shiite	Iraqi National Congress
12	Abdul-Ameer Abboud Rahima	Agriculture Minister	Shiite	National Democratic Party
13	Alaudin Abdul-Saheb al-Alwan	Education Minister	Shiite	
14	Haidar al-Abbadi	Communications Minister	Shiite	Daawa
15	Mufid Mohammad Jawad al-Jazairi	Culture Minister	Shiite	Iraqi Communist Party
16	Ali Faek al-Ghadban	Youth and sports Minister	Shiite	Supreme Islamic Iraqi Council
17	Bayan Baqer Sulagh	Reconstruction and Housing	Shiite/ Turkmen	
18	Abdel Basset Turki	Human Rights Minister	Sunni	
19	Hisham Abderrahman al-Shibli	Justice Minister	Sunni	Iraqi National List
20	Ayham al-Samaraie	Electricity Minister	Sunni	Iraqiya
21	Ziad Abderrazzak Mohammad Aswad	Higher Education Minister	Sunni	Iraqi branch of the Muslim Brotherhood
22	Latif Rashid	Water resources Minister	Kurd	PUK
23	Nisrin Mustafa al-Barwari	Public Works	Kurd	KDP
24	Mohammad Tufik Rahim	Industry and Mines Minister	Kurd	PUK
25	Abderrahman Sadik Karim	Environment Minister	Kurd	KIU
26	Rashad Mandan Omar	Technology Minister	Turkomen	
27	Bahnam Zaya Bulos	Transport	Christian	

Table 3: Rating Ministers in the First Cabinet

The question is: how was the new system of forming government received? The US-led coalition strongly supported the new government, considering it a truly representative, broad-based government that did not neglect any ethno-religious group. Bremer, who believed that majority rule would not work, was in favour of this system.[286] This meant that all significant communities had a share of the power in the new political institutions, as represented by the IGC and the cabinet. Bremer knew that the Shiites were a majority in Iraq, and would have liked to be given more power, but he preferred to set up the IGC and the

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[285] BBC, 1st September 2003. http://news.bbc.co.uk/1/hi/world/middle_east/3199561.stm and see Middle East newspaper (in Arabic) 2003, Issue 9044,2nd September 2003.

[286] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.83-84

cabinet from all communities.[287] Thus, the US-led coalition sought to make a broad-based government because it was the most acceptable strategy to secure the country and to bring all communities together to share power in the new Iraq. Moreover, the UN supported the formation of the IGC, and the cabinet was recognized formally by Resolution 1500, which stated that the Security Council "welcomes the establishment of the broadly representative Governing Council of Iraq on 13 July 2003, as an important step towards the formation of the people of Iraq of an internationally recognized, representative government that will exercise the sovereignty of Iraq."[288] Thus, as we have seen, both external actors endorsed the ideas of power sharing between the different communities and encouraged Iraqi participation in political institutions that contained representatives of the main communities.

Consequently, the formulation of the IGC and the cabinet look like grand coalition and proportional representation, because all significant communities participate and are represented in both. This means that in practice two of the consociational characteristics were applied at the first step of the new political process. The US-led coalition pushed the Iraqi people to implement this kind of system to ensure that all communities had a share of power, without neglecting any of them, in order to create stability and sustainability. This meant that the external actor thought the implementation of consociational elements was crucial in Iraq to work as a tool for conflict resolution among communities. Although the US-led coalition was the main actor, and had a significant impact on the political process, its efforts were strongly supported by many Shiites and Kurds. Clearly, the structure of the IGC was a fundamental step towards setting up consociational elements in subsequent actions.

5.4   The Transitional Administrative Law (TAL)

On 8 March 2004, the Transitional Administrative Law (TAL), which functioned as the temporary constitution, was signed by all IGC's members. It had been prepared mostly by the CPA and a few, selected IGC members.[289] Before drafting the TAL, Bremer suggested the idea of it to Condoleezza Rice, and she agreed to it.[290] The proposal of TAL was originally designed by the CPA to implement discussion among political leaders in order to finalise the interim constitution.[291] It took three months of long and hard discussion among Shiite, Sunni and Kurd leaders under CPA supervision to finalise the draft of the TAL. It was the first document to be recognised as an interim constitution after Saddam. The TAL "provided the road map to election and the adoption of a permanent constitution and specif[ied] how Iraq would be governed in the interim."[292] During the negotiation, there were several controversial points among ethno-religious groups, such as the shape of the state, its political system, federalism, veto, and dividing the power. I will investigate how the actors negotiated these points, especially those related to the power-sharing arrangements.

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[287] Ibid. P.93
[288] "UN Doc. S/RES/1500," August 14, 2003.
[289] Galbraith, Peter, "Kurdistan in a Federal Iraq." P.280
[290] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.214
[291] Benomar, Jamal, "Constitution-Making After Conflict: Lessons for Iraq," *Journal of Democracy* 15, no. 2 (2004): 81–95.
[292] Galbraith, Peter, *The End of Iraq*. P.138

Federalism was one of the main controversial points among actors. Kurdistan had already had a type of autonomy since 1991. After the collapse of the Saddam Hussein regime, Kurdistan wanted to be recognised as a federal region with significant authority and autonomy. Bremer pointed out that the Kurdish political leaders agreed with making the interim constitution; however, Talabani, former President of Iraq told him "we Kurds will also want the document addressing our concerns, especially our demand for a federal system-you know, to protect our autonomy"[293] and Kurds were reluctant to agree to less than autonomy for Kurdistan and federalism for Iraq.[294] More than that, Talabani told Bremer "you are asking us to join an Iraq in which we'll have less freedom than we had while Saddam was in power."[295] This meant the Kurds looked forward to setting up a system compatible with its demands; they did not want to go back to dealing with a strong central government. David Wippman pointed out that the Kurds "would not accept an integrationist alternative. Their own proposal for Iraq was to create a bi-modal federation in which there would be equal Arab, and Kurdish federated states."[296] Thus, Kurdistan declared that the political system should be based on federalism, and placed it in the TAL, which was main goal for them at that time.

The Shiites, as the majority in Iraq, were initially in a rush to take power, and petitioned for a quick transition. The main reason why they wanted to end CPA authority and disband the occupation forces in Iraq was to become sovereign as soon as possible.[297] Furthermore, when the Kurds sought a significant degree of self-government, the Shiites "began to ask, if the Kurds can have it, why can't we?"[298] This meant that the Shiites did not reject federalism for Iraq at that time. They wanted a provision that any three provinces outside the Kurdistan area could form a region, excluding Baghdad and Kirkuk.[299] Therefore, Article 53 Section C stated, "any group of no more than three governorates outside the Kurdistan region, with the exception of Baghdad and Kirkuk, shall have the right to form the regions from amongst themselves."[300] Thus, the Shiite model was compatible with the Kurds' in some points, especially federalism as a principle for the political system. The Sunnis' position was different from the other communities', and they "wanted the centralised Iraq that they had once run."[301] It was part of their nostalgia to re-govern Iraq, as they had in a previous period, which was their demand after Saddam's regime. The US-led coalition supported the Kurds' and part of the Shiites' claim for federalism, but "only in the context of a unified Iraq, with a central government exercising authority over key national issues such as Defense, foreign policy, and Iraq's natural resources."[302] After discussion among all of them, federalism was placed in Article 4 of TAL, which stated: "the system of government in Iraq shall be Republican, federal, democratic, and pluralistic, and powers shall be shared between the federal

[293] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.284
[294] Diamond, Larry Jay, *Squandered Victory*. P.164-165
[295] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.297
[296] Wippman, David, "Sharing Power in Iraq," 39 New Eng. L. Rev. 29 -2005 2004. P.37
[297] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.300
[298] Diamond, Larry Jay, *Squandered Victory*. 167
[299] Ibid. 167
[300] Iraq, 2004, "Law of Administration for the State of Iraq for the Transitional Period," March 8, 2004, http://www.iraqcoalition.org/government/TAL.html [accessed 18 May 2014].
[301] Galbraith, Peter, *The End of Iraq*. P.139
[302] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.270

government and the regional governments, governorates, municipalities, and local administrations."[303] This shows that the system was envisaged as federal and regional governments sharing the power, which was an important point for preventing a majority tyranny. Galbraith pointed out that "the Kurds see power-sharing as a way to protect a self-governing Kurdistan and as a way to ensure a benign Iraqi administration."[304] Consequently, there was no strong disagreement about placing federalism in the TAL at that time, and it was one of the fundamental issues that the US-led coalition supported.

Cultural autonomy was another issue at stake, because Kurds demanded that the Kurdish language should be a formal language, in the same way as Arabic. After discussion, it was accepted as an official language. This was placed in Article 9, which stated: "the Arabic language and the Kurdish language are the two official languages of Iraq. The right of Iraqis has to educate their children in their mother tongue."[305] It was the first time that the Kurdish language was recognised as a formal language in Iraq, and it had an influence on the way that Kurdish people felt that they had autonomy in Iraq. Bremer worked out that this was the outcome of an agreement between Shiites and Kurds "on the establishment of two official languages."[306] It seems that the US-led coalition did not reject that right, and it supported the agreement.

Another controversial point was the power of veto, which was mainly demanded by the Kurds. Bremer said, "the Kurds wanted assurances that they could veto a draft constitution if its provisions on federalism were insufficiently generous."[307] During the negotiation, it was one of the point that the Kurds asserted should be part of the TAL. However, it faced strong opposition by the Shiites and the US-led coalition, especially from Bremer. He stated, "Kurds proposed that ratification of the constitution would fail if a two-thirds majority in any three provinces, this gave them a veto. I told them I'd have to check with Washington on this issue."[308] It was not easy to get the veto because negotiators knew it would lead to giving more power to the Kurds while they remained a minority. Barham Salih said, "we demanded the veto but at the beginning the US-led coalition and Shiite did not accept it. After hard discussion with them till last night of the finalising the draft of the TAL and Talabani discussed it with Rice, after that she accepted our demand to be a part of the TAL."[309] Bremer said "I called Condi Rice and brought her up to date. She agreed we could accept the Kurdish proposal on ratification."[310] This meant that while the Iraqi people participated in the negotiation of drafting the TAL, the US-led coalition had the final decision about strategic points.

By contrast, the Shiites rejected the Kurdish veto, especially Ayatollah Sistani, who was not pleased with it, because he thought it was not democratic that a two-thirds majority in any

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[303] Iraq, 2004, "Law of Administration for the State of Iraq for the Transitional Period."

[304] Galbraith, Peter, "Kurdistan in a Federal Iraq." P.278

[305] Iraq, 2004, "Law of Administration for the State of Iraq for the Transitional Period." A.9

[306] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.295

[307] Ibid. P.292

[308] Ibid. P.297

[309] Interview with: Barham Ahmed Salih.

[310] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P. 298

three provinces could veto the permanent constitution.[311] The issue was that the Kurds and Sunnis were worried that the Shiites could use their majority against them. It was for that reason that the Kurds asserted that they should have a veto and place it in the TAL to protect their rights. The veto was placed in the TAL, Article 61 section C, which stated "the general referendum will be successful and the draft constitution ratified if a majority of the voters in Iraq approve and if two-thirds of the voters in three or more governorates do not reject it."[312] There was widespread concern for the future when the Iraqi people were writing the permanent constitution, but it was seen as absolutely certain that Kurds' rights would be in safe hands. However, four days before signing the TAL, the Shiites worked hard to excise this article, but they did not succeed for two main reasons. First, the US-led coalition had already accepted it. Second, the Kurds strongly defended it. When there was a hard discussion between Kurds and Shiites about the veto, a number of Sunni leaders who had participated in the IGC asked Bremer to sign the TAL without regarding the Shiites, but Bremer did not accept it.[313] This meant that the Sunnis members in the IGC did not care about the veto. In fact, they may have liked it because they were also a minority, and were worried about Shiite domination in the coming years. However, the Association of Muslim Scholars, as represented by Sunni leader Harith al-Dhari, was against the TAL, because they thought it did not reflect their interests and neglected Sunni groups. [314] This type of statement affected the participation of the Sunnis in the political process, because the Sunni people had been affected by Fatwa (advisory opinions) to boycott the political process.[315] There was a belief that the Sunnis' members in the IGC did not represent the Sunni community, because while they were themselves Sunni they did not have popular support among the Sunni community. Thus, the veto was nevertheless established in the TAL with the full support of the US-led coalition and the Kurdish community, even though the Shiites were unhappy with it.

Moreover, there was another veto in the TAL Article 36 section B5, which stated "the Presidency Council shall take its decisions unanimously."[316] This meant that if one of the Presidency Council's members did not agree with any decision, it would be rejected. The Presidency Council consisted of three members from the three main communities: Shiite, Sunni, and Kurd. They were elected altogether in one list and by a two-thirds majority of the National Assembly's members.[317] In addition, according to Article 38, the Presidency Council had a right to select the Prime Minister and the cabinet ministers unanimously.[318] Thus, the veto was very clear, but it was obvious that it was only intended for the transitional period because the TAL would end when the permanent constitution was ratified by the general referendum. The crucial point was that it led to consensus among communities to form the government, and ensured that each group, especially minority groups, would have a voice in the cabinet. Akram al-hakim, Shiite leader and former minister in the Maliki government, said,

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[311] Ibid. P.302
[312] Iraq, 2004, "Law of Administration for the State of Iraq for the Transitional Period."
[313] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*.
[314] Faleh A Jabar, مأزق الدستور
[315] Interview with: Alaa Makki, interview.
[316] Iraq, 2004, "Law of Administration for the State of Iraq for the Transitional Period."
[317] Ibid.
[318] Ibid.

"the agreement among communities for forming the cabinet and the veto among the Presidency Council, which consisted of three communities, were one of the greatest guarantees of power sharing."[319] But it was clear there was an article in the TAL, Article 38, which emphasized that the cabinet should gain acceptance from all communities' representatives in the presidency council, which meant making a grand coalition cabinet. Another important article was Article 30 Section C, which highlighted proportional representation, and said "The electoral law shall aim to achieve the goal of having women constitute no less than one-quarter of the members of the National Assembly and of having fair representation for all communities in Iraq, including the Turcomans, Chaldo Assyrians, and others."[320] It is obvious that "fair representation" means that the Iraqi Transitional National Assembly should be inclusive, and that each community should get the right proportion of seats. Therefore, articles about proportionality were not a big issue among negotiators, because all of them knew very well that there was no chance for one particular group to lead the country. That was why they all agreed to form the government and participate in the political process together.

The question is: did the US-led coalition monopolise the negotiation for drafting the TAL? At that time, the US-led coalition in Iraq controlled the entire political process and took responsibility for rebuilding the Iraqi state. It was unclear who had actually written the TAL. Abdulrahman S. Kareem emphasises, "TAL has been completely written by the US but the CPA asked Adnan Pachachi, the Sunnis' leader, to write its introduction to show that the Iraqi people had written the TAL."[321] If that was the case, why was it that a certain number of articles were asserted by particular communities, becoming a part of TAL? An example is the veto by the Kurds. This means that the CPA's proposal was not completely compatible with all communities' demands. That was why it involved hard discussion to ensure that it was compatible with Iraqis' demands. Galbraith pointed out that "the TAL was largely written by U.S. government lawyers and negotiated in secret by U.S. officials among a handful of Iraqis."[322] It looks like the US-led coalition gave a small opportunity for changing a number of articles, not all of them subject to negotiation. Therefore, the CPA mostly achieved what it sought in the TAL, but not everything, because it faced huge challenges from the Shiite and Kurd communities.[323] Therefore, the process of drafting the TAL lacked transparency, because there were so many different agendas, especially the US-led coalition's agenda, which meant that in the end, the TAL mostly reflected the CPA's goals.[324] That is why Brahimi says, "it reflected the will of the occupying power."[325] Therefore, the US-led coalition forces drew the map of the political process, and others had to go through it to rebuild the political system and form the political institutions during that time. Hanan Al Fatlawi, a Shiite Member of

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[319] Interview with: Akram Al-Hakim, January 20, 2015.

[320] Iraq, 2004, "Law of Administration for the State of Iraq for the Transitional Period."

[321] Interview with: Abdulrahman S. Kareem.

[322] Galbraith, Peter, "Kurdistan in a Federal Iraq." P.280

[323] Galbraith, Peter, *The End of Iraq*. P.140

[324] Eklund, Karna, O'Leary, Brendan, and Paul R. Williams, "Negotiating a Federation in Iraq, in The Future of Kurdistan in Iraq. Brendan O'Leary, John McGarry, and Khaled Salih" ((U.S: University of Pennsylvania Press, 2005)., n.d.). P.118

[325] Brahimi Lakhdar, "State Building in Crisis and Post-Conflict Countries" (UN, June 26, 2007). P.

Parliament, pointed out that the political system was not chosen by the people of Iraq after 2003, because there was no chance to accept or reject that method. It was masterminded by the US-led coalition and political leaders in the IGC, most of whom had come back from exile outside Iraq.[326]

Consequently, federalism, grand coalition, proportionality, and minority veto were formally reflected in the TAL for the transitional period. The hard discussion and long negotiations were about federalism and minority veto, which related to other elements, like grand coalition and proportionality. In addition, proportionality had existed in the electoral law issued by CPA Regulation number 96 in 2004, while grand coalition was arranged in detail by informal agreement among political leaders. Thus, as it was the US-led coalition and internal actors (and the UN) who viewed consociationalism as a conflict resolution mechanism, and this influenced their preference for it.

5.5   Iraqi Interim Government (IIG)

When the TAL had been signed, the Iraqi situation reached another stage, and required the appointment of the Interim Government. It was an important stage to know how the actors were pursuing their interests in the wake of the adoption of the TAL. Obviously, the TAL constructed the framework for implementing power-sharing in political institutions. Article 2, section B1 of the TAL decreed that the Iraqi Interim Government should be established. It remained in place from 30 June 2004 to 31 January 2005, and was "constituted in accordance with a process of extensive deliberations and consultations with cross-sections of the Iraqi people conducted by the Governing Council and the Coalition Provisional Authority and possibly in consultation with the United Nations."[327] This meant that those wishing to form the cabinet had to first obtain the advice of the Iraqi leaders, the CPA and the UN. At that time, "high-level positions were divided among the three main communities and they took responsibility for several posts."[328] The CPA had the power to determine the direction of the political process, but the UN's role was not at the same level. It was an advisory body, rather than having the power to appoint ministers.

Forming the Iraqi Interim Government with those actors was not easy because they all had different points of view about how it would be, and who would take the posts. In particular, differences arose between the CPA and UN. There were hard discussions about how those posts would be distributed among different communities and how a balance could be struck, especially regarding who would take the more powerful positions. Both actors had already played a significant role in paving the way to stability and sustainability, and so each was invested in the outcome. The Special Envoy of the UN Lakhdar Brahimi had a role in forming the IIG through "a long consultative process by him, who met with hundreds of Iraqis from around the country before making his choices." [329] Brahimi's approach was based on establishing a technocratic government, but he faced challenges because of the reality on the

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[326] Interview with Hanan Al Fatlawi Shiite MP, October 18, 2015.

[327] Iraq, 2004, "Law of Administration for the State of Iraq for the Transitional Period."

[328] Interview with: Akram Al-Hakim.

[329] Sharon, Otterman, "IRAQ: The Interim Government Leaders" (council on Foreign Relations, 2004), http://www.cfr.org/iraq/iraq-interim-government-leaders/p7664#.

ground, and the need to include powerbrokers from the different parties. Abdulrahman S. Kareem said, "Brahimi tried to make a technocratic government from key communities but he could not make it perfectly because Bremer did not agree with that kind of government and the communities as well"[330] The issue was that Bremer wanted 'career' politicians, while Brahimi wanted technocrats. This created a clash between two methods.[331] There were now two possible options for making the IIG, one from the US-led occupation (Bremer's), the second from the UN (Brahimi's). It made the negotiation harder for appointing who would take ministerial positions.

According to Abdulrahman S. Kareem's statements, Bremer and Brahimi shared the task of appointing the members of the cabinet. Some ministers were appointed by Bremer and others by Brahimi, which disappointed Brahimi.[332] The CPA's "main interest was the top seven positions: prime minister, and the ministers of defence, interior, finance, foreign affairs, oil and trade."[333] This meant that Brahimi's approach did not succeed because the aim of the CPA was incompatible with his ideas. Bremer pointed out that the "Coalition's main objective was to use the appointment of the new government to broaden its base, especially by including more Sunnis and more people from the provinces."[334] Bremer thought that it would not be easy to find the technocrat people for achieving Brahimi's aim. This was because it was rare for Sunni people to participate in the political process, and it might be the case that there would be none who qualified according to Brahimi's conditions. After negotiation between the CPA and the UN, they "plugged away on building the new government with the UN, one name at a time." [335] Therefore, all the names of candidates for the positions had been discussed by the CPA under Bremer's guidance before they obtained the post in the IIG.

Meanwhile, choosing people for positions was one of the main functions for the CPA and UN, with recommendations coming from communities. [336] Bremer pointed out that he and Brahimi discussed choosing Adnan Pachachi as the president of Iraq, but at the end of the negotiations, the Sunni leader Ajil al-Yawar had been chosen because the Shiites and Kurds never embraced Pachachi. [337] The US-led occupation wanted it brought to the Sunnis' attention that they were not being neglected, but in reality it was a less powerful position than the Prime Minster. At the same time, Kurdistan strongly supported that position for Ajil Yawar because he had a good relationship with the Kurdish people. That was why Barzani emphasised during negotiations with Bremer that al-Yawar should be president.[338] After the president, the selection of the Prime Minister was another controversial issue. The Shiites as the majority claimed that the position should fall to a Shiite, but this was not discussed. However, there were two main Shiite candidates, Hussein Shahristani and Ayad Allawi. After negotiations between Bremer and Brahimi on one side and Kurds and Shiites on the other

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[330] Interview with: Abdulrahman S. Kareem.

[331] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.348

[332] Interview with: Abdulrahman S. Kareem.

[333] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. p.349

[334] Ibid. P.347

[335] Ibid. P.350

[336] Interview with: Abdulrahman S. Kareem.

[337] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.358

[338] Interview with: Mohammed Senamoky, October 18, 2015.

side, Ayad Allawi was chosen. Allawi pointed out that "meanwhile the US and its allies suggested Shahristani become the Prime Minister and I become Minister of Defence but I refused because I said, "let's go back to the IGC to choose the Prime Minister and then unanimously they voted for me.""[339] This means Allawi was accepted by all communities. The next step was choosing the members of the cabinet. The formation of the cabinet ended after Brahimi accepted Bremer's recommendation that several ministers from the current government should be carried over to the post-occupation IIG.[340] It consisted of 36 posts distributed among all communities: 16 Shiites, 10 Sunnis, 8 Kurds, one Assyrian and one Turkomen. If we compare it to the previous formula, it seems that the ratio of each community's representation has changed slightly. The Shiites got 44%, the Sunnis 27%, and Kurds 22%. Table 4 makes this clear.

	Name	Position	Ethnicity	Bloc and Political Party
Rating Ministers and posts in the interim government 1st of Jun 2004.[341]				
	Presidency			
1	Ghazi Ajil Al-Yawar	President of Iraq	Sunni	
2	Ibrahim Jaafari	Vice President	Shiite	Daawa
3	Rowsch Shaways	Vice President	Kurd	KDP
The government				
1	Ayad Allawi	Prime Minister	Shiite/ Secular	Iraqi National Accord
2	Barham Salih	Deputy Prime Minister	Kurd	PUK
Powerful Ministers (Sovereign Ministers)				
3	Hazem Sha'alan	Defence Minister	Sunni	
4	Falah al-Nakib	Interior Minister	Sunni	
5	Thamir Abbas Ghadhban	Oil Minister	Sunni	
6	Mehdi Al-Hafidh	Planning Minister	Shiite	Iraqi Independent Democrats
7	Adel Abdul Mahdi	Finance Minister	Shiite	Supreme Islamic Iraqi Council
8	Hoshyar Zebari	Foreign Affairs Minister	Kurd	KDP
Low Powerful Minister (Service Ministries)				
9	Ala'adin Alwan	Health Minister	Shiite	Daawa
10	Sawsan Ali Magid Al-Sharifi	Agriculture Minister	Shiite	
11	Sami Al-Mudhaffar	Education Minister	Shiite	
12	Mohammad Ali Al-Hakim	Communications Minister	Shiite	
13	Mufeed Mohammed Jawad al-Jaza'iri	Culture Minister	Shiite	
14	Ali Faiq Al-Ghabban	Youth and sports Minister	Shiite	
15	Malik Dohan Al-Hassan	Justice Minister	Shiite	

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[339] Allawi, صورة عراقي،مراجعة توثيقية لمواقف الزعيم السياسي العراقي أياد علاوي. P.201

[340] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.356

[341] CPA, 2004. https://web.archive.org/web/20091014103021/http://www.cpa-iraq.org/government/press_packet.pdf

And see: Sharon Otterman 2004, "IRAQ: The Interim Government Leaders" (council on Foreign Relations, 2004).

16	Taher Khalaf Jabur Al-Bakaa	Higher Education	Shiite	
17	Louay Hatem Sultan Al Erris	Transportation	Shiite	
18	Mohammed Mostafa al-Jibouri	Trade Minister	Sunni	
19	Leyla Abdul Latif	Labour and Social Affairs Minister	Sunni	
20	Aiham Al-Sammarae	Electricity Minister	Sunni	
21	Hajem Al-Hassani	Industry and Minerals	Sunni	
22	Omar Al-Farouq Salim Al-Damluji	Housing and Construction	Sunni	
23	Mishkat Moumin	Environment	Sunni	
24	Bakhtiar Amin	Human Rights Minister	Kurd	PUK
25	Abdul Latif Jamal Rashid	Water resources	Kurd	PUK
26	Nasreen Mustapha Berwari	Public Works	Kurd	KDP
	State Ministers			
27	Wa'il Abdul al-Latif	Minister of State for Provinces	Shiite	
28	Narmin Othman	Minister of State for Women	Kurd	PUK
29	Kasim Daoud	Minister of State	Sunni	
30	Mamu Farham Othman	Minister of State	Kurd	
31	Adnan al-Janabi	Minister of State	Sunni	
32	Pascale Isho Warda	Displacement and Migration	Christian	Assyrian
33	Rashad Mandan Omar	Science and Technology Minister	Turkomen	

Table 4: Rating Ministers and Posts in the Interim Government

Table 4 shows that there was reasonably proportional representation of all communities. The president was Sunni, the first deputy Shiite, and the second deputy was Kurd. The Kurds did not get either president or Prime Minister but obtained the post of deputy Prime Minister, which the Sunnis did not have. The Sunnis had obtained more powerful posts because they did not have a deputy Prime Minister. According to the TAL, the cabinet government should be named unanimously by the presidency council, which consisted of representatives from the three main communities. This meant that the holders of these three posts had to reach a consensus about the ratio of ministers from each community holding posts. Ministers in the IIG were selected from each of the three communities according to the ratio, but participation from Sunni groups was extremely weak.[342] Thus, while the IIG supposedly consisted of representatives from all communities, Brahimi thought it was a failure because he claimed that Allawi's government "was not fully representative."[343] In addition, it was not fully independent, because it was under Bremer's authority. Thus, CPA Regulation number 10 stated, "the CPA acknowledges that the individuals designated as members of the Iraqi Interim Government will exercise authorities in their respective ministries effective June 1, 2004 until such time as the Iraqi Interim Government assumes full government authority for Iraq."[344] In July 2004 sovereignty was formally transferred to the IIG.[345] In reality, however, the actual power remained in the hands of the US-led occupation, not the Iraqi people.

Consequently, key actors tried to embody power sharing in the government through appointing high-level positions from members of the three main communities. In fact, the distribution of those posts was decided mainly by the CPA, with advice from the special envoy of the UN. That made a strong basis for rebuilding political institutions that would reflect a

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[342] Interview with: Akram Al-Hakim.
[343] Brahimi Lakhdar, "State Building in Crisis and Post-Conflict Countries." P.14
[344] "CPA Doc./REG/ 10," June 9, 2004.
[345] Allawi, أياد علاوي العراقي السياسي الزعيم لمواقف توثيقية مراجعة،عراقي صورة. P.228

power-sharing arrangement. The main reason for representation from all three communities derived from the TAL, because there were several places in it that required unanimous agreement between actors. The second reason was that the US-led coalition efforts supported the formation of that kind of government. Thus, the role of the grand coalition and external actors helped the people of Iraq to form the IIG. However, it faced problems, such as the lack of Sunni representatives, even though some posts were held by Sunni people.

5.6   The Interim National Council (INC)

The INC was another political institution that exercised its functions as the legislative power beside the interim government for a brief time from 15 September 2004 to 30 January 2005, headed by the Kurdish leader Fuad Masum.[346] It was instituted in light of the Annex of the TAL Section three, which stated, "members of the Interim National Council will be chosen by a National Conference that will meet in Baghdad during the month of July 2004."[347] The IIG arranged the committee for that conference. It stipulated that the INC would "include members of the Governing Council without other governmental positions, representatives from the regions and governorates, and other distinguished Iraqis known for their capability and integrity."[348] This meant that the INC should consist of all communities' representatives. It was comprised of 100 members, and included members of the Governing Council.[349] The conference elected 75 members through one list, which was organised by a committee of representatives from all communities the day before the National Conference was held. They then added 25 members of the IGC to reach 100 seats.[350] It was clear that there was no competition for getting a seat, as there was only one list, including all members' names, and these names were selected by conference attendees. Obviously, it looked like a kind of appointment because it was clear that it was the outcome of an agreement among the key communities: Shiite, Sunni, and Kurd.[351] The main point was the formula of the INC, because it had formed in light of the same diversity demonstrated in the makeup of the IGC's members. It contained 40 Shiites, 25 Sunnis, 25 Kurds, 6 Turkomens, 2 Christians, and 1 Yazidi.[352]

The process shows that they interacted with each other to produce power-sharing arrangements, especially to reflect proportionality. When a Shiite obtained the post of Prime Minister and a Sunni became president of Iraq, they tried to give another high-level position that is, speaker of the Interim National Council, to a Kurdish politician. That position was suggested by Brahimi. The CPA accepted it in order to maintain the balance among all of them.[353] Mohsen Abdel Hamid, member of the IGC, said, "INC is the same as the interim parliament; our transfer from the IGC to the INC was crucial." [354] Transferring the IGC's

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[346] Interview with: Bayan Tofiq, July 26, 2014.

[347] Iraq, "Annex on Law of 2004 of Administration for the State of Iraq for the Transitional Period," June 1, 2004, http://www.iraqcoalition.org/government/TAL_Annex.html [accessed 6 June 2014].

[348] Ibid.

[349] Ibid.

[350] Interview with: Bayan Tofiq.

[351] Ibid.

[352] Ibid.

[353] Ibid.

[354] معد فياض, "بغداد: أعضاء مجلس الحكم المنحل يستعدون للانتقال الى المجلس الوطني المؤقت,"*الشرق الاوسط* June 15, 2004, 9331 edition.

members directly to the INC demonstrates the desire for integration between both institutions. Consequently, it was established as one of the main political institutions for the particular purpose of legalising cases like the national budget and producing consensus among different communities. This was the first time that the term 'consensus' was used formally: section three in the TAL states: "the Interim National Council will meet periodically to promote constructive dialogue and create national consensus, and to advise the Presidency Council and Council of Ministers."[355] This meant that they wanted to create power-sharing to make peace among the people of Iraq.

Therefore, while the INC did not play a significant role during this brief time period, it produced a number of advantages. First, it gathered all communities together towards the common goal of power-sharing. Second, it formally enshrines the desire for national consensus. Third, it represents a step forward towards a broad-based parliament. Another crucial point was that the role of the Iraqi people in the process improved slightly, especially concerning who could become a member of the list of 75 seats. However, Iraq remained an occupied country, and as such could not act completely independently. The impact of the US-led coalition on the political process was much bigger than Iraqis' own contributions.

5.7 Transitional National Assembly 30 January 2005 (TNA)

As highlighted briefly above, proportional representation is formally reflected in Article 30 Section C and electoral law Article 3. The electoral law stated, "Iraq will be a single electoral district, and will be all the seats in the National Council on the distribution of political entities through a system of proportional representation."[356] That was based on the TAL provisions, which said, "The National Assembly shall be elected in accordance with an electoral law and a political parties law. The electoral law shall aim to achieve the goal of having women constitute no less than one-quarter of the members of the National Assembly and of having fair representation for all communities in Iraq, including the Turcomans, Chaldo Assyrians, and others."[357] The point was that the US-led coalition originally wrote the electoral law, and the TAL had been written mostly by the CPA team, as mentioned above. Thus, provisions of the TAL and electoral law demanded for proportionality in the TNA, which was held on 30 January 2005. There were many political entities that participated in the election that took place at the Assembly. It was the first election held after the collapse of Saddam's regime. However, the election result was not proportional. As can be seen in Table 5, the Sunnis were not significantly represented. This means that while proportionality was reflected formally in the TAL and electoral laws, the outcome was not proportional.

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[355] Iraq, "Annex on Law of 2004 of Administration for the State of Iraq for the Transitional Period."
[356] "CPA Doc./REG/ 96, Elections Law," June 15, 2004.
[357] Iraq, 2004, "Law of Administration for the State of Iraq for the Transitional Period."

The Result of January 2005 Election [358]					
Political Entities	Percentage of Votes	Number of Votes	Seats	Percentage of seats	Ethnicity
1 United Iraqi Alliance	48.2	4,075,292	140	50.90	Shiite Arab, headed by Abdal-Aziz al-Hakim and Ibrahim al-Jaafari
2 Democratic Patriotic Alliance of Kurdistan	25.7	2,175,551	75	27.27	Kurd, Headed by Barzani and Talabani.
3 Iraqi List	13.8	1,168,943	40	14.54	Iyad Allawi, secular group.
4 The Iraqis	1.8	150,680	5	1.81	Sunni, Ghazi al-Yawer
5 Iraqi Turkmen Front	1.1	93,480	3	1.09	Turkmen
6 National Independent Cadres and Elites	0.8	69,938	3	1.09	
7 People's Union	0.8	69,920	2	0.72	Communist party
8 Kurdistan Islamic Group	0.7	60,592	2	0.72	Kurd/Islamic Party
9 Islamic Action Organization in Iraq - Central Command	0.5	43,205	2	0.72	
10 National Democratic Alliance	0.4	36,795	1	0.36	
11 National Rafidain List	0.4	36,255	1	0.36	Christian, Yonadem Kana
12 Reconciliation and Liberation Bloc	0.4	30,796	1	0.36	Sunni Arab
13 Other	5.3	444,819	-	---	---
Total	99.9	8,456,266	275	99.94	

Table 5: The Result of January 2005 Election

The table shows that while many political entities from a range of different ethno-religious groups participated, only twelve won seats. Three of them controlled the vast majority of seats. If you look at the top three political entities as shown in the table, the United Iraqi Alliance, the Democratic Patriotic Alliance of Kurdistan, and Iraqi List, they had 87.7 % of all votes, and 92.71% of all seats, but none of these top parties represented the Sunni people. This means that the vast majority of seats went to what were explicitly sectarian parties of Shiites and Kurds. The Shiites in particular achieved an absolute majority of 140 seats out of 275. The only explicitly secular party was Iraqi National List, which received 14.54 % of seats and 13.8 % of votes. In fact, the Sunni political entities won only 17 seats through several lists. This meant that they could not viably represent the Sunnis. Unwilling to participate in the election, the TNA was faced with a lack of Sunni representatives.[359] Since the other, much smaller parties, received less than 2% of the vote, they may be disregarded. Thus, despite the

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[358] Dodge, Toby, *Iraq. P.215. And see: http://psephos.adam-carr.net/countries/i/iraq/iraq2005.txt ,*
http://www.ihec.iq/ar/index.php/alwataneya.html.
[359] Katzman, Kenneth, "CRS Report for Congress Doc. RS21968," November 20, 2006,
http://fpc.state.gov/documents/organization/76838.pdf.

US-led coalition's efforts to bring the Sunni people into the election process, they did not participate. This was largely because the Sunnis' leader encouraged people to boycott that process. The Sunnis' absence affected proportionality, which could not be achieved. Even so, the election was run under the US-imposed TAL and electoral provisions. Thus, the TNA was not a good start for the implementation of proportionality, one of the fundamental characteristics of consociationalism. In this instance, ethno-religious communities did not interact with each other to produce proportionality. This process led to an increase in the role of the Shiites and the Kurds.

Therefore, one of the main communities did not have an appropriate number of representatives in the TNA, which affected the true reflection of proportionality. Mohammed Senamoky, a member of the TNA said, "the TNA included a variety of communities without true representatives of the Sunnis' community because they did not participate in the election and boycotted the political process."[360] The majority of Sunnis did not want to be part of the political process, especially under the US-led coalition forces. Many Sunni leaders nevertheless criticised their companions' position, which they counted as a catastrophic mistake. Ammar Wajih, a Sunni leader, for example, asserted that the biggest mistake the Sunnis made was the decision to boycott that election particularly and the political process generally. [361] There were two main reasons affecting Sunnis' participation. Firstly, the influence of Fatwas from Islamic scholars called on Sunnis to attack the US-coalition and the political process. Secondly, the Baath Party demanded seizing the Iraqi government again. Thus, the TNA could not achieve proportionality. The structure of the TNA reflected only the proportionality of political parties, rather than that of communities.

On Sunday 3 April 2005 Hachim Hasani, a Sunni Arab, was elected as speaker of the TNA, and two deputy speakers, a Kurd and a Shiite, were elected.[362] Sunni participation was one of the important points that the US-led coalition was hoping to achieve, in order to ensure the participation of all communities in the Constitutional Drafting Commission (CDC). Consequently, proportionality was formally reflected, but in practice, it was not because of the Sunnis' position on the political process and their boycott of the TNA's election. It was a critical time for the political process because among the members of the constitution-drafting commission appointed by the TNA there were not enough Sunnis, which resulted in a lack of proportionality, which affected the whole political process, and brought instability rather than stability.

5.8   Transitional Government from 3 May 2005 to 20May 2006

The Iraqi Transitional Government (TG) was another opportunity for the actors to pursue their wishes and embody power-sharing arrangements. According to the TAL, the mechanism for selecting the candidate for the Prime Minister should obtain unanimous acceptance from the presidency, as stated in Article 38 Section A: "the Presidency Council must agree on a candidate for the post of Prime Minister within two weeks." [363] The presidency council

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[360] Interview with: Mohammed Senamoky.
[361] Interview with Ammar Wajih Zainulabdeen, July 12, 2014.
[362] Knickmeyer, Ellen, "Iraqi Assembly Selects Speaker, Ending Impasse," *The Washington Post*, April 4, 2005.
[363] Iraq, 2004, "Law of Administration for the State of Iraq for the Transitional Period."

consisted of the three main community's leaders. The president was Kurd, and the Shiites and Sunnis each one got one vice-president. This gave each community the chance to bargain with each other to form a consensus about the Prime Minister and other ministers as well. According to the TAL: "the Presidency Council shall name a Prime Minister unanimously, as well as the members of the Council of Ministers upon the recommendation of the Prime Minister."[364] Thus, the TAL gave the opportunity to the three significant communities to make a grand coalition government without any exclusion.

The negotiation for forming the TG started after a formal declaration of the election result for TNA. The Shiites demanded powerful position because, as noted earlier, they received just under the absolute majority of votes (see Table 5). Akram Al-Hakim said, "we are a majority of the Iraqi people and the winner of the TNA's election, so the Prime Minister position should go to the Shiites."[365] Following that, the Kurds demanded that they should have one of the sovereign posts, particularly the presidency of Iraq, because they came in only second to the Shiites, receiving 77 seats.[366] Mohammed Senamoky pointed out that "the Kurds really emphasized the presidency should be run by Kurdish people, and that was the main controversial point between the Kurds and a number of the Sunnis' leaders who wanted that post.[367] The reason why the Sunnis' leaders did not accept a Kurd to take the presidency was because they did not want an Arabic country to be led by a Kurdish politician. Moreover, there was no actual participation form the Sunnis, and they could not pressure the other communities enough to receive more posts. Although they did not really participate in the political process, especially the TNA election, there were a number of posts held by Sunnis. In addition, at the beginning of the cabinet the Shiites and Kurds left vacant cabinet posts to negotiate with the Sunnis,[368] but they refused to participate, and so the posts were filled by Shiites and Kurds.

Furthermore, following the announcement of the election results, the US-led coalition thought that the Sunnis' boycott of the political process was a major issue. For solving that issue, bringing the Sunnis to power, and allowing them to share in the political process, the Bush administration sent Zalmay Khalilzad to Iraq. Khalilzad attempted to solve that issue, which aimed to encourage the Sunnis to participate in the government and contribute to the constitution-drafting commission. While there were a number of Sunnis who did receive posts in the TNA (the presidency and a few minsters), the cabinet was overall not appropriately inclusive of Sunnis.[369] Zalmay Khalilzad said, "I went to Iraq with the clear view that we needed to bring the Sunni Arabs into the political process because they had boycotted the election."[370] Thus, the US-led coalition forces followed the provisions of the TAL to enforce

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[364] Ibid.

[365] Interview with: Akram Al-Hakim.

[366] Interview with: Mohammed Senamoky.

[367] Ibid.

[368] BBC, "New Iraqi Government Members, http://news.bbc.co.uk/1/hi/world/middle_east/4493999.stm," August 5, 2005.

[369] Katzman, Kenneth, "CRS Report for Congress Doc. RS21968."

[370] Khalilzad, Zalmay, *Responding to Strategic Challenges in the Post 911 World*, Accessed on 4 June 2014 (Institute of International Studies at the University of California, Berkeley: Conversations with History,http://conversations.berkeley.edu/content/zalmay-khalilzad, 2009).

power-sharing among the three main communities. However, Khalilzad's efforts to bring Sunnis into the cabinet did not work, because the Sunnis denied participating in the political process and the cabinet. Table 6 clearly shows how the structure of the cabinet was controlled by the Shiites and Kurds, without any actual contribution from the Sunnis.

	Name	Position	Ethnicity	Political Party
Rating Transitional Government, from May 2005 to May 2006 [371]				
	Presidency			
1	Jalal Talabani	President of Iraq	Kurd	PUK
2	Ghazi Ajil Al-Yawar	Vice President	Sunni	
3	Adel Abdul Mahdi	Vice President	Shiite	SIIC
The government leadership				
1	Ibrahim Jaafari	Prime Minister	Shiite	Dawa
2	Rosh Nuri Shaways	Deputy Prime Minister	Kurd	KDP
3	Ahmed al-Chalabi	Deputy Prime Minister	Shiite	Iraqi National Congress
4	Abd Mutlaq al - Jubouri	Deputy Prime Minister	Sunni	
Powerful Ministers (Sovereign Ministers)				
5	Saadoun al - Dulaimi	Defence Minister	Sunni	
6	Bayan Jabr	Interior Minister	Shiite	SIIC
7	Abdul Karim al - Enzi	National Security Affairs	Shiite	Dawa/Iraq
8	Ibrahim Bahr al- Uloum	Oil Minister	Shiite	
9	Ali Abdel Amir Allawi	Finance Minister	Shiite	
10	Barham Salih	Planning Minister	Kurd	PUK
11	Hoshyar Zebari	Foreign Affairs Minister	Kurd	KDP
Low Powerful Minister (Service Ministries)				
12	Abdul Muttalib Ali Mohammed Saleh al - Rubaie	Health Minister	Shiite	Linked to al- Sadr
13	Osama Abdul Aziz al-Nujaifi	Industry and Minerals	Sunni	
14	Abdul Falah Hassan Hamadi	Education Minister	Shiite	
15	Jassim Mohammed Jaafar	Housing and Construction	Shiite/Turkoman	
16	Nuri Farhan al- Rawi	Culture Minister	Shiite	
17	Taleb Aziz Zinni	Youth and sports Minister	Shiite	
18	Abdul Hussein Shandal	Justice Minister	Shiite	
19	Sami Abdul-Mahdi al Muzaffar	Higher Education	Shiite	
20	Salam Faleh al - Maliki	Transportation	Shiite	
21	Ali Hussein Bahadli	Agriculture Minister	Shiite	
22	Mohsen Shalash	Electricity Minister	Shiite	
23	Idris Hadi	Labour and Social Affairs Minister	Kurd	KDP
24	Abdul Basit Karim Maoloud	Trade Minister	Kurd	PUK
25	Joan Fuad Masum	Communications Minister	Kurd	PUK
26	Narmin Othman	Environment	Kurd	PUK
27	Abdul Latif Rashid	Water resources	Kurd	PUK
28	Nasreen Berwari	Municipalities and Public Works	Kurd	KDP
29	Basema Youssef Boutros	Science and Technology Minister	Christian	

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[371] BBC, New Iraqi government members, 8 May 2005, http://news.bbc.co.uk/1/hi/world/middle_east/4493999.stm , The Formation of the Iraqi Transitional Government, 2005, http://wiki.dorar-aliraq.net/iraqilaws/law/17169.html
And see: Esther Pan, and Sharon Otterman, 2005, IRAQ: The Transitional Government, Council on Foreign Relations, http://www.cfr.org/iraq/iraq-transitional-government/p8078#p4

30	Suhaila Abd Jaafar al-kinaani	Displacement and Migration	Faily	
State Ministers				
31	Azhar Abdul - Karim al Sheikhli	Minister of State for Women Affairs	Ayad Alawi List	
32	Saad Nayef al - Hardan	Minister of State for Provinces Affairs	Shiite	
33	Alaa Habib Kazim	Minister of State for Civil Society Affairs	Shiite	
34	Hashim Abdul Hassan Ali al - Hashemi	Minister of State for Tourism and Antiquities Affairs	Shiite	Fazialla
35	Safa al- Din Mohammad Safi	Minister of State for National Assembly Affairs	Shiite	

Table 6: Rating Transitional Government

The table shows that the government was not broad-based, but that certain groups were monopolising power instead. The Shiites got exactly what they wanted, which was to govern Iraq as the majority people, and to obtain the posts in light of that. They only achieved these aims, however, because there were not enough Sunnis to compete with them in the government. In addition, it was a fortuitous time for the Kurdish people because they were enabled to participate strongly in the cabinet and get what they wanted. They showed the other communities that they could have an impact on the political process, and should no longer be regarded as second-class citizens. On the other hand, many opposition groups, such as Ayad Allawi's group, criticized that government because it failed to provide safety and basic services, and for indecisiveness, incompetence, and degeneration in job opportunities, and accused the government of opening the door to Iran's interests and more bidding in Iraq.[372] Therefore, while the US-led coalition troops worked hard to make grand coalition government, the Sunnis did not responded positively, and so there was no chance to form a broad-based cabinet.

5.9 Inside the Constitutional Drafting Commission (CDC)

According to the TAL Article 60, writing the permanent constitution was one of the top functions of the TNA. It stated: "the TNA shall carry out this responsibility in part by encouraging debate on the constitution."[373] At the beginning, the CDC consisted of 55 members: 28 Shiites, 15 Kurds, 8 Ayad Allawi, and 4 from the Turkoman, Assyrian, and Christian sects, all elected by the TNA on 15 March 2005. It started its functions on 24 May 2005 without the Sunnis, and the deadline for the constitution draft was no later than 15 August 2005.[374] After extensive negotiation with the Sunnis, they eventually achieved the same ratio of members as the Kurds (15). They already had 2 within Ayad Allawi, but added 13 members on 5 July 2005. Thus, the CDC ended up with 68 members.[375] Two points should be raised about this. First, the Shiites obtained absolute majority of the CDC. Second, the Sunnis joined the Committee very late, so the majority of the groundwork had already been done. In addition, when they came to the CDC, after two weeks they boycotted the

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[372] Dawisha, A. I. and Diamond, Larry Jay, "Iraq's Year of Voting Dangerously." P. 97

[373] Iraq, 2004, "Law of Administration for the State of Iraq for the Transitional Period."

[374] Katzman, Kenneth, "CRS Report for Congress Doc. RS21968."

[375] Interview with: Hussein Balisani. And see: Minutes of the Meetings, The Constitutional Drafting Commission, introduction and Thirteenth Meeting, 5/7/2005. And, Monzir Al fazl, *Problems of the Iraqi Constitution*, First (Iraq-Erbil: Aras press, 2010). P.66 and 91

negotiations because three of their members had been killed in a terror attack.[376] Thus, the permanent constitution was mostly written by Shiites and Kurds.

The committee worked hard until it finished the draft of the permanent constitution on 28 August 2005.[377] After that, a Political Kitchen was established and supervised by the US. This Political Kitchen consisted of senior political leaders from all communities. It was created to finalise the issues that arose among the CDC and TNA.[378] As part of this, a discussion was held concerning the draft of this constitution, regarding what should and should not be in it, on 19 September 2005. After further discussion, the National Assembly accepted the final draft with the Sunnis' critique about some controversial points. Finally, that draft passed in the referendum on 15 October 2005, 78.6% in favour and 21.4% against, nationwide.[379] That result indicated that the Sunnis' group did not participate sufficiently at that referendum, since most of them rejected it. Alaa Makki, former Sunni Member of Parliament said that some of the Sunni people did not accept that constitution because they felt that they did not have enough time to formulate their interests in it.[380]

There were different views among the CDC about how to deal with the TAL as they wrote the permanent constitution, that is, whether it should be a fundamental source for the new constitution. Fuad Masum the President of Iraq argued that the "TAL should be the fundamental source for the discussion during writing the permanent constitution."[381] The reason that the Kurds demanded this was because the TAL had included most of the Kurds' demands. However, the Shiites did not support that idea because they wanted to change some points which were not compatible with their wishes. Khodair al-Khozaei, a Shiite leader, pointed out that the "TAL was not written by the Iraqi people; it was imposed on them. For that reason, it is not fit to be the fundamental source for the permanent constitution."[382] Therefore, after a long discussion among CDC members about that point, Humam Hamoudi, the Chair of the CDC, finalised all talks, and said "we made an agreement that the TAL is one of the sources. It is not compulsory. We consider as priorities the TAL, the previous Iraqi constitution, and the UN recommendations."[383] Thus, the TAL became one of the sources for writing the permanent constitution, but was not the only one. This meant that all controversial points could be discussed again among negotiators, which led to difficulties in writing the constitution because they needed to discuss all points. Therefore, it took a long time to achieve consensus about each subject. National consensus was the main principle for dealing with any subject during negotiations, so that there was no need for voting.[384] Thus,

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[376] "Minutes of the Meetings, The Constitutional Drafting Commission, Twenty-Second Meeting.," July 23, 2005.
[377] Katzman, Kenneth, "CRS Report for Congress Doc. RS21968."
[378] Interview with: Hussein Balisani.
[379] Katzman, Kenneth, "CRS Report for Congress Doc. RS21968."
[380] Interview with: Alaa Makki, interview.
[381] "Minutes of the Meetings, The Constitutional Drafting Commission, Second Meeting.," May 25, 2005.
[382] Ibid.
[383] Ibid.
[384] "Minutes of the Meetings, The Constitutional Drafting Commission, Twelfth Meeting.," April 7, 2005.

they tried to reach a consensus among all communities when writing the permanent constitution.

Writing the permanent constitution was a crucial step for shaping the political system in Iraq. In fact, the process that led to the constitution-drafting had a massive impact on negotiations to finalise the constitution draft. Considering the above discussion of the entire process, from the starting point up to this section, each governing or electing body mentioned had a role in writing the constitution, particularly the TAL and the US-led coalition forces, along with senior political leaders from all communities. In the following section, I will address how the negotiations produced consociational elements. This will be discussed through an examination of each element, starting from the more controversial characteristics and progressing to the less controversial. I shall begin with federalism, and move in turn to mutual veto, proportionality, and grand coalition.

Centralising and decentralising the political system was one of the main points discussed during negotiations about federalism and autonomy. Alaa Makki said "at that time the Sunnis supported the centralization approach and they were calling for the unity of Iraq." [385] Obviously, this was the result of the Sunnis' nostalgia for the Iraq that the Sunni Arabs had controlled since 1921, particularly during Saddam's era.[386] At the first meeting of the Sunnis' participation in the CDC, Kamal Hamdon from the Sunnis' community argued against federalism, stating that "Iraq is one country, I will ask to remove the 'Iraq is a federal country' and it is an Arabic country."[387] His comment was an attempt to ward off federalism, which had received acceptance from the Shiites and Kurds. In addition, the Sunni leader Salim al-Jabouri said, "do not take that point in the negative way, there is an Arabic word 'Al-Etihad' slightly lower than federalism: we can use it instead."[388] Thus, the Sunni communities were so strongly against federalism that they did not even like the word. This meant that the Sunnis did not support a system based on federalism, and wished to remove it radically. Mijbil Shex Issa, one of the two Sunnis previously mentioned who died in a terror attack, said, "we have to find the solution for unifying Iraq and its interests."[389] His proposal included removing federalism. The solution in the mind of the Sunnis was to ignore federalism and return to centralization, without writing any provisions for federalism. Their claim was based on the assumption that the Sunni population did not accept the idea of federalism.

After long discussion among the Sunni leaders, Mijbil Shex Issa brought up two decisions from the Sunnis' senior leaders' meeting, first considering the Duhok, Erbil, and Suleiman's situation. These latter three are provinces controlled by the Kurds since 1991. Second, he recommended that the state should consist of 18 regions and not allow any merges between them. Iraq already had 18 provinces and a political system based on that.[390] Mijbil Shex Issa's attitude demonstrated that the Sunnis would support only the possibility of continuing with 18 regions, rather than moving to a system of just two or three regions, as the Kurds and

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[385] Interview with: Alaa Makki, interview.

[386] McGarry and O'Leary, "Iraq's Constitution of 2005."

[387] "Minutes of the Meetings, The Constitutional Drafting Commission, Forteenth Meeting.," June 7, 2005.

[388] "Minutes of the Meetings, The Constitutional Drafting Commission, Fifteenth Meeting.," 10 July 2005.

[389] Ibid.

[390] "Minutes of the Meetings, The Constitutional Drafting Commission, Eighteenth Meeting.," July 16, 2005.

Shiites wanted. Negotiation on this issue continued until the last step of drafting the constitution, with constant disagreement from the Sunni community. At the end of the negotiation in the CDC, the Sunnis demanded an alternative system instead of federalism.[391] This meant federalism had not received any acceptance at all from the Sunnis.

When the Shiites saw that the Sunnis' position about federalism was so negative, their political leaders divided between two sides. The first side, coming from the Supreme Council for the Islamic Revolution in Iraq (SCIRI) and the Fazila party, supported federalism and establishing a southern region. Nadeem al-Jabri, the head of Fazila, in his contribution in the CDC stated, "practically Iraq has been divided since 1991 when the Kurds established their region. They demanded neither independence nor con-federalism. Kurdistan's needs must be understood, and those of the south of Iraq, because it is a de facto, and another crucial point is that federalism should be decided upon for all of Iraq."[392] The Fazila party's clear vision was to consider the Kurds' claim and the claim of the Shiites in the south to establish their region. Jalal al-Din Ali al-Saghir from the SCIRI said "federalism does not lead to separation and I do not think it is bad to implement it."[393] In another meeting, he emphasized that the Shiites should be considered as well as the Kurds because the Shiites wanted the southern region for its authority and resources.[394] Moreover, on 11 August just four days before submitting the constitutional draft to the TNA, the head of the SCIRI Abdul Aziz al-Halim "in front of a large demonstration in Najaf announced the fundamental demand for a southern Shiite region of nine provinces."[395] The issue was that until that time there was no article in the constitution draft that stipulated this demand for a southern region.

The second side supported federalism as a principle, since they liked the arrangement of multiprovince regions. The only difference between these sides and what the Sunnis demanded was one point, which was that the Sunnis did not believe in federalism at all, however, the second side of the Shiites believed in federalism, but preferred multiprovince regions. Humam Hamoudi pointed out that the "Sadri's group and the Dawa party were not supporting federalism and their views were the same as the Sunnis that federalism led to breaking the unity of Iraq, but we as SCIRI supported."[396] Ali Dabax, the Shiite leader from the Dawa party, indirectly supported multiprovince regions, arguing that "it is the right of provinces to establish the region."[397] In addition, Maliki pointed out in the CDC that the direction of the negotiations seemed to be going towards giving provinces the chance to make the regions.[398] Recently, Maliki expressed a similar view in conversation with the researcher. In addition, he explained that during 2005 the Shiites did not agree with Abdul Aziz Al hakim's

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[391] "Minutes of the Meetings, The Constitutional Drafting Commission, Thirty-First Meeting.," August 4, 2005.
[392] "Minutes of the Meetings, The Constitutional Drafting Commission, Fifteenth Meeting."
[393] Ibid.
[394] "Minutes of the Meetings, The Constitutional Drafting Commission, Eighteenth Meeting."
[395] Arato, Andrew, *Constitution Making under Occupation*. P.227
[396] Interview with: Humam Hamoudi, October 15, 2015.
[397] "Minutes of the Meetings, The Constitutional Drafting Commission, Twenty-Fifth Meeting.," July 26, 2005.
[398] "Minutes of the Meetings, The Constitutional Drafting Commission, Twenty-Eighth Meeting.," July 30, 2005.

proposal for establishing a southern region.[399] Thus, it was not easy to write and retain provisions for federalism in the permanent constitution.

However, the Kurds strongly demanded autonomy, wanting to shape the political system through the federal system and basing it on the decentralization approach, since they had already "enjoyed unprecedented stability and prosperity in their autonomous zone since 1991."[400] Mahmod Othman said: "Kurds want a guarantee for their rights, which is reflected in the federal system."[401] They felt that the federal system was a guarantee for unifying Iraq and preventing separation, and opposed the Sunnis and the second side of the Shiites' thought. The Kurds felt that if their rights were not reflected in the permanent constitution, they would not participate in rebuilding Iraq. So, Abdulhkalik Zangana, a Kurdish leader and member of CDC, said, "we should not turn back from federalism in Kurdistan at all, and we should allow it for the South as well."[402] Therefore, the Kurds worked hard to retain federalism in the permanent constitution, facing challenges from the Sunnis. But the Sunnis consequently failed to remove federalism in the draft of the constitution because the Kurds' delegates insisted strongly on retaining autonomy for Kurdistan as a federal state. This was reflected in the constitution.

The mutual veto was another controversial point but during the negotiation of the permanent constitution it did not receive much discussion. This is because it was already written in the TAL, and had been transferred from it to the constitution draft. Khalilzad pointed out that the Kurds "had effectively secured a veto over the future Iraqi constitution and established themselves as the decisive swing-vote bloc."[403] The Kurds were not the only community that received advantages from the two-thirds majority. The Sunnis also received benefits from it. Khalilzad argued the two-thirds majority veto "which the Kurds had designed to ensure that their three provinces would effectively wield a veto, also empowered the Sunni Arabs."[404] Humam Hamoudi pointed out that the Shiites "agreed on the two-thirds majority veto from the Kurds because their participation was essential in the political process." [405] This meant that the only community opposed the two-thirds majority was the Shiites, and they continued their efforts to change it but could not achieve this. Khalilzad pointed out that the Shiite leader, Abdul Aziz al hakim, a few days before the ratification of the constitution in October 2005, "suggested waiving the requirement that gave three provinces a potential veto over ratification. [he said] I cautioned him about changing the rules at this late date."[406] The reason was that Khalilzad, the envoy of the US, liked it, arguing that "this supermajority provision was a good rule, because it would require Iraqis to work toward inclusive politics."[407] Thus,

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[399] Interview with: Nouri al-Maliki, October 17, 2015.

[400] McGarry and O'Leary, "Iraq's Constitution of 2005."

[401] "Minutes of the Meetings, The Constitutional Drafting Commission, Fifteenth Meeting."

[402] "Minutes of the Meetings, The Constitutional Drafting Commission, Sixteenth Meeting.," November 7, 2005.

[403] Khalilzad, Zalmay, *The Envoy*. P.228

[404] Ibid. P.249

[405] Interview with: Humam Hamoudi.

[406] Khalilzad, Zalmay, *The Envoy*. P.250

[407] Ibid. P.243

while the Shiites tried removing that kind of veto, it was retained in the permanent constitution.

Proportional representation, another element, was not reflected broadly in the permanent constitution. In fact, it was discussed briefly in the CDC because firstly all communities agreed that one seat in the parliament would represent 100,000 Iraqi persons, and secondly, proportional representation was managed by electoral law, which meant that it did not require detailed discussion in the CDC.[408] Obviously, the Sunnis tried to change the electoral law. Arato noted that "on an issue, especially important to Sunnis Arabs given the experience of the January 2005 elections, it was almost certain that the electoral rule was going to change in the direction of provincial lists."[409] The Sunnis demanded changing the electoral law because the TNA election gave them the idea that the election rule could not assure the correct proportion of representation of their population in the next election. Thus, their demand was based on changing the method of constituencies. The TNA election had been based on a single district, and they proposed to change it to multi-district representation, based on provinces. Another important subject was related to ensuring balance in the Iraqi armed forces and security services.[410] Maliki argued that the word "balance" means sectarian because you cannot establish institutions; you have to look to bring the representatives from each community, which is hard to imagine.[411] However, there was no voice opposed to the issue at that time because each community thought its right would be retained. That could answer the question regarding why there were so few articles about proportionality: because it did not matter at that time among communities, and the priority that each of them had was for some other issue, usually directed against the ideas of another group.

It was obvious that there was an article in TAL pointing out that the presidency council had to name the Prime Minister unanimously, which encouraged all communities to make the political process inclusive. Unfortunately, this was not transferred to the permanent constitution draft. Instead of that, the majority rule for making government is reflected in the permanent constitution. This meant that the permanent constitution did not include the method of grand coalition government. The Shiite majority could be the main reason for the lack of reflection of grand coalition provisions, because during the CDC negotiations they were more in favour of majority rule, with themselves as the majority.[412] Another reason could be the lack of information about the role of grand coalition government. Alia Nossaif, a Shiite member of parliament, said, "there was no clear vision about writing the constitution."[413] Negotiators could not solve that issue in the CDC because they did not know how to manage it. Humam Hamoudi argued, "we thought and discussed it is impossible to write provisions about grand coalition cabinet and even electing the presidency by the two-thirds majority is

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[408] "Minutes of the Meetings, The Constitution Drafting Commission, Seventeenth Meeting.," July 13, 2005.
[409] Arato, Andrew, *Constitution Making under Occupation*. P.225
[410] Iraq, "Permanent Constitution." Article 9.
[411] Interview with: Nouri al-Maliki, interview.
[412] "Minutes of the Meetings, The Constitutional Drafting Commission, Sixteenth Meeting."
[413] Interview with: Alia Nossaif, October 15, 2015.

very hard."[414] Thus grand coalition could not obtain approval among the negotiators, because they thought that the method of majority rule was more compatible with democratic values.

Another crucial point was the role of the US-led coalition forces during the CDC functions and the Political Kitchen. One of the challenges the envoy of the US-led coalition, Khalilzad, faced was "the drafting of the Iraqi constitution. The deadline was less than three months away [when he arrived in Baghdad for conducting his role]."[415] Humam Hamoudi, the chair of the CDC, met with President Bush during the drafting of the constitution. He argued that there was no imposition by the US-led coalition on the CDC. He noted that some of the US's delegates had tried to impose some points, but failed. He said that "we as the CDC met President Bush, who insisted "I need to retain human rights [in the constitution]," and I responded we have done it perfectly."[416] This was really the goal of Khalilzad when he came to deal with the Iraqi issues, because he wanted "to ensure protections for human rights generally and women's rights in particular."[417] In addition, there were other views opposed Humam Hamoudi's. Senamoky, a member of the TNA, stated that the US-led coalition did have an impact on the CDC, because when the members did not reach a consensus about a particular subject, the US envoy pressured the leaders in the Political Kitchen to come to an agreement about that issue.[418] That is compatible with Barham Salih's argument that the US-led coalition administrated the process of the CDC.[419] One piece of evidence that the US-led coalition did impose certain strictures was that in August 2005, on the day that the CDC completed the draft of the constitution, in front of all the members of the TNA, Talabani declared that the US-led coalition imposed on them through its envoy, Khalilzad.[420] Thus, the role of the US-led coalition affected the process of the CDC and concessions among all communities in order to make a consensus for finalising the permanent constitution.

5.10 Conclusion

In light of the above discussion, it is clear that only very few consociational provisions can be found in the permanent constitution. This is related to the dynamics of the negotiations. Obviously, consociationalism was reflected strongly in the TAL, but that only formed one of several foundations for the permanent constitution. There were three main factors shaping the dynamic that led to that kind of outcome. The first one is related to the role of the US-led coalition. It had a significant impact on the political process, especially the negotiations for drafting the TAL, starting with appointing the IGC members and establishing the formula for the participation of each community. Moreover, the TAL mostly reflected the US-led coalition's will, since it was written by the US-led coalition, with slight revisions by Iraqis. While the US-led coalition was present during the negotiation of drafting the permanent constitution, its role was not as strong as before. In fact, the US succeeded in the establishment of a power-sharing arrangement that would form the main principle for

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[414] Interview with: Humam Hamoudi.
[415] Khalilzad, Zalmay, *The Envoy*. P.233
[416] Interview with: Humam Hamoudi.
[417] Khalilzad, Zalmay, *The Envoy*. P.240
[418] Interview with: Mohammed Senamoky.
[419] Interview with: Barham Ahmed Salih.
[420] Khalilzad, Zalmay, *The Envoy*. P.244

rebuilding the political institutions. Thus, its role was crucial at that time, since it aimed to prevent a system of majority rule or a constitution written under a majority.

The second dynamic was the Sunnis' attitude, because their voices pushed towards centralisation and against federalism, but none of the other communities supported them. This meant that the Sunnis were strongly opposed to consociational elements appearing in the constitution. They could not obtain their stated desires (centralisation, for example), because they did not participate in the political process. While the US-led coalition wanted the Sunnis' voice to be heard alongside those of the other communities, the Sunnis' demands did not emerge in the constitution. While the US-led coalition did not succeed in bringing the Sunnis to the political process and encouraging them to participate in the government, it did shape the political system: without the coalition including the Sunnis, the political process could not work fairly. Its efforts eventually succeeded in bringing the Sunnis into the CDC, which affected the direction of the negotiations.

The third dynamic affecting that process was that the Shiite majority did not continue with their support of the power-sharing arrangement, and there was a dissenting voice among them, opposed to power-sharing. The main point was that they wanted to govern Iraq by their majority and frequently demanded that this should be considered. This meant that for the most part the Shiites did not fully support consociationalism, especially during the CDC. This affected the reflection of consociational elements in the constitution. Thus, although the Kurds and some of the Shiites were highly in favour of consociationalism, this was not enough for a full reflection of consociational aspects in the constitution. Consociational elements are therefore partially reflected in the permanent constitution, and at least informally the new Iraqi situation should be compatible with the core values of consociationalism.

Chapter 6 Consociationalism in Iraq from 2006 to 2010

6.1   Introduction

After the referendum for the permanent constitution in October 2005, the Iraqi people held the first parliamentary election under the permanent constitution in December 2005. All communities had participated in that process, and they received different ratios of votes and seats. Thus, after the declaration of the December 2005 election result, the most significant winners from each community negotiated to form a new cabinet. At the end of this process, a National Unity Government was formed. All the political parties in each community sought to obtain more power through the incoming cabinet. In this chapter, I will discuss what actually happened in the political institutions in light of Lijphart's criteria. How were the consociational elements implemented in practice? Then, within each section, I will provide an account of the key actors' visions, in order to better understand how those involved dealt with the situation. To further examine this, I will discuss Proportional Representation and how it was applied through legislative and executive power. Following that, it is important to discuss the Grand Coalition government, what happened during the formation of the cabinet, and how it was realised. After that, I will discuss how Mutual Veto worked during that period. Finally, it is vital to look at the desires of certain communities regarding the creation of their own region during that period, what actually happened, and why this was the case.

6.2   Proportional Representation

It will be useful to illustrate the instances of proportional representation in the permanent constitution through two aspects: firstly, how it is reflected in the legislative power and secondly in the executive power. Legislative power is the provision of the Council of Representatives (CoR) and the Federation Council (FC).[421]I will just concentrate on the Council of Representatives, due to the fact that the Federation Council had not been established at the time. Executive power is handled by the President and Council of Ministers,[422] both discussed in the following sections. My main aim is to show how Proportional Representation was implemented in the political institutions. Are the CoR and the government representative of the political parties involved in the process? Do the CoR and government also represent sectarian interests? Do they take into account ethnic-religious representation? How do the key actors interact each other to achieve proportional representation? To answer these questions, I will start with proportional representation in the CoR.

6.2.1   Proportional Representation in the Parliament

The December 2005 election was one of the crucial steps stipulated by the provisions of the permanent constitution. Its aim was to create political institutions that represented all significant communities. The key question is: what was the election system of the December 2005 election? Obviously, the election system was determined by electoral law number 16 in 2005. Article 9 determined the type of election that it would be, asserting that "candidacy

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[421] Iraq, "Permanent Constitution." Article 48
[422] Ibid. Article 66

shall be through the closed list method, but a candidate may contest as an individual."[423] According to the closed list method, voters elect a party list, rather than a specific candidate within each entity. This gives significant influence to the party machine in determining who will have a good chance of being elected, and putting them at the top of the list. This is important for consociationalism because a consociational system relies on the control of the political system by party elites. A closed list contributes more to the goals of consociationalism because it is the party who determines the list and its order, so that those candidates at the top of the list are really the best people for the job, and have the interests of the country at heart. Article 12 states that "seats allotted to an entity or coalition shall be awarded to candidates in accordance with the order of the names on the list."[424] This means that a closed list system is more compatible with consociationalism than the open list system.

Electoral districts were another crucial point, as they affected the result of the election. The system of electoral districts had also been changed, and was different from that used for the TNA elections. Under electoral law, Iraq is divided into 18 electoral districts according to the 18 Iraqi provinces. This is located in Article 15 section two: "each governorate is one electoral district in accordance with official borders and shall be allotted a number of seats proportional to the number of registered voters in the governorate."[425] This meant that the election result should bring proportionality through seat distribution among governorates, since each political entity should have a candidate list in the different governorates. The system of 18 electoral districts is in contrast to the TNA system, where each party has one list for the country as a whole. In the new system of Article 15 section 2, each district has a certain number of seats. One of the consequences is that the new arrangement benefits particular communities. Because of the geographic concentration of different communities this benefits those communities with low electoral turnout, in particular the Sunnis, and not those with high electoral turnout, in particular the Kurds. That was one of the main points that brought together the Shiite and Sunni communities with the purpose of changing the electoral district from one district to 18. According to the TNA election, the election quota for one seat was same in the entirety of Iraq, but in the CoR election (December 2005) each governorate had a different election quota for one seat. Participation from the Sunnis' and the Shiites' governorates was very low, but in the Kurdistan region was very high. That was why in the TNA the Kurds obtained 77 seats, but in the CoR this figure decreased to 55 seats.[426]

Another important amendment was the seat distribution. The Council of Representatives consisted of 275 seats, 230 seats distributed in advance among all provinces as a pre-determined process, and another 45 seats, which remained as nationwide seats and compensatory seats.[427] All political parties competed for a certain number of seats in each governorate, so that the election quota would be different in each electoral district. This is found under Article 15 section one of the electoral law, which states that "the House of

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[423] Iraqi Law, "Electoral Law Nu.16," Pub. L. No. 16 (2005).
[424] Ibid.
[425] Ibid.
[426] Interview with: Mahmoud Othman.
[427] A. I. Dawisha and Larry Jay Diamond, "Iraq's Year of Voting Dangerously," *Journal of Democracy* 17, no. 2 (2006): 89–103, https://doi.org/10.1353/jod.2006.0025. P.95

Representatives shall be composed of 275 members, 230 seats shall be distributed to the electoral districts and 45 of them shall be distributed as compensatory seats."[428] Thus, "each province would have a share of the 230 seats proportional to its share of registered voters in the country."[429] This method helped to enhance proportional representation and bring representatives from all communities into the parliament, because all governorates had already obtained in advance a number of seats in the parliament. For more detail, see Table 8. Article 16 explicitly stated: "seats allotted to electoral districts shall be allocated to entities through the system of proportional representation."[430] This meant that the electoral law aimed to transfer the actual vote into a seat, which would be compatible with real proportionality. In addition, there was a fixed quota for the participation of women in the government, at a ratio of 25%. Article 11 states that "one in every three names on each Candidate List be female."[431]

However, there were no articles supporting representatives from minority groups to obtain their quota in order for them to have the correct proportion for representing their groups in the CoR. According to the electoral law, there were compensatory seats which should be distributed among entities. Under the electoral law provisions for distributing these 45 seats, "the total number of votes obtained by each entity shall be divided by the "national average[432]" to determine the number of seats allotted to it."[433] It was obvious that the biggest list would obtain the most considerable number of compensatory seats, not the smallest list. Thus, there was not much provision to support minority representation in the law (such as Christian, Turkoman, etc). So, the minority groups formed almost the smallest list, which meant that the biggest lists took more advantage of compensatory seats than the minority groups. For more detail see the Table 8.

In light of this electoral law, the Iraqi people held an election in December 2005. In that election, all groups, Shiite, Sunni, Kurd, and other minority groups, participated through different lists. There were 307 political entities, which included political parties, individual candidates and 19 coalitions. Altogether, 7655 candidates were competing for 275 seats.[434] Obviously, that number of candidates indicated that there was strong competition among all groups to win as many seats as possible. Table 7 shows how many lists won seats in the parliament.

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[428] Iraqi Law, Electoral Law Nu.16.
[429] Dawisha and Diamond, "Iraq's Year of Voting Dangerously." P.95
[430] Iraqi Law, Electoral Law Nu.16.
[431] Ibid. Article 11
[432] The total number of valid votes in Iraq shall be divided by the number of the seats in the House of Representatives, to obtain the "national average"
[433] Iraqi Law, Electoral Law Nu.16. Article 17 Section2
[434] International Mission for Iraqi Elections (IMIE), "Final Report of the December 15, 2005, Iraq Council of Representatives Elections" (http://www.ihec.iq/ftpar/regulation2005/finalreport2005.pdf. (Bagdad, 2006).

	Election lists	القوائم الانتخابية	Per cent of Votes	Number of Votes	Seats	Per cent of seats	Ethnicity
December 2005 Elections [435]							
1	United Iraqi Alliance (UIA)	الائتلاف العراقي الموحد	41,19	5,021,137	128	46.55 %	Shiite
2	Kurdistan Alliance	التحالف الكوردستاني	21,67	2,642,172	53	19.27 %	Kurd
3	Iraqi Accord Front. Jabhat Al-Tawafuq	جبهة التوافق العراقي	15,09	1,840,216	44	16.00 %	Sunni
4	Iraqi National List	القائمة العراقية الموحدة	8,02	977,325	25	9.09 %	Ayad Allawi/ secular Sunni List.
5	Iraqi National Dialogue Front	جبهة الحوار الوطني العراقي	4,10	499,963	11	4.00 %	Saleh Al-Motlag. Sunni
6	Kurdistan Islamic Union	الاتحاد الاسلامي الكوردستاني	1,29	157,688	5	1.82 %	Kurd, Jointed to Kurdish Alliance
7	Liberation Bloc/ Reconciliation	تجمع التحرير/المصالحة	1,07	129,847	3	1.09 %	Misha'an al-Juburi. Sunni
8	Al-Takadomeon	التقدميون	1,19	145,028	2	0.73 %	Shiite. Jointed to UIA
9	Iraqi Turkmen Front	جبهة التركمان العراقيين	0,72	87,993	1	0.36 %	Turkoman
10	Rafidain List	قائمة الرافدين	0,39	47,263	1	0.36 %	Assyrian
11	Mithal al-Alusi List for Iraqi Ummah	قائمة مثال الالوسي للامة العراقية	0,26	32,245	1	0.36 %	Sunni Arab
12	Yazidi Movement	حركة اليزيدية	0,18	21,908	1	0.36 %	Yazidi
13	Others		4.83	-	0	-	
	Total		95,17	11580877	275	99.99 %	

Table 7: December 2005 Election's Result

However, while many lists from different ethno-religious groups participated in the election process, just 12 of them won seats. On the other hand, only three of these controlled the vast majority of seats. If you look at the three top parties, which were the main representatives of the three core groups, they had just under 80% of the total votes and 81.82% of the seats. This meant that the vast majority of seats went to what were explicitly sectarian parties. The only single party explicitly secular was the Iraqi National List, which got 9.09% of seats and 8.02 % of votes. Fundamentally, every other list obtained less than 5% of votes. Thus, the smallest parties were not really taken into account. What mattered most were four coalitions, three in particular. The first was the Shiites, which had 130 seats as the largest coalition, and then the Sunnis in second place with 58 seats. The Kurdish coalition also obtained 58 seats. In light of those results, each community voted for their own community and supported them to win against the other communities. This meant that people voted based on sectarian, religious and national background lines. That was the outcome of the election system, showing that "the issue of proportionality is significant in the Iraqi context since the election results illustrated the balance along the ethnic lines."[436] Thus, it was clear that the election system drove the outcome, resulting in proportional representation in the parliament along sectarian lines, as seen in the table.

Consequently, each community obtained its proportion in the parliament. It was the outcome of the implementation of electoral law based on numerous constituent provinces. In particular, it was the outcome of seat distribution among provinces. Table 8 shows how

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[435] Ibid. and see this link http://www.noonpost.net/content/2557
[436] Gokpinar, Ali, "Power Sharing in Iraq: Liphartian or Horowitzian Approach?".

parliamentary seats were distributed before the election and how communities received their proportion.

Pre-distribution of Parliamentary Seats in December 2005 Elections and the Result for Key Political Entity in Each Governorate.[437]						
Name of Governorates		Pre-distribution of Seats	Shiite Seats	Sunni Seats	Secular list Ayad Alawi	Kurd Seats	Note
1	Sulaymaniyah	15				15	
2	Erbil	13				13	
3	Duhok	7				7	
4	Kirkuk	9		3		5	1 Turkoman
5	Nineveh	19	2	10	2	4	1 Yazidy
6	Diyala	10	2	5	1	2	
7	Saladin	8	1	6	1		
8	Al Anbar	9		9			
9	Baghdad	59	35	14	8	1	1 Christian
10	Babel	11	9	1	1		The secular seat was from communist party
11	Basra	16	13	1	2		The secular seat was Shiite
12	Karbala	6	5		1		The secular seat was Shiite
13	Najaf	8	7		1		The secular seat was Shiite
14	Maysan	7	6		1		
15	Muthanna	5	5				
16	Al-Qadisiyah	8	7		1		The secular seat was Shiite
17	Dhi Qar	12	11		1		The secular seat was Shiite
18	Wasit	8	7		1		
	Compensatory seats	45	20	9	4	11	
Total		275	130	58	25	58	3

Table 8: Pre-distribution of Parliamentary Seats

Consequently, proportionality in the CoR was different from proportionality in the TNA. The main reason was the electoral law, because the CoR system permitted better proportionality for each community. The question is: does the vote directly transfer to the seat? Comparing this result with the TNA election result shows a significant difference between vote and number of seats. The Kurds lost around 17 seats, with a drop of 1.87% between number of votes and number of seats. The Shiites, on the other hand, obtained a higher proportion of seats than votes by 4.9%, despite losing 12 seats. The Sunnis, however, reached a ratio of 44 seats, obtaining slightly more seats than votes by 0.95%. This meant that while the Kurds and the Shiites lost a number of seats, their representation was still proportional. For more information, see Table 9.

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[437] IHEC, 2005, http://www.ihec.iq/ftpar/regulation2005/finalreport2005.pdf and see: http://www.ihec.iq/ftpar/regulation2005/other/The_names_of_the_members_of_the_House_of_Representat ives_ar.pdf

Percentage of Votes and Seats in January and December 2005 Elections								
January 2005, TNA				December 2005, CoR				
	Ethno religious groups	Percentage of votes	Percentage of seats	Differences	Percentage of votes	Percentage of seats	Differences	+ -	Notes
1	Shiite	48.2	50.9	2.7	42.38	47.28	4.9	+ -	
2	Sunni	1.8	1.8	0.0	20,50	21.45	0.95	+ -	
3	Kurd	25.7	27.2	1.5	22.96	21.09	1.87	+ -	
	Secular list	13.8	14.5	0.7	8.02	9.09	1.07	+ -	
4	Minorities	0.4	0.4	0.0	0.57	0.72	0.15	+ -	
	Iraqi Turkmen Front	1.1	1.1	0.0	0,72	0.36	0.36	+ -	
5	Others	5.3	0000	-	4.83	0000	-	+ -	

Table 9: Percentage of Votes and Seats in January and December 2005 Elections

In light of that process and the implementation of proportionality, significant communities distributed all high-level posts under the Erbil Agreement among themselves. According to the Agreement, the Sunni Arabs took the role of Speaker of Parliament, the Shiites Deputy for Shiite and the Kurds second Deputy. The speaker was Mahmoud al-Mashhadani from the Iraqi Accord Front (IAF), but after two years he was replaced by Ayad al-Samarrai from the same entity, who continued until he finished his term. The First Deputy was Khaled al-Attiyah from UIA, and the second was Arif Tayfor from the Kurdish Alliance (See Table 10).

The Leadership of Parliament [438]					
Name	Position	Ethnicity	Election Lists	Political party	Note
Mahmoud al-Mashhadani and Ayad al-Samarrai	Speaker	Sunni Arab	IAF	Iraqi Islamic Party	Al-Mashhadani from 2006 to December 2008. Al-Samarrai from April 2009 to 2010.
Khaled al-Attiyah	First Deputy	Shiite Arab	UIA	Independent	
Arif Tayfor	Second Deputy	Kurd	Kurdish Alliance	KDP	

Table 10: The Leadership of Parliament

6.2.2   Proportional Representatives in the Executive

Proportional representation in the cabinet was more important than in the parliament, because there was no substantial system for distributing cabinet posts, and the cabinet had more power as an institution than the parliament. In fact, that was the main reason that pushed all groups to obtain more posts, in order to contribute successfully to the decision-making process and guarantee their interests. There were different levels of positions, including the Presidency Council, Prime Minister, Deputies, and Minsters. Obviously, all high-level positions were allocated together, because political leaders wanted to deal with them as one package. That was one of the reasons that led to a delay in the formation of the political institutions, which took five months' discussion among all political parties.[439] In the end, they decided to distribute leadership of the three key institutions of parliament, government, and state among the three main communities: Shiite, Sunni and Kurd. That process, which was in

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[438] Iraqi Parliament, "Council of Representatives," http://www.parliament.iq/Speaker.aspx 2006.
[439] For more details see following section about Grand Coalition.

accordance with proportional representation, was the method for distributing the posts from 2003. Thus, they continued to rebuild all political institutions under the aegis of proportional representation in order to obtain stability and collaboration among key communities.

Constitutionally, the second political institution, the Presidency Council, had to be formed before the government because of its duty to nominate the Prime Minister from the largest bloc. Therefore, the Presidency Council's posts were distributed among the three main communities. The Kurds gained the Presidency, the Sunnis first Vice President, and the Shiites second Vice President. The crucial point was that during that period each member of the Presidency Council had the same powers, and each had a veto to reject any decision or law recommended by the CoR. Its decisions had to be taken unanimously, not by majority or by the President alone. As Article 138 section 4 states, "the Presidency Council shall issue its decisions unanimously." [440]   Another interesting point was the Sunnis' challenge to the Presidency. They wanted to take the Presidency instead of the roles of Vice President and Speaker of Parliament, but the Kurds did not agree to step down from this position.[441] This was firstly because Tariq al-Hashemi, the Sunni leader, had already been vetoed by the Shiites because he was strongly against Ibrahim Jafari becoming the Prime Minster for a second time. Secondly, as there was an informal discussion between Talabani and Tariq al-Hashemi regarding who would become the President of Iraq, Tariq al-Hashemi understood that it would be impossible to get the position. Thirdly, al-Hashemi had been offered the Vice Presidency, and he accepted because it had the same power as the Presidency during that period. Thus, the Presidency Council had been formed and consisted of three representatives from the main communities. See Table 11.

Presidency Council 2006-2010					
Name	Position	Ethnicity	Election Lists	Political party	Note
Jalal Talabani	President	Kurd	Kurdish Alliance	PUK	
Tariq al-Hashemi	Vice- President	Sunni	IAF	Iraqi Islamic Party	
Adil Abdul Mahdi	Vice-President	Shiite	UIA	Islamic Supreme Council of Iraq (ISCI)	

Table 11: Presidency Council 2006-2010

Another aspect of proportionality was the government, which distributed all ministerial posts in light of the agreement among the three main communities. This led to dividing all posts among Shiites, Sunnis, and Kurds in order to achieve power sharing arrangements and cooperation in the decision-making process. The Shiites obtained the position of Prime Minister because they were a majority in Iraq and won more seats in the December 2005 election. Following that logic, the Kurds and Sunnis each received one Deputy Prime Minister Position. This will be discussed in detail in the grand coalition section.

Consequently, proportional representation was reflected in legislative and executive power at various levels. In fact, the ratio of representatives that occurred in the political institutions could please all communities, even the Kurds, despite the fact that their ratio decreased slightly compared with the previous election. Therefore, the CoR included a variety of

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[440] Iraq, "Permanent Constitution."
[441] Interview with: Ayad al-Samarrai, October 16, 2015.

representatives from 12 entities. In addition, although proportional representation had been applied in the distribution of positions of executive power, it was not present in the parliament because there were differences between each community's percentages in both institutions. So, for example, the Shiites obtained an absolute majority in the government, which they did not have in the CoR.

6.3   Grand coalition government

Grand coalition is one of the most essential elements required for consociationalism to function in a deeply divided society. In fact, one of the most controversial points among political leaders was the possibility of establishing a broad-based government. The December 2005 election provided a foundation for establishing the cabinet, but political leaders understood very well that the government should include all communities, not only those who received the highest number of seats. As the permanent constitution mentions in Article 76 Section 1, "the president of the republic shall charge the nominee of the largest Council of Representatives bloc with the formation of the Council of Ministers."[442] According to this Article, the UIA were tasked with forming the cabinet because they were the largest bloc. In reality, however, the process of forming the cabinet and deciding who would become the Prime Minister required consensus among all key communities. In these negotiations, election results turned into bargaining chips. All communities demanded that the government should be established by consensus, because – despite the election and its results – Iraq was simply not ready for the kind of majority government that the constitution suggested. Thus, all of major parties were aiming at grand coalition government, but had different views about what it should look like. In this section, I will discuss how the cabinet was established. What actually happened? Which type of government did they intend to establish? How did the power-sharing arrangement operate?

6.3.1   Negotiations for forming the new cabinet

After the result of the December 2005 election was declared, political leaders started negotiations to form the new cabinet. All communities participated in the process, because they all wanted representation in the incoming government. That is, each community wished to ensure that the cabinet adhered to a clear power-sharing arrangement. At that time, none of them demanded a majority government, even the Shiites, who, as the largest bloc, had received 128 seats out of 275, because they knew it would be impossible for one single community to govern Iraq. However, there were two key issues for negotiation. First, who should become the Prime Minister, and second, what kind of government was required, majoritarian or grand coalition. Regarding the first issue, while the Shiites had the right to nominate a Prime Minister from the largest bloc, they still required approval from the other communities. As Khalilzad pointed out, "Iraqi leaders recognized the need for collaborating and building consensus."[443] The Shiite community, and especially the Shiite bloc, held a meeting to select its candidate for the Prime Minister position. Of the two candidates, Ibrahim al Jaafari and Adil Abdul-Mahdi, Jaafari defeated Abdul-Mahdi by one vote.[444] This

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[442] Iraq, "Permanent Constitution."
[443] Khalilzad, Zalmay, *The Envoy*. P.257
[444] Ibid. P.259

created tension, because Jaafari was not acceptable to the Kurds and the Sunnis. Both communities individually sent official messages to the United Iraqi Alliance (UIA) Shiite bloc, requesting that they remove Jaafari, and substitute a more acceptable candidate.[445] On this, Ayad Allawi said, "we want to practice the national unity government's program through participation by all political parties. I do not have any issue with the Shiite bloc and Ibrahim al-Jaafari, but whoever takes the Prime Minister's position should get acceptance and support from all communities."[446] Without support from two of the three main communities, Jafaari could not legitimately remain Prime Minister.[447]

Another crucial point was the US's role in selecting who should become the Prime Minister. The US was not in favour of Jaafari becoming the next Prime Minister, and the US's ambassador in Baghdad, Khalilzad, informed Abdul Aziz al-Hakim, the head of the Shiite bloc, that President Bush "doesn't want, doesn't support, and doesn't accept that Jaafari should form the next government."[448] President Bush had directly asked Khalilzad, "can Jaafari be stopped from becoming prime minster?[449] The Bush administration's message was delivered to Jaafari, and his spokesman Hadier al-Ubady informed the US "that the prime minister had heard the message."[450] The opposition of both internal and external actors to Jaafari disappointed him, and made it impossible for him to become the Prime Minster. Thus, in light of that situation, "on April 20, Jaafari stepped aside in favour of another senior Da'wa Party figure, Jawad al-Maliki."[451] That decision came from the UIA, which, in a meeting, reached out to candidate Maliki instead of Jafaari, who were both in the same political party, Da'wa.[452] Khalilzad emphasised that the selection of Maliki was choice favoured by the US. Khalilzad then stated that he had an agreement with Maliki before the UIA's selection of him, which stipulated that as Prime Minister he would "pursue political reconciliation seriously, take a balanced approach in combating both the insurgency and militias, selecting defence and interior ministries who were not sectarian, reach out to the Arab world, particularly Saudi Arabia, and move quickly to conclude an agreement on distributing oil revenue, modifying de-Baathification, and other fundamental issues dividing the country."[453] As Khalilzad pointed out, Maliki agreed to all conditions, and was not seen by the key communities as a controversial figure, although the Sunnis were doubtful about his stance on de-Baathification. Maliki stated that "in the first term the role of the US was good and supportive."[454] With the assistance of the US, Maliki had been chosen as the only candidates for the Prime Minister position. This meant that the US was one of the key actors affecting the direction of the

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[445] "Al Sabaah," *Al Sabaah, Arabic Newspaper*, April 11, 2006, 806 editions.

[446] Xebat, "Ayad Allawi," *Kurdish Newspaper*, March 10, 2006, (2081) edition.

[447] Khalilzad, Zalmay, *The Envoy*. P.259

[448] Allawi, Ali A, *The Occupation of Iraq Winning the War, Losing the Peace* (New Haven [Conn.]: Yale University Press, 2007), http://site.ebrary.com/id/10210204. P.443. For more information see BBC, "US Envoy 'Calls for New Iraqi PM'" (http://news.bbc.co.uk/1/hi/world/middle_east/4855210.stm, March 28, 2006).

[449] Khalilzad, Zalmay, *The Envoy*. P.261

[450] BBC, "US Envoy 'Calls for New Iraqi PM.'"

[451] Katzman, Kenneth, "CRS Report for Congress Doc. RS21968." P.4

[452] "Al Sabaah," *Al Sabaah, Arabic Newspaper*, April 22, 2006, 815 editions.

[453] Khalilzad, Zalmay, *The Envoy*. P.263-264

[454] Interview with: Nouri al-Maliki, interview.

rebuilding of political institutions. By selecting and supporting the Prime Minister, they could put direct pressure on him to pursue what the US wanted.

The second issue was related to the formation of the government: what type of cabinet should it be? Why was a broad-based cabinet, rather than a majority cabinet, selected? While the Shiites had received the majority of votes and seats in the CoR, they could not call for a majority government. Hesham al-Suhail, a Shiite MP, said that "the external actors did not allow us to do it and they pushed towards consensus."[455] In line with this, Maliki explained that there was no real chance of forming a majority government, because if a community tried to form government based on the number of seats in the CoR, other communities would refuse to support it in the political process. The only solution, he continued, was to support them through the sectarian allocation principle and consensus, which were imposed on them.[456] Ayad al-Samarrai, former Speaker of the CoR from the Sunni community, argued "that the government completely will be a Shiite government, so we must have the national government represent all communities."[457] Thus, all communities deemed a broad-based government most likely to be the best possibility. Furthermore, there was a rumour that the Sunni community might not participate in the cabinet, and without them true stability and peace could not be achieved.

Further support for a broad-based government came from political leaders within the Shiite community, like Abdul Aziz Al-Hakim, who stated: "we are emphasizing that the Sunni group should participate in the political process and should take an actual role in making the new government."[458] Later on, Adil Abdul-Mahdi noted: "in my view, we need real national unity government because our country has many problems, and any decision you want to take about, for example, security, the economy, foreign troops, and the establishment of new relations, requires consensus, so we need national unity government."[459] In the same vein, the Kurdish leader also asserted that the new cabinet needed to represent all communities. Masoud Barzani, the president of the Kurdistan region, said, "we are attempting to make a coalition government, taking into account the election result and representatives of Iraqi society."[460] In addition, he stated: "we are sharing in the process of making political and federal decisions, which is more important than the number of positions we have."[461] It was clear that the incoming government had a huge responsibility to bring all parties together in order to institute a broad-based cabinet. Further support for national unity government came from the Sunnis, whose senior leader, Adnan al-Dulaimi, said, "our position is very clear and aims to make a government for all Iraqi people, not just for one group or community or nation."[462] In light of the above statements, the incoming government needed to form by drawing from all communities, allowing no significant community to be marginalised. This was

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[455] Interview with: Hesham al-Suhail, October 15, 2015.
[456] Interview with: Nouri al-Maliki, interview.
[457] Interview with: Ayad al-Samarrai.
[458] Xebat, "Abdul Aziz Al-Hakim," *Kurdish Newspaper*, December 29, 2005, (2016) edition.
[459] Al Sabaah, "Adil Abdul-Mahdi," *Arabic Newspaper*, March 8, 2006, (787) edition.
[460] Xebat, "Masoud Barzani," *Kurdish Newspaper*, December 28, 2005, (2015) edition.
[461] Xebat, "Masoud Barzani," *Kurdish Newspaper*, February 11, 2006, (2054) edition.
[462] Al Sabaah, "Adnan Al-Dulaimi," *Arabic Newspaper*, February 19, 2006, (771) edition.

an outcome of a meeting that had been held among senior political leaders from the three main communities, after which they declared in a press conference that all political parties had agreed to form a National Unity Government (NUG).[463] The NUG was a common point between communities, which did not neglect any key community. This meant that in the end all communities supported the formation of a broad-based government, and none of them demanded a majority government.

There were several reasons why the NUG was conceived as a solution by all key communities. First, each community understood well that Iraq could not be governed by a single community even if it had an absolute majority of seats in the CoR. This is first because Iraq is deeply divided among ethno-religious groups, each having endured unpleasant experiences and neglect from a single community's governance. Second, while the provisions of the permanent constitution are compatible with forming a majority cabinet, this was not demanded by any community. Maliki stated in his interview that he demanded the formation of a majority cabinet. But in reality his desire was not shared, and no one listened to it. Third, the US-led coalition forces did not support the implementation of a majority government. This was because the US wanted to form a broad-based government that included all communities, especially the Sunnis, because they had boycotted the previous election. Finally, the same methods that had been used to form the various new political institutions between 2003 and 2005 had a positive impact on pushing for a broad-based government. This is because each of these institutions was specifically designed to provide a chance for every single community to be represented by its proportion in the government, setting an example for future institutions to follow.

6.3.2   National Unity Government (NUG)

Although all communities agreed to form a new government under the name of the National Unity Government, the structure of that government was not simple, because each community had different views about distributing high-level positions. The Sunnis were one of the main communities demanding a bigger proportion than their 55 seats.[464] However, the Shiites "emphasized a governmental balance based on the election results."[465] Moreover, Kurdish leaders had tried to find a compromise between both sides. As Barzani highlighted, "the incoming government should be a coalition cabinet based on the election results and national components."[466] This meant that there were two main factors at play: the election results and consideration of the key communities' ratio. The process of deciding the distribution of posts required hard discussion among all political leaders. The US had a positive impact on assisting the communities to reach an agreement to make the NUG an inclusive cabinet. Khalilzad pointed out that he worked with Iraqi leaders to form "a fully representative government."[467] He encouraged the Iraqi people to create a balance in the

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[463] Xebat, "Press Conference," *Kurdish Newspaper*, February 3, 2006, (2046) edition.

[464] Dawisha and Diamond, "Iraq's Year of Voting Dangerously." P. 101

[465] Ibid. P.101

[466] Xebat, "Masoud Barzani, Press Conference," *Kurdish Newspaper*, December 30, 2005, (2017) edition.

[467] Khalilzad, Zalmay, "Lessons from Afghanistan and Iraq." P.46

NUG, with non-sectarian candidates taking over the security ministries. [468] Thus, the US carefully followed the formation of the NUG, and worked to achieve what it wanted.

After five months of negotiations, the process of forming a government was completed, based on the election results, but also taking into account the key differences between individual communities. Nouri al-Maliki declared his cabinet on May 20, 2006. The main issue that caused the postponement was the selection of the Prime Minister, which was solved on April 20, 2006. This meant that Maliki had one month to form his cabinet, ensuring appropriate proportionality for communities and solving the problem of their ratio in the government. Maliki's cabinet consisted of 39 ministers, including two Deputy Prime Ministers, Barham Salih, a Kurdish leader, and Salam al-Zubaie, a Sunni Arab. Other ministerial posts were distributed among all key communities. Twenty-one posts went to Shiites; ten to Sunnis; seven to Kurds; and one to a Christian. [469] Khalilzad recommended that independent politicians should take over the Interior and Defence ministries, but one was given to a Shiite, the other to a Sunni. For more detail, see Table 12. The cabinet was the outcome of long-term negotiations. All the selected politicians accepted their posts because they had contributed to making this cabinet for four years. The cabinet's agenda took the place of the informal agreement among all of them because it secured the demands that they had made during negotiations. Maliki's government "roughly reflects the country's diversity", as McGarry and O'Leary reported not long after the event. [470] Thus, the NUG began its functions with a grand coalition drawn from all relevant communities.

	Name	Position	Ethnicity	Bloc and Political Party
Rating Ministers in the Nouri al-Maliki Cabinet 2006-2010[471]				
The government leadership				
1	Nouri al-Maliki	Prime Minister	Shiite	UIA Daawa
2	Salam Zaubai	Deputy Prime Minister	Sunni	IAF
3	Barham Salih	Deputy Prime Minister	Kurd	PUK
Powerful Ministers (Sovereign Ministers)				
4	Jawad al-Bulani	Interior Minister	Shiite	UIA/independent
5	Bayan Jabr	Finance Minister	Shiite	UIA SCIRI
6	Hussein Shahristani	Oil Minister	Shiite	UIA
7	Shirwan Waily	National Security Minister	Shiite	UIA Daawa
8	Abdul Qadir Obeidi	Defence Minister	Sunni	Independent
9	Ali Baban	Planning Minister	Sunni	IAF Iraqi Islamic Party
10	Hoshyar Zebari	Foreign Affairs Minister	Kurd	KDP
Less Powerful Ministers (Service Ministries)				
11	Ali al-Shemari	Health Minister	Shiite	UIA Sadrist
12	Khudayer al-Khuzaie	Education Minister	Shiite	UIA Daawa IO
13	Abed Falah al-Sudani	Trade Minister	Shiite	UIA Daawa IO

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[468] Khalilzad, Zalmay, *The Envoy*. P.295
[469] Katzman, Kenneth, "CRS Report for Congress Doc. RS21968." P.5
[470] McGarry and O'Leary, "Iraq's Constitution of 2005." P.693
[471] CNN, "Iraq's New Unity Government Sworn in," *World*
(http://edition.cnn.com/2006/WORLD/meast/05/20/iraq.main/index.html?eref=sitesearch, May 20, 2006). In addition, see Katzman Kenneth, 2005, *Iraq: Elections, Government, and Constitution,* CRS Report for Congress. *With some other websites.*

14	Karim Waheed	Electricity Minister	Shiite	UIA
15	Yarrub Nazim	Agriculture Minister	Shiite	UIA Sadrist
16	Karim Mahdi	Transport Minister	Shiite	UIA Sadrist
17	Abdul-Samad Rahman	Migration Minister	Shiite	UIA
18	Jassim Mohammed Jaafar	Youth and Sports Minister	Shiite	UIA
19	Mohammed Tawfiq	Communications Minister	Shiite	UIA
20	Mahmoud Mohammed al-Radhi	Labour and Social Affairs Minister	Shiite	UIA
21	Riyad Gharib	Municipalities and Public Works Minister	Shiite	UIA
22	Raed Fahmi	Science and Technology Minister	Sunni	Iraqi National List
23	Assad Kamal Mohammed	Culture Minister	Sunni	IAF Iraqi People's Conference. Adnan al-Dulaimi
24	Hashim al-Shibli	Justice Minister	Sunni	Iraqi National List
25	Abed Theyab	Higher Education Minister	Sunni	IAF Iraqi Islamic Party
26	Fawzi al-Hariri	Industry Minister	Kurd	KDP
27	Latif Rashid	Water Resources Minister	Kurd	PUK
28	Bayan Dazee	Housing and Construction Minister	Kurd	KDP
29	Narmin Othman	Environment Minister	Kurd	PUK
30	Wijdan Mikaeil	Human Rights Minister	Christian	
Ministers of State for Affairs				
31	Adel al-Assadi	Minister of State for civil society affairs	Shiite	UIA
32	Safa al-Safi	Minister of State for House of Representatives' Affairs	Shiite	UIA/ independent
33	Liwa Semeism (Shia) -	Minister of State for Tourism and Archaeology Affairs	Shiite	UIA
34	Akram al-Hakim	Minister of State for National Dialogue	Shiite	UIA Daawa
35	Fatin Abdel-Rahman	Minister of State for Women's Affairs	Sunni	
36	Saad Tahir Abid	Minister of State for Provincial Affairs	Sunni	
37	Rafaa al-Esawi	Minister of State for Foreign Affairs	Sunni	IAF Iraqi Islamic Party
Ministers of State/ without portfolio				
38	Mohammed Abbas Auraibi	Minister of State	Shiite	Iraqi National List
39	Hassan Rhadi Khazim	Minister of State	Shiite	UIA
40	Ali Mohammed Ahmed	Minister of State	Kurd	KIU

Table 12: Rating Ministers in the Nouri al-Maliki Cabinet 2006-2010

According to Table 12, the Shiites received 22 posts, which included 4 of 7 the Sovereign Ministries and 11 of the 20 Service Ministries. Among these were the Ministries for Interior, Finance, Oil, National Security, Health, and Education. The next most represented group was the Sunni Arabs, who took 10 Ministries. Their most powerful posts were Deputy Prime Minister, and the Ministries for Defence and Planning. The last group was the Kurds, who had seven ministers. Their most important posts were Deputy Prime Minister, and Foreign Affairs Minister. Although Maliki's government was a broad-based cabinet, there was no real balance among communities. The Shiites, having received an absolute majority of posts, clearly dominated the entire government. This meant that despite the fact that the Shiites had not won an absolute majority in the December 2005 election, they nevertheless acquired more powerful posts than the other groups. The distribution of posts, then, was not based on the election results alone, because, as the table shows, the attainment of posts also depended on

the key communities. For example, during the negotiation, the Sunnis' delegate tried to prevent the Shiites from getting an absolute majority in the cabinet, but did not succeed. As Ayad al-Samarrai stated, "we knew very well that the Shiites wanted to get absolute majority in the cabinet and I suggested to our negotiator team to be aware of that point, but they could not prevent it."[472] The Sunni group was clearly afraid of a Shiite majority in the cabinet, predicting that the Shiites would dominate political institutions through their proportion.

An interesting question arises: why did the Shiites obtain this absolute majority? There are several reasons that explain their disproportionate representation in the cabinet. First, they received 47.27% of the CoR seats, just under an absolute majority. Second, the Shiites make up around 60-65% of the population in Iraq.[473] Finally, when the situation changed after 2003, the Shiites obtained an absolute majority in all of the US-led coalition's newly-established institutions, like the IGC among others. The IGC consisted of 25 members, 13 Shiites, 5 Sunnis, 5 Kurds, 1 Turkoman and 1 Christian. The Bremer government was established with the same proportions, which continued to be implemented up to the establishment of the NUG.[474] For these reasons, Shiites were far more likely to attain positions than Sunnis and Kurds, even though the Shiites did not win an absolute majority in the December 2005 election. For their part, the Shiites asserted that since they comprise 60% of the total population of Iraq, they *should* get more posts.[475]

Although high-level positions were distributed among the three main communities, there were other posts that were not distributed at the same level, such as the appointment of the Deputy Minister, general director, and military army officers. This occurred because of the Sunnis' position in the political process from 2003 to 2006, as they took an opposing stance. Thus, the Shiites appointed their own people, with the knowledge that they would be loyal. Another reason relates to Iraq's instability. Ayad al-Samarrai asserted, "when we demanded that there should be balance in the cabinet, Maliki said, 'we wanted the Sunni group to participate but they refused, so in that situation I *had* to bring the Shiites to appoint them in order to run the government. Yes, that was true, but they said when we nominated some people to become a general director that they had been killed by Shiite militia or Al Qaida and that there would be no protection for them."[476] Maliki himself said that "when they boycotted the political processes, we had to nominate people for those posts and rebuild political institutions. After that, when they did participate, they asked for those posts. We said that the process needs time, and we cannot retire all those people who run those posts; it should be step by step."[477] That was why Yonadam Kana, a member of the CoR from the Christian group, pointed out that the power was monopolised by a council of ministers, causing the Iraqi army, and the appointment of Deputy Ministers and general directors to be

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[472] Interview with Ayad al-Samarrai former Speaker from Sunni group, October 16, 2015.
[473] Toby Dodge, *Iraq's Future: The Aftermath of Regime Change*, Adelphi Paper 372 (London [u.a]: Routledge, 2005). P. 44
[474] Interview with Abdulrahman S. Kareem former Minister from Kurdish group, October 7, 2014.
[475] Interview with Hanan Al Fatlawi Shiite MP, interview.
[476] Interview with: Ayad al-Samarrai.
[477] Interview with: Nouri al-Maliki, interview.

run by one sect."[478] The Sunnis' absence from the political process gave the Shiites a good chance to take what they wanted. Saleem al-Jubouri said, "there was no balance in the political institutions, and there were dismissals and rejections of people, not because they were not qualified or not capable, but because they belonged to particular ethno-religious groups."[479] Thus, proportionality was implemented in high-level positions only, but in other sectors and at lower levels, proportionality was absent.

It is clear that at its formation, the Maliki cabinet was grand coalition and proportional. It was described by Khalilzad as "a power-sharing arrangement under a national unity government with an agreed agenda and process for near-consensus decision-making on issues of national importance."[480] However, this only pertained to the beginning of the cabinet, and only concerned high-level positions, such as leadership posts and ministry posts. After a while, this began to change. This meant that grand coalition and proportionality were not practised up to the end of the period. It was reflected only in the performance of the NUG and the way that Maliki operated whilst conducting his duty.

6.3.3   National unity government performance

To achieve the cabinet's aim of creating peace and stability, Maliki was responsible for operating a power-sharing arrangement. The power-sharing arrangements of the NUG were compatible with the provisions of the permanent constitution. As a first step, Maliki declared the "National Reconciliation and Dialogue Project" on 25 June 2006, aiming to bring insurgent groups into the political process.[481] That was one of the main conditions from Sunni groups to participate in the political process, specifically in Maliki's cabinet. The project was welcomed by all of them, and they thought that it was a good step towards stability and collaboration between the Shiites and the Sunnis. However, Maliki's methods of governing began to change, and his emphasis moved towards controlling power, ignoring others, and centralisation. He "challenged the power sharing arrangements by trying to empower the central government and the secular Shi'ite bloc."[482] The motivations of his actions were criticised by other groups, as he began to dominate institutions and neglect other groups. For instance, the Sunni groups demanded a balance in the appointment of posts in the institutions, but Maliki did not listen, instead only appointing those who had loyalty for him or his community. This meant that there was no strategic plan for achieving power sharing and implementing the cabinet's program.

Maliki tried hard to control the source of power in the government through the creation of new institutions. These overlapped with the duties of the Minister of Defence and Minister of Interior, which led to the marginalisation of both ministers' roles. That attempt started with the Baghdad Security Plan in February 2007.[483] When he attacked Sadr's militia in Basra in 2008 and al-Qaeda in the Sunni provinces, he appeared to be a strong leader and state

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[478] Interview with Yonadam Yawsep Kanna Assyrian MP, October 15, 2015.

[479] Interview with Saleem al-Jubouri the Speaker of Parliament from Sunni group, October 18, 2015.

[480] Khalilzad, Zalmay, *The Envoy*. P.266

[481] Katzman, Kenneth, "CRS Report for Congress Doc. RS21968." P.5

[482] Gokpinar, Ali, "Power Sharing in Iraq: Liphartian or Horowitzian Approach?".

[483] Dodge, Toby, *Iraq*. P. 128

builder.[484] In fact, the security and military forces were the most important sectors for him at that time to allow him more power to control other institutions. He established new security institutions, such as the office of the commander in chief and Provisional Command Centres, in order to tighten his grip over the Iraqi security forces.[485] Toby Doge pointed out that both institutions were extraconstitutional organisations designed to guarantee domination.[486] Maliki's plan aimed to bring all forces under his own hand, so that the Iraqi armed forces could be controlled directly by his office only.[487] People doubted the reasoning behind his actions during that time, but were unable to do anything because formally he was the commander-in-chief. As the permanent constitution Article 78 states, "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." [488] In his interview, Maliki argued that constitutionally he was the commander-in-chief of the armed forces in Iraq, so he just wanted to practise his duty in line with those provisions, and nothing more.[489] In reality, the criticism was not about his rights as head of the government, but about his way of operating the NUG, which was incompatible with previously agreed and expected power-sharing arrangements. This was one of the main reasons that there was no opportunity for conflict resolution.

The aim of Maliki's newly-created Provisional Command Centres was to hold sway over forces in each governorate. Through them, he could "coordinate all Iraqi forces, both police and army, in the city."[490] Maliki "quickly realised its potential importance and increased its staff, influence and reach. He moved the organisation [Provisional Command Centres] into the Office of the Prime Minister and appointed his close ally, Farouk al-Araji, to run it and staff it with trusted functionaries."[491] His total monopoly of control demonstrates that his plan was to sideline both the Defence and Interior Ministers. Following these steps, he targeted Iraq's intelligence services by increasing conflict between the head of the National Intelligence Service and the Minister of State for National Security Affairs. Maliki appointed Shirwan Waily, who had already proven loyal to him, as the Minister of National Security Affairs, which led the head of the National Intelligence Service to resign. Thus, in addition to the armed forces, Maliki now controlled Iraq's intelligence services.[492] Marisa Sullivan judged that "Iraqi Prime Minister Nouri al-Maliki's centralization of control over the last five years is not surprising."[493] Maliki was against a power sharing arrangement because it did not benefit his own interests. But the consequence of this was increased conflict among communities, rather than its

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[484] Al-Qarawee, Harith Hasan, "Iraq's Sectarian Crisis A Legacy of Exclusion" (Carnegie Middle East Center, 2014). P.6

[485] Dodge, Toby, *Iraq*. P. 127

[486] Dodge, Toby, "Can Iraq Be Saved?," *Survival* 56, no. 5 (September 3, 2014): 7–20. P.12-13

[487] Sullivan, Marisa, "Middle East Security Report 10: Maliki's Authoritarian Regime" (The United States of America: Institute for the Study of War, 2013). P.11

[488] Iraq, "Permanent Constitution."

[489] Interview with: Nouri al-Maliki, interview.

[490] Dodge, Toby, *Iraq*. p. 128

[491] Ibid. P.127-128.

[492] Ibid. p. 129

[493] Sullivan, Marisa, "Middle East Security Report 10: Maliki's Authoritarian Regime." P.9

reduction, which was what had been expected from the implementation of a grand coalition government as a tool for conflict resolution.

Attempts by all communities to protest against Maliki's way of operating the NUG began at an early stage. In fact, political leaders wanted to obtain guarantees for their rights in the political institutions, but very soon, they felt that Maliki was a considerable threat to their interests. The first attempt to remonstrate against Maliki's government was from Moqtada al-Sadr. He protested by withdrawing his six ministers from the NUG. Hani Mousa, from the Sadrist bloc states that "the main reason for our minister's withdrawal was Maliki's way of operating the NUG because he controlled everything and cancelled the role of the Council of Ministers and the Council of Representatives."[494] On the other hand, Maliki pointed out that "sectarian identities and self-interest dominated national identities and public interests at the time when I attacked Sadr's Militia (the Mahdi Army) in Basra under the name of Sawlat al-fursan (which means the charge of the knight).[495] They told me, 'if you do it, we will withdraw from the government', and I did it. That was the only reason for six ministers' withdrawal from my cabinet."[496] Maliki's claim seems to be at odds with the reality of that case, because the operation of Sawlat al-fursan happened on March 2008, but the withdrawal of the ministers had already taken place in April 2007. There must, then, have been another reason for the Sadrists to withdraw from the NUG. One plausible suggestion is that Sadr "tried to press Prime Minister Nouri Maliki to set a timetable for a US troop withdrawal and Maliki refused."[497] That could be the main reason that Sadrist ministers withdrew from Maliki's cabinet.

Moreover, in his statement Moqtada al-Sadr stated that "the six ministries shall be handed over to the government itself, in the hope that this government will give these responsibilities to independent bodies who wish to serve the interests of the people and the country."[498] Nevertheless, as Hani emphasised, "Maliki replaced those ministries by people in his party, who had loyalty for himself."[499] That step by Maliki complicated the political process, because Maliki had become strong enough to control the cabinet by vast majority. Thus, Maliki received more benefits from the Sadrist withdrawal than disadvantages. On the other hand, the whole debacle negatively affected the power-sharing arrangement.

A further withdrawal from Maliki's cabinet was the Sunnis' group, which withdrew under the name of Jabhat Al-Tawafuq. In fact, their participation in the political process had been unprecedented, because they after 2003, their only participation in politics was in Maliki's cabinet. They had 6 cabinet ministers and 44 seats in the CoR. They made some demands, such as "balancing the distribution of posts, real participation in the decision-making process,

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[494] Interview with: Hani Mousa. Shiite MP, October 18, 2015.
[495] Visser, Reidar, *A Responsible End?*. P.75
[496] Interview with: Nouri al-Maliki, interview.
[497] BBC, "Sadr Ministers Quit Iraqi Cabinet," *News* (UK, http://news.bbc.co.uk/1/hi/world/middle_east/6558405.stm, April 16, 2007).
[498] Ibid.
[499] Interview with: Hani Mousa. Shiite MP, interview.

and the release of innocent people."[500] Obviously, this situation affected Maliki's cabinet because the government was based on coalition among *all* groups, and his government agenda was decided by delegations from *all* communities. Maliki's government was now threated on a daily basis by those who had supported him in becoming the Prime Minister. In his interview, Maliki asserted that the reason for Jabhat Al-Tawafuq's withdrawal was the same as the Sadrists. As he claimed, "one of the ministers had a hand in a terror attack. I demanded that he should go to the Court, because it was my duty as Prime Minister, but they withdrew their ministers and boycotted the political process."[501] Despite the fact that the National Unity Government aimed to rule Iraq with input from all communities, the government continued its functions without the Sunni groups and without one of the biggest political parties within the Shiite group. This meant that the NUG was under threat of collapse because of those withdrawing, making Iraq's situation more unstable and unsustainable.

There were some attempts by the Kurdish and Shi'ah leaders to bring back the Sunni leaders, but they could not achieve this until the following year [2008].[502] Consequently, Jabhat Al-Tawafuq's leader returned their ministers to the cabinet after negotiation with Maliki. Ahmed A. al-Masari, one of the Sunnis' leaders, said, "the process of withdrawal from the government did not work and they had to return, because a boycott was not part of the solution."[503] Thus, the Sunni group did not have any real choice, and was forced to the understanding that the only way to guarantee their rights was to participate in the political process.

Another crucial actor was the US-led coalition, which helped Maliki to conduct his duty in order to achieve the goal of a power-sharing arrangement. Khalilzad pointed out that he "developed a good working relationship with Maliki, urging him to see the Sunni Arab militias as a twin problem to be attacked simultaneously."[504] The US encouraged Maliki to make peace and bring down sectarian violence because the US-led coalition thought it was problematic "that political progress had not brought down the level of violence."[505] Maliki emphasised that the "US's role during the first cabinet was very helpful, collaborating with him to conduct his functions, especially attacking extremist groups."[506] While Maliki received the US's support to drive out the Iraqi extremist militias in Baghdad and other provinces, in some situations the US-led coalition was against him. This was especially clear when he tried to stir up trouble against the Kurds. When he wanted to force the Kurds to place Iraqi forces in the Kurdish city of Khanaqin, the US-led coalition did not allow him to approach Kurdish people, and prevented his activities. Dr. Shaways pointed out that "when Maliki wanted to bring Iraqi troops to Khanaqin, we were against that activity, but he continued with his plan, whereas the US stopped him."[507] Thus, the US was active in preventing Maliki from expanding his

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[500] Rafi al-Issawi. Aljazeera, "أبعاد وأسباب انسحاب الجبهة من الحكومة ـ الخيارات المستقبلية لجبهة التوافق" (http://www.aljazeera.net/programs/iraqi-scene/2007/8/8/, August 8, 2007).

[501] Interview with: Nouri al-Maliki, interview.

[502] Ali, Perveen, "States in Crisis: Sovereignty, Humanitarianism, and Refugee Protection in the Aftermath of the 2003 Iraq War" (London School of Economics and Political Science, 2012). P.83

[503] Interview with: Ahmed A. al-Masari, October 18, 2015.

[504] Khalilzad, Zalmay, *The Envoy*. P.267

[505] Ibid. P.266

[506] Interview with: Nouri al-Maliki, interview.

[507] Interview with Dr. Rowsch Shaways, the former deputy of Prime Minister, October 10, 2015.

power, ensuring that he avoided the kinds of activities that would lead to attacking other communities. In this way, the US-led coalition was able to create a kind of balance among communities, acting as a check on Maliki and his ambition to dominate.

A question that remains to be answered is: why did the government not fall when such a large number of ministers withdrew? In fact, there were many reasons why this did not lead to the collapse of Maliki's government. First, the Kurds did not withdraw their ministers, and continued to participate in the cabinet, despite not always agreeing with Maliki's activities. The second reason relates to the nature of Sadrist bloc. When they withdrew, they did not make any demands for Maliki to leave his position, or for the cabinet to be disbanded or modified. They criticised Maliki's performance, and demanded a set deadline for the withdrawal of the US's troops, but they did not call for the destruction of the cabinet. The third reason relates to the Sunnis. Even when Jabhat Al-Tawafuq withdrew, there could be no mass withdrawal of all Sunni Arabs in the cabinet, because Ayad Alawi's list, which included Sunnis, neither withdrew its ministers nor demanded the collapse of the cabinet.[508] The final reason that the government did not fall relates to the provisions in place for a vote of no confidence in Maliki, which was a complex process. According to Article 61 Section Eight B 1 of the Constitution, "the President of the Republic may submit a request to the Council of Representatives to withdraw confidence in the Prime Minister."[509] At the time, this article could not be put into practice because there was another article stating that the provisions of the constitution could only be implemented after the transitional period, which would end in the second election process to be held under the permanent constitution. The first section of Article 138 states that "the provisions related to the President of the Republic shall be reactivated one successive term after this constitution comes into force."[510]

Another way of withdrawing confidence can come from parliament. The same section B2 states, "the Council of Representatives may withdraw confidence in the Prime Minister based on the request of one-fifth of its members."[511] Although the Sadrist groups and Jabhat al-Tawafuq withdrew their Ministers, they did not request a formal withdrawal of confidence in Maliki through the CoR. Neither group could muster the necessary 56 MPs, since the Sadrists had 30, and Al-Tawafuq had 44 members. Nor were they willing to collaborate. Even if they had the one-fifth required for making the request, it would have been very difficult to get an absolute majority of votes to accept the request. The permanent constitution explicitly states: "the Council of Representatives may decide to withdraw confidence from the Prime Minister by an absolute majority of the number of its members."[512] The stipulations of the permanent constitution meant that it was not easy to withdraw confidence from Maliki at that time, so he continued with his agenda to grab as much power and as many posts as possible.

As I have shown, grand coalition partially implemented. The NUG ended up being dominated by one political party within the Shiite group, Maliki's party. A far cry from implementing the

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[508] Interview with: Ayad al-Samarrai.
[509] Iraq, "Permanent Constitution."
[510] Ibid.
[511] Ibid.
[512] Ibid. Article 61 Section Eight B3.

anticipated power-sharing arrangement, Maliki's behaviour looked like one-man rule. The idiosyncratic way in which Maliki operated the NUG and dealt with each community meant that grand coalition and proportionality were unable to be effective as conflict resolution tools.

6.4   Mutual veto

As we have noted, in the permanent constitution of 2005, mutual veto was present in some articles in different ways. First, the Presidency Council had the right to use the veto. This is found in Article 138 Section 4, which states: "the Presidency Council shall issue its decisions unanimously."[513] This meant that each member of the Presidency Council had the right to veto any decision or law. The super majority veto exists in a number of articles, such as Article 142 Section 4: "the referendum on the amended Articles shall be successful if approved by the majority of the voters, and if not rejected by two-thirds of the voters in three or more governorates."[514] This means that two-thirds of the voters in three provinces had the power to reject amendments accepted by all other voters. On the other hand, many issues require two-thirds of votes in the CoR, but none of the communities had this number of seats in the parliament or even in the government. This meant that if any single community objected to the process for deciding about some particular subject, it could not succeed, and the proposal could not pass. In this section I will investigate how mutual veto was actually practised as part of a tool for conflict resolution during that period.

6.4.1   Presidency veto (formal veto)

The first important veto was the Presidency veto. It could be used by the President and the two Vice Presidents. The Presidency Council consisted of three members from the three key communities, Shiite, Sunni, and Kurd. Constitutionally, this veto related to a specific term, the transitional period from 2006 to 2010.[515] During that period, all members of the Presidency Council used it many times. It was generally believed that the process helped each community to protect its rights and receive more benefits. Mahmoud al-Mashhadani, a former Speaker of Parliament, worked out that "this veto had been used many times by all Presidency Council members. Formally, they had the right to use the veto, and they did it. There were many laws returned to the Council of Representatives by Tariq al-Hashemi and Adil Abdul Mahdi becauseeach used vetoes in order to obtain his community's right."[516] The veto was a very good opportunity to protect minority rights in a parliament where it was hard to prevent majority domination. For precisely that reason, President Talabani had used the veto. For example, the Council of Representatives passed an electoral law for the provinces on 22 August 2008, which concerned minority groups' seats in provincial councils. It gave just six seats to minorities, all of which had to be divided between Christians, Yezidis, and other

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[513] Ibid.

[514] Ibid.

[515] McGarry and O'Leary, "Iraq's Constitution of 2005." P.692

[516] Ahmad Mahdi, " في حواري مع المشهداني كشف عن أسرار خطيرة و بصراحة تامة وتبرير للخطأ بالخطأhttp://www.ahlanse.com/mod.php?mod=news&modfile=item&itemid=4184" (Exile Oasis, Iraqi in Sweden Network, July 27, 2009).

religious groups.[517] At that time, Talabani pointed out, "the Presidency Council will never pass this law."[518] Moreover, he "confirmed his full support to ensure that the Christians' and other minorities' rights remained fully intact."[519] Thus, President Talabani rejected that law and demanded that parliament approve an amendment to guarantee that the CoR would be compatible with minorities' demands. In cases like this, the veto clearly helped people to protect their rights.

Another important example of the veto's use was Tariq al-Hashemi's veto on 18 November 2009.[520] As Vice President and representative of the Sunni Arabs, he had argued against an electoral law amendment that related to the Sunni people's representation in the following election process. He "revoked Article 1 of the law, and called for the representation in Parliament of displaced people to increase to 15%."[521] The main reason for his veto was because most Sunni Arabs had fled after 2003 and lived outside Iraq, affecting the results of the 2010 election. Obviously, he wanted to protect the Sunnis' right in the upcoming election, and guarantee their votes in the Council of Representatives.[522] That was the real reason that he pushed for a veto on Article 1. As he pointed out, "it did not give a voice to the four million Iraqis, mostly Sunni Arabs, who left the country after 2003."[523] On the other hand, the Shiite group, particularly Prime Minister Maliki, did not welcome that veto. As Maliki said "the rejections represent a dangerous threat to the political process and democracy, because it is not based on constitutional law and goes against the nation's interests."[524] Nevertheless, Hashimi rejected the electoral law, and his reasons for rejection were considered by the CoR. Following this, the Presidency Council accepted the amendment, and changed the draft of the law. That kind of veto could lead to a delay in the election process of more than three months. Despite this, during the period 2006-2010 the formal veto worked well. Each community used it to protect its rights, and it was particularly well regarded by minority groups, who used it to protect their benefits. The main reason for the success of this kind of veto was that it was reflected formally in the permanent constitution and could be easily used by any member of the Presidency Council.

6.4.2   Super majority veto

The second type of veto is a super majority requirement (two-thirds). There are two types of two-thirds majority. The first one, for some legislations, requires two-thirds of CoR seats, and the second one relates to two-thirds of voters in three or more provinces. There are 12 areas

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[517] Bet-Nahrain, "Talabani to Veto the Minority Rep. Bill, after Meeting with Mar Dinkha," SOS (147.sub-75-210-222.myvzw.com), (November 7, 2008).

[518] Amit R. Paley, "Iraqi President Vows Veto of Election Bill," *Washington Post Foreign Service*, July 23, 2008, http://www.washingtonpost.com/wp-dyn/content/article/2008/07/23/AR2008072301978.html edition.

[519] Bet-Nahrain, "Talabani to Veto the Minority Rep. Bill, after Meting with Mar Dinkha."

[520] Visser, Reidar, *A Responsible End?*. P. 126-127

[521] BBC, "Iraq VP Vetoes New Election Law" (UK, http://news.bbc.co.uk/1/hi/8365801.stm, November 18, 2009).

[522] Visser, Reidar, *A Responsible End?*. P.127

[523] BBC, "Iraq VP Vetoes New Election Law."

[524] CNN, "Vice President's Veto Threatens Iraq Election" (U.S. http://edition.cnn.com/2009/WORLD/meast/11/18/iraq.election.threat/, November 18, 2009).

where the super majority requirement is applied. 11 of them relate to the CoR, and just one relates to two-thirds of voters in governorates.[525] During this period, the second type of super majority veto was never practised, because the permanent constitution had not been amended. The first type of super majority veto, which regulated the CoR's passing of laws or their election of the Presidency Council partially worked. At the beginning, when the Presidency Council had been elected by the CoR, it received more than two-thirds of the vote (198 votes) from 256 members of CoR.[526] Although there were around 58 members who did not vote or rejected the process, this did not affect the process, because the presidency Council received more than two-thirds overall.

Forming the FC was an example of the two-thirds majority veto working in practice. According to the constitution, the FC is the second part of the Legislative Power, designed to operate alongside the CoR.[527] According to Article 65, the FC should "include representatives from the regions and the governorates that are not organized in a region. A law, enacted by a two-thirds majority of the members of the Council of Representatives."[528] Forming the FC required consensus among all communities, because if one of the communities did not agree with it, it could not be established. Forming the FC was very difficult because none of the groups, in particular the Kurds, would make any concessions.

Arif Tayfor, a Kurdish leader and former Deputy Speaker of the CoR, pointed out that "the Bill for the Federation Council was hardly discussed among MPs and nearly passed, but it was stopped because we demanded that the Kurds should have the veto in the FC, but others did not agree. So we declined to accept that law."[529] The reason that the Kurds asked for the veto relates to the proposed structure of the Federation Council and the voting process. The FC was required to include representatives from all the regions and governorates, and the Kurds had only 3 or 4 provinces out of a total of 18. In that case, the Kurds had no guarantees that their rights would be protected when the FC was conducting its functions. As Tayfor argued, "when the FC wants to issue a law or take a decision by a majority of its members, there is no guarantee for the Kurds' interests [to be represented]."[530] Therefore, the Kurds rejected the establishment of the FC. Other communities, especially the Shiites, would not engage because they knew that it was impossible to form the FC without participation from the Kurds. According to the above discussion, it is clear that a super majority veto worked for a time, and

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[525] For more information, you can see all cases which need a two-thirds majority within the Iraqi Permanent Constitution through articles, "52 First, (the authenticity of membership in the CoR), 61 Fourth, (Regulating the ratification process of international treaties and agreements by a law), 61 Ninth A, (Declaration of war and the state of emergency), 65, (establishing the Federation Council.) 70 First, (electing a President), 92 Second, (making the Federal Supreme Court), 126 Second and Third, (amendment of constitutional articles and the approval of the amendments). 136 Second, (dissolve of the Property Claims Commission), 137, (Application of the articles related to the Federation Council). 138 Second A and D, (electing the President and two Vice Presidents by one list and replacement of a vacant seat in the Presidency Council), and 142 Section 4, (the referendum on the amendment articles shall be successful if not rejected by two-thirds of the voters in three or more provinces)."

[526] "Electing the Presidency Council," *Al Sabaah, Arabic Newspaper*, April 23, 2006, 816 editions.

[527] Iraq, "Permanent Constitution." Article 47.

[528] Ibid.

[529] Interview with Arif Tayfor the former deputy speaker, September 12, 2014.

[530] Ibid.

helped Iraq to avoid the tyranny of a majority. This was especially apparent in the case of establishing the FC. Minority groups could use the power of the veto to stop processes which would harm their rights.

During that period, mutual veto was used by all groups in different situations, usually with the aim of protecting minority interests. Obviously, the presidency veto was effective, as its use by President Talabani, Vice-President Adil Abdul Mahdi and Tariq Ai-Hashemi demonstrates. That kind of veto was formally enshrined in the permanent constitution, which allowed it to be practised during the transitional period. Furthermore, the super majority veto proved effective, as in the case of the establishment of the FC, which had no support from the Kurds. Thus, during that period, the option of using the vetoes made it difficult to neglect any group.

6.5   Creating a New Region

Creating a new region is a fundamental point of segmental autonomy. In the case of Iraq, it is explicitly reflected in the permanent constitution through a number of articles. Article 118 contains Regional Law number 13. Instituted in 2008, it explains the procedure for forming new regions.[531] It was a positive step towards the actual practice of creating new regions in the federation system. Although provisions for creating a new federal region by three governorates or just one governorate explicitly exist in the permanent constitution,[532] in reality it remains a controversial issue.

The situation was complicated when Abdul Al-Aziz al-Hakim, the leader of the Islamic Supreme Council of Iraq (ISCI), demanded the establishment of a southern Shiite region in Iraq. Al-Hakim's proposal was the first attempt by the Iraqi people, especially by the Shiites, to practise that particular consociational element. He pointed out that "to keep the political balance of the country, Iraq should be ruled under a federal system alongside the central government… we think it is necessary to form one entire region in the south."[533] Al-Hakim led that process in an attempt to create another federation state in Iraq for the Shiites. Although he relentlessly pursued this aim, he did not receive approval from other Shiite groups. As Humam Hamoudi, the leader of the ISCI, summarised, "none of the Shiite groups supported our proposal for creating a new region. All of them rejected it. Even Grand Ayatollah Sistani did not accept it. When we asked Sistani, 'what do you think about making a southern region?', he put forward some impossible conditions, which we took to mean that he did not agree with that project."[534] Moreover, even Maliki, as Prime Minister, refused that approach, pointing out that it was simply the proposal of Al-Hakim.[535]

Another group against creating a new region was Sadr's group within the Shiite Arabs. Hani Mousa, leader of the Sadrist bloc, said, "we supported the permanent constitution – and it includes federalism – but this was not a good circumstance for implementing it."[536] The

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[531] See the link, http://www.iraq-lg-law.org/en/node/190
[532] Iraq, "Permanent Constitution." Article 116-122
[533] Allawi, *the Occupation of Iraq Winning the War, Losing the Peace*.P.408
[534] Interview with: Humam Hamoudi.
[535] Interview with: Nouri al-Maliki, interview.
[536] Interview with: Hani Mousa. Shiite MP, interview.

Daawa party and the Sadrists with Sistani were in favour of unifying Iraq, and so did not agree with any development that could lead to decentralisation.[537] Thus, the Shiites did not support the creation of a new region for themselves in the south of Iraq, despite supporting both the permanent constitution and Law Number 13, both of which allowed for the creation a new region. The situation was a paradox, because the Shiites accepted the proposal theoretically, but refused it in practice. Although they had supported federalism during the drafting of the permanent constitution, they were now against practising what they had supported before.

That was compatible with the Sunnis' position about federalism. They had consistently refused to support federalism and the creation of a new region, even if it was for their own people. As discussed in the previous chapter, during the negotiations for making the permanent constitution the Sunnis' delegation strongly refused any approach that incorporated federalism. Maliki pointed out that the Sunnis had the same position as he had regarding the creation of a new region, and that they supported unity for Iraq.[538] As Saleem al-Jubouri pointed out, "the Sunnis thoughts were based on the assumption that their rights would be protected through the central state, not under federalism."[539] Another reason for protesting the creation of a new region was highlighted by Mohsen, a senior Sunni leader. He said, "we did not agree with the Sunni region and the Shiite region, because the issue was that they would divide Iraq on the basis of nationalism."[540] Thus, the Sunnis' position was clear. They did not want a new region, thinking that it would lead to a divided Iraq, which was an unacceptable outcome for them.

The question is: why did the Shiite Arabs change their position very soon after they got power through the political institutions? Perhaps one of the reasons that the Shiite group changed its mind about practising federalism came from outside Iraq. As Shiite MP, Alia Nossaif, confirmed, "at the beginning of making the constitution the idea arose of creating a region for Shiites in the south, involving Shiite provinces, but after they came to power, their direction shifted towards governing the whole of Iraq, and our neighbours had an impact on that process."[541] This is backed up by the fact that when Maliki became the Prime Minister in May 2006 "he was the main defendant of the central authority and an opponent of the "excessive" decentralization that "leads to division."[542] Thus, the Iraqi situation changed completely when the Shiite group saw that their position was more powerful than that of the other groups. Realising this, they changed their strategy from governing a region to governing the whole of Iraq. Another reason was that the majority of Shiite and Sunni communities refused to support the creation of a new region, so al-Hakim's proposal received support only from the Kurds, which was not enough to achieve its goal.[543] This meant that there was no real chance to create another region. Iraq was not ready.

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[537] Visser, Reidar, *A Responsible End?*. P.54
[538] Interview with: Nouri al-Maliki, interview.
[539] Interview with Saleem al-Jubouri the Speaker of Parliament from Sunni group, interview.
[540] Interview with: Mohsen Abdel Hamid, October 7, 2015.
[541] Interview with Alia Nossaif MP from Shiite bloc of State of Law, October 15, 2015.
[542] Al-Qarawee, Harith Hasan, "Iraq's Sectarian Crisis A Legacy of Exclusion," -. P.13
[543] Interview with: Humam Hamoudi.

As we have seen from the above discussion, it was impossible to create a new region as an autonomous political entity because of constant opposition from multiple key communities. Although one of the Shiite groups tried to establish a new region for Shiites in the south of Iraq, the proposal was strongly rejected by some Shiite political parties and Sunni Arabs. Thus, while provision for the creation of a new region could be found in the permanent constitution, which had even produced a particular law relevant to such cases in 2008, there were many people strongly opposed to implementing it. Thus, during the first term of Maliki's government, federalism was marginalised. It is clear that the creation of a new region as a tool for reducing ethno-religious conflict did not work during 2005 to 2006 because it was thought that establishing a new federal region would lead to an increase in conflict violence.

6.6   Conclusion

I have demonstrated how consociational elements were implemented from 2006 to 2010. It is clear that the implementation of all elements was not at the same level. As the above discussion shows, Proportional Representation was implemented in the CoR and the cabinet. Each community received its ratio in the parliament, based on the electoral law. In addition, high-level positions were distributed based on both the election result and consideration of each community's weight in the country.

The second consociational principle was grand coalition, which was implemented through an informal agreement among all communities to form a broad-based government under the name of the National Unity Government. In reality, however, the NUG's performance indicated that it was totally opposed to the values of grand coalition government, tending instead towards one-man rule.

The third principle of consociationalism was mutual veto, which was clearly practised by each community's representative in the Presidency Council. Each community used the veto to protect its rights during that period. It was a formal requirement that prevented any community from being outvoted.

The final element of consociational democracy that we examined was the creation of a new politically autonomous region. However, this was not implemented because the majority of Shiite groups and all Sunnis were against it. There were no formal stipulations in the constitution that pushed for the creation of a new region. Rather, it was an opportunistic move.

Thus, in areas where there were formal requirements, such as the election system, the outcome of which was important for PR reasons, consociational elements were largely implemented. In areas where more discussion was necessary because formal requirements were lacking, consociational elements were only partially implemented. The NUG is a good example of this. Overall, we find better implementation of consociationalism where elements of it were formally required. (Table 13 clarifies the implementation of each elements). Consequently, consociational elements partially implemented during the period.

Because of these inconsistencies, peace and stability were not produced during that time, and conflict violence remained strong among ethno-religious groups, especially the Shiites and Sunnis. Theoretically and practically, consociationalism *should* produce peace and stability,

but in Iraq it was opposed. While some consociational implementation occurred, conflict violence was strong, and instability was a big challenge that the Iraqi people faced. The issue was not with the theory of consociationalism, but the way that consociational elements were unable to operate very well in practice.

During the transition period, the US was present in Iraq and had an impact on its political development. The US assisted in the selection of the Prime Minister and in controlling security issues. Compared to the US-led coalition's role in the previous period, 2003-2005, there were some big differences. The US was now letting the Iraqi people operate power-sharing arrangements without high pressure for directing political development. This meant that the US-led coalition stepped back from intervening in political processes, agreeing to control security issues instead. The role of the US-led coalition decreased day by day, and the role of the Iraqi people in controlling the entire political process increased. This led to a lack of stability and balance among all communities involved in political development.

	Rating the implementation of consociational elements in Iraq from 2005-2010				
	Consociational elements	Implemented	Partially implemented	Not implemented	Notes
1	Grand coalition		√		While there was a cabinet shaped as a grand coalition government, its performance showed that it was opposed the values of grand coalition government, tending instead towards one-man rule.
2	Proportional Representation	√			Each community received its ratio in the parliament, based on the electoral law. In addition, high-level positions were distributed based on both the election result and consideration of each community's share in the country.
3	Mutual Veto		√		The presidency veto was obviously implemented by each community's representative in the Presidency Council. However, other kind of vetoes were not implemented.
4	The Creation of a new autonomy region			√	The creation of a new region was not implemented because the majority of Shiite groups and all Sunnis were against it. However, there was a Kurdish region that was mostly a federal region since 1991.

Table 13: Rating the implementation of consociational elements (2005-2010)

Chapter 7 Consociationalism in Iraq from 2010 to 2014

7.1   Introduction

Under the permanent constitution of 2005, political parties held the second election in March 2010. Obviously, all three main ethno religious groups participated. They attempted to get powerful posts in the cabinet to affect political process and to represent their communities. The Iraqi situation required collaboration among communities to operate power-sharing arrangements and to obtain conflict resolution. Throughout this chapter, I am going to discuss the implementation of consociational elements from 2010 to 2014 in the light of Lijphart's theory. This aims to answer the question of what actually has happened in Iraq and why did it happen? There were four key events during that period which affected the political process, especially the power-sharing arrangements. Firstly, the withdrawal of the US-led coalition because, from 2003 to 2011, Iraq was under the US authority but after 2011 the US-led coalition left and Iraqi people gained full sovereignty. Secondly, instead of the US after 2011, Iran's influence increased strongly, putting more pressure on the Sunnis and helping the Shiite community to dominate entirely. Thirdly, Maliki's increasingly authoritarian rule over the entire country lead to increasing levels of conflict among significant communities. Fourthly, the rise of so-called Islamic State (IS) in 2014 and their control over key Sunni provinces very quickly affected the development of the political process. That changed the political equations among political parties. Thus, the new cabinet after the 2010 elections, with the above key events, are the main points contributing to build this chapter. I will do this through an investigation of four elements, Proportional Representation, Grand Coalition, Mutual Veto and creating a new region.

7.2   Proportional Representation

Through this section, I will explore the ways in which Proportional Representation was reflected in the parliament and the government. Through each of them, I will discuss how proportionality was implemented practically and how that ratio reflected the ratio of each community. Clarification of the proportionality process in both institutions required details of each communities' real participation in the political process, especially within decision-making processes. In the following sections I will discuss the proportionality for each community through the CoR and the cabinet.

7.2.1   Proportional Representation in the CoR

How was Proportional Representation reflected in the Parliament? Proportional representation was designed to achieve a broad representation for each ethno-religious community. Proportionality in the parliament was based on electoral law and the people's votes directly translated into seats in the CoR. The March 2010 election was held under the electoral law which had been amended by the CoR in 2009. The main aim for doing that was to make the CoR more proportional. In order to achieve that purpose, the CoR amended the Elections Law No (16) of 2005. The question is what was changed? How did it affect proportional representation in the CoR?

According to the 2009 amendment, three main changes occurred; firstly, changing the election method from closed list to open list or to almost open list. This now meant voters could rank the candidates within one list instead of choosing candidates from different lists. That was placed in Section 1 of Article 3, "candidacy shall be through the open list method."[544] It was one of the main changes in the electoral law, but in reality, it did not affect the proportionality in the election process because almost all lists formed along ethno religious lines. For instance, the Kurdish list only included Kurdish candidates so, in light of that change, the proportionality was not affected by the voter ranking of candidates as all of them were Kurds. Hence, the only thing voters could change was the order of the candidates within the specific list. The second important amendment related to component seats. Minorities now had a guaranteed quota of 8 seats. These eight seats were distributed among the minority groups, Christians 5, Yzidi 1, Sabean 1 and Shabak 1 seat.[545] It was a crucial step toward increasing minority representation from 2 to 8 seats, which meant that this parliament was more proportional than under the previous electoral law. Decreasing the number of compensatory seats in the CoR was the third change that occurred. While the number of seats in parliament increased to 325, the number of National Compensatory Seats decreased from 45 to 7.[546] (See Table 15). This was an interesting change because in 2005, just 230 seats were distributed among the provinces and 45 remained as compensatory seats. However, in the 2010 election, 318 seats were distributed among the provinces, 310 general seats, 8 component seats, and 7 compensatory seats.[547] This meant the majority of seats came in by direct votes based on the number of voters. Just 15 seats came as a quota for minority and compensatory seats. These changes led to greater proportionality for communities in the CoR and it was the aim of the amendment. Compared with previous periods the amendment slightly affected the representation of the ethno religious communities. (See Table 16)

In the light of that amendment, there was a strong competition between all communities and candidates to get as many seats as possible in the March 2010 election. All of them, Shiite, Sunni and Kurd, participated through a wide range of political parties and none of these ethno religious groups boycotted the election process. There were 297 political entities and 12 political coalitions competing for 325 seats through 6225 candidates.[548] However, only 10 lists received seats through coalitions or through political parties. (See Table 14).

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[544] IHEC, "Electoral Law Number (16) for the Year 2005 / an Amended Law
Http://www.ihec.iq/ar/index.php/legal.html" (2009).
[545] Ibid.
[546] Ibid.
[547] IHEC, "Council of Representatives Elections: Seat Allocation. Regulation No. (21)" (2010). And see Table 15: Pre-distribution of Parliamentary Seats in December 2010.
[548] See IHEC, http://www.ihec.iq/ar/index.php/political.html

The Result of March 2010 Election[549]						
Political Entities	القوائم الانتخابية	Percentage of Votes	Number of Votes	Seats	Percentage of seats	Ethnicity
1	Iraqi National Movement	العراقية	24.7	2,849,612	91	28	Mostly represented Sunni Arab
2	State of Law Coalition	دولة القانون	24.2	2,792,083	89	27.4	Shiite Arab
3	Iraqi National Alliance	الائتلاف الوطني العراقي	18.2	2,092,066	70	21.5	Shiite Arab
4	Kurdistan Alliance	التحالف الكوردستاني	14.6	1,681,714	43	13.2	Kurd
5	Movement of Change	حركة التغيير	4.1	476,478	8	2.46	Kurd
6	Iraqi Accord Front. Jabhat Al-Tawafuq	جبهة التوافق العراقي	2.6	298,226	6	1.84	Sunni Arab
7	Unity Alliance of Iraq	ائتلاف وحدة العراق	2.7	306,647	4	1.23	Sunni Arab
8	Kurdistan Islamic Union	الاتحاد الاسلامي الكوردستاني	2.1	243,720	4	1.23	Kurd/Islamic Party.
9	Kurdistan Islamic Group	الجماعة الاسلامية الكوردستانية	1.3	152,530	2	0.61	Kurd/Islamic Party.
10	Minorities	الاقليات	0.5	61,153	8	2.46	
	Others		5.0	572,183	-	-	-
	Total		100 %	11,526,412	325	99.93 %	

Table 14: The Result of March 2010 Election

This table shows several important points. While various political entities and coalitions participated in the 2010 election, just nine of them got seats. According to Table 14, four main political coalitions got 81.3% of the votes and won 90.1 % of the seats. This meant that these four coalitions represented vast majority of population. The Iraqiya list won the election with the highest number of votes and seats, 24.7 % and 91 seats respectively. That was a result of the strong participation of the Sunni community and "one of the main features of this year's election is the return of Sunni self-confidence."[550] That list was headed by Shiite secular Ayad Alawi and involved the vast majority of key Sunni political parties, which meant it represented the Sunni community in Iraq.[551] Following the Iraqiya, the State of Law coalition (SOL), headed by Maliki, came second and received 89 seats with 24.2 % of votes, just slightly under the Iraqiya list. Another Shiite list was Iraqi National Alliance, which received 70 seats and the final key list was Kurdistan Alliance with 43 seats. In the light of the above, those lists formed

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[549] See IHEC, http://www.ihec.iq/ar/index.php/result.html

[550] Cockburn, Patrick, "Maliki Beaten into Second Place in Iraq Poll
Http://www.independent.co.uk/news/world/middle-East/maliki-Beaten-into-Second-Place-in-Iraq-Poll-1928753.html [accessed: 20 February 2016]," *Independent*, March 27, 2010, sec. News.

[551] Iraqi National Movement consists of 20 political parties vast majority from Sunni people, for more info visit http://www.ihec.iq/ar/index.php/political.html and http://www.ihec.iq/ar/files/eatlafat2212.pdf

the cabinet and structured the administration of the parliament, because in total they had 90.1 % of the seats.

According to the above table, you can see a clear diversity of ethnic religious groups because if you combine some groups together it is obvious that Shiites won 159 seats, Sunnis won around 101 seats, and Kurds got 57 seats. In fact, those lists were divided among ethno-religious groups and there were some Shiite with Sunni people such as Ayad Allawi and Alia Nassif Jassem with vast majority of Sunni parties and Hajim al-Hassani, famous Sunni leader, with Maliki's list. This meant that two of the lists were mixed, but it did not affect the ratio of the representation of any community because people voted through the open list, and they took seats based on the ethno-religious background lines and it did not make a big difference because there were a small number within each list. In this context, proportionality in the parliament came through the direct votes. Obviously, that method helped each community to know their proportion of representatives in the CoR. Moreover, parliament broadly involved all single ethnic religious minorities such as Yazidi, Christian, Assyrian, Sabean and Shabak through a fixed quota.

Consequently, there was diversity in the CoR based on the provisions of the permanent constitution and electoral law, which translate the actual votes to seats in the parliament. Each community received its proportion and most of them received more seats than their ratio. Only the Kurds received less than its proportion. (See Table 16.) The main point that helped that kind of proportionality was the seat distribution in advance between provinces, which was based on population. (See Table 15.) Hence, each community felt that it had been represented.

Pre-distribution of Parliamentary Seats in December 2010 Elections and the Result for Key Political Entity in Each Governorate.[552]						
Name of Governorates		Pre-distribution of Seats	Shiite Seats	Sunni Seats	Kurd Seats	Note
1	Sulaymaniya	17			17	
2	Erbil	15			14	1 seat for the Christians
3	Duhok	11			10	1 seat for the Christians
4	Kirkuk	13		6	6	1 seat for the Christians
5	Nineveh	34	1	22	8	1 seat for the Christians, 1 seat for the Yzidi and 1 seat for the Shabak
6	Diyala	13	4	8	1	
7	Saladin	12		12		
8	Al Anbar	14		14		
9	Baghdad	70	43	25		1 seat for the Christians and 1 seat for the Sabean
10	Babel	16	13	3		
11	Basra	24	21	3		
12	Karbala	10	9	1		

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[552] See IHEC, http://ihec.iq/en/index.php/results.html

13	Najaf	12	12			
14	Maysan	10	10			
15	Muthanna	7	7			
16	Al-Qadisiyah	11	9	2		
17	Dhi Qar	18	17	1		
18	Wasit	11	9	2		
	Compensatory seats	7	4	2	1	
Total		325	159	101	57	8

Table 15: Pre-distribution of Parliamentary Seats in December 2010

The seat distribution between provinces as shown in this table shows an interesting point about proportionality based on population. According to the electoral law, 310 seats should be distributed among provinces, political entities compete for those seats within electoral districts because each province is one electoral district.[553] If you look across Table 15, there was diversity among the three main communities. The Shia political parties knew they had the Shiite provinces' seats, especially Najaf, Maysan, Muthanna and Karbala. On the other hand, the Sunnis controlled Saladin, Al Anbar and Nineveh. Kurdish provinces were controlled by Kurdish people. This meant there was a clear diversity in terms of pre-distribution seats among governorates. Four of the eighteen governorates are strongly mixed between ethno-religious groups. For instance, the Sunnis and the Kurds each received 6 seats in Kirkuk, and Kurds got 8 seats in Nineveh but Sunnis got 22. Another example was between Shiites and Sunnis in Baghdad, where Shiites got 43 seats but Sunnis 25. In Diyala Sunnis got 8 but Shiites got 4. This meant, while each group controlled a number of provinces there were four provinces strongly mixed between two of them at least. Hence, the electoral law had an impact on implementing proportionality in advance through Pre-distribution of seats. The fact that the list work in the province level not national level, there were separate list for each province. Certainly, for the provinces dominated by one ethno-religious groups, it was very clear that the vast majority of seats would go to that group because no party list for other groups.

Percentage of Votes and Seats Between 2005 and 2010 Elections									
December 2005, CoR					March 2010, CoR				
	Ethno religious groups	Percentage of votes	Percentage of seats	Differences	Percentage of votes	Percentage of seats	Differences	+ -	Notes
1	Shiite	42.38	47.28	4.9	42.40	48.90	6.5	+ -	
2	Sunni	20,50	21.45	0.95	30.00	31.07	1.07	+ -	
3	Kurd	22.96	21.09	1.87	22.10	17.50	4.6	+ -	
4	Secular list	8.02	9.09	1.07	Joint the Sunnis list under the Iraqi National Movement			+ -	
5	Minorities	0.57	0.72	0.15	0.50	2.46	1.96	+ -	
6	Others	4.83	0000	-	5.00	0000	-	+ -	

Table 16: Percentage of Votes and Seats Between 2005 and 2010 Elections

This table shows three interesting points; first, the 2005 elections showed better proportionality than the 2010 elections, because all ethno religious groups in 2005 were sharing between percentages of votes and seats, which were closer together than 2010. Second, in terms of minority seats, the minority seats increased from 0.72 in 2005 to 2.46 in 2010. That is one of the main outcomes of amending the electoral law, which provided more

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[553] IHEC, Electoral Law number (16) for the year 2005 / an amended law
http://www.ihec.iq/ar/index.php/legal.html.

seats for minority communities through a fixed quota. Three, in terms of the outcome, only the Kurds lost seats in 2010 when compared with 2005, but the Shiites and the Sunnis got more seats. That was why the Sunni community strongly supported that amendment, because it received more seats than before. Only the Kurds did not support that amendment because they knew it would affect their proportion in the parliament. This meant that the 2010 election was less proportional in terms of Kurdish representation in the CoR.

Another important point was the distribution of leadership posts in the CoR. According to Article 55, "the Council of Representatives shall elect in its first session its speaker, then [the] first deputy and second deputy, by an absolute majority of the total number of the Council members by direct secret ballot." [554] According to Table 14and Table 16, none of the communities received an absolute majority, and it required a coalition between two or three communities. That situation encouraged all communities to come to an agreement in order to solve the issue. The Erbil agreement [555]was the main agreement for distributing all posts among Shiite, Sunni and Kurd. In the light of that agreement, the Speaker and two deputy positions were divided among the communities, the Sunni received the Speaker position, Shiite and Kurd got the deputy positions. Thus, the distribution was not based on the seats in the CoR because the Sunnis were the second largest bloc, and the Shiites got the highest number of seats in general. The main aim was to obtain a power-sharing arrangement to help reduce conflict violence. Proportionality was reflected in more than the leadership, it was also reflected in the administration and committee chairs[556] of Council of Representatives, which was based on the consensus between communities in the light of the seats of the CoR. (See Table 17)

The Leadership of Parliament 2010-2014				
Name	Position	Ethnicity	Election Lists	Political party
Osama Abd Alzeez Nujayfe	Speaker	Sunni	Iraqi National Movement	Iraqiya/ Iraqi National Gathering
Qussay AL- Saheel	First Deputy	Shiite	Iraqi National Alliance	INA/ Sadrist
Arif Tayfor	Second Deputy	Kurd	Kurdish Alliance	KA/ KDP

Table 17: The Leadership of Parliament 2010-2014

7.2.2 Proportional Representation in the Executive

The second area of PR was in the Executive. The main question is how was Proportionality reflected on the cabinet? The Presidency is part of the Executive and its posts distributed among Shiite, Sunni and Kurd. The Kurdish leader, Jalal Talabani, gained the presidency. He had three Vice-Presidents. The Shiites gained two of these, and the other one was Sunni. The fact that the Shiites received two Vice-Presidents reflected the fact that the majority

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[554] Iraq, "Permanent Constitution."

[555] This is an agreement signed by senior political leaders in Erbil, 7 November 2010. It consisted of nine aspects: Administration and Finance, Legislations/Laws, The Oversight Role, Security Reform Paper, Judicial Reform Paper, Balance in state institutions, Reform of the Executive Authority, National Accord (Consensus) and Accountability, Justice and national reconciliation.

[556] There were 26 committees in the parliament, committee chairs distributed among all groups 13 for Shiite, 7 for Sunni, 4 for Kurd, 1 for Christian and 1 for Yzidi. For more info see
http://www.parliament.iq/Commsites.aspx

population was Shiite and so should get more than others. This ratio in favour of the Shiites affected the balance between Presidency members, but the President had more power than the Vice-Presidents and they had no veto right. Thus, PR was reflected in the Presidency Council and the Shiites received one more Vice-President than in the previous term. (See Table 18).

The Presidency of the Republic 2010-2014					
Name	Position	Ethnicity	Election Lists	Political party	Note
Jalal Talabani	President	Kurd	Kurdistan Alliance	PUK	
Tariq al-Hashemi	Vice- President	Sunni	Iraqi National Movement	Renewal List (Tajdeed)	
Adil Abdul Mahdi	Vice-President	Shiite	Iraqi National Alliance	Islamic Supreme Council of Iraq (ISCI)	He resigned in 11 July 2011
Khudier Al-Khuzae	Vice-President	Shiite	State of Law Coalition	Islamic Dawa Party – Iraq Organisation	

Table 18: The Presidency of the Republic 2010-2014

However, it is the Council of Ministers that is the most powerful part in the Executive Power and the core of its political institutions. There was a strong competition among the political parties for these powerful positions, especially that of Prime Minister. The post of Prime Minister was a controversial position which led to conflict between senior political leaders, especially between Maliki and Alawi. That situation affected the political process and delayed the formation of a government for more than nine months. After difficult negotiations among all communities, Maliki took the Prime Ministership according to the Erbil Agreement. I will be discussing this in the next section.

Two important points are illustrated above. Firstly, Proportional Representation was explicitly reflected in the CoR because all communities received their seats according to the ratio as specified in the electoral law, which based on the permanent constitution. That led to diversity in the parliament. Moreover, proportionality was reflected in the structure of the committee chairs and the administration in the Parliament. However, the Kurdish community was under-represented. Secondly, as well as a distribution of posts among communities, there was also a division along ethno religious lines and party lines within the cabinet. Proportionality was according to a points system based on the number of posts and the weighting of the posts. However, power-sharing was not achieved because one group, especially one political party, dominated the most powerful posts and side-lined other groups. This meant that the number of posts was broadly proportional, but when taking into account the weighting of the posts, it was not proportional. The question is why did these other communities approve the cabinet? They approved on the promise that it was going to become more proportional shortly, but it took two years of pressure on the prime minister to change just one of the posts, and he then appointed a Sunni leader as Defence Minister. Maliki never appointed any others. Later on, I will discuss this in detail.

7.3 Grand coalition government

Forming coalition government is one of the main elements of the consociationalism, which aims to make power-sharing government between divided groups. In Iraq, political leaders thought grand coalition government could be the way to solve the conflict among ethno-religious communities because it would consist of representatives from all communities. The

question is, what then happened in Iraq? How did the political leaders negotiate to make a grand coalition government? What was the outcome of that government? Throughout this section, I will discuss what happened and why it happened. I will start with the negotiation process, exploring the reality of the genuine national partnership government and end with the performance of Maliki's cabinet.

7.3.1 Negotiation for forming the cabinet

Two main issues arose before starting negotiations to form the new cabinet. The first one was that senior political leaders had negative attitudes about the first term of Maliki's government. The second was that Maliki's coalition had failed to win the election as a largest bloc. It was Alawi's list that won the election, but Maliki asserted his authority to take the second term as Prime Minister. At the beginning of the negotiations both issues affected relations between political parties, especially Maliki's and Allawi's bloc. Allawi, as the winner of the elections, called for negotiation in order to form the new government. He said, "we will shift now to discussions for forming the next government and the negotiations should start immediately."[557] He was against Iranian roles in Iraq and said, "Iran wants to impose its agenda on the Iraqi situation but that is totally unacceptable."[558] This give us a good indication that this is what Iran was trying to do, and Allawi was afraid about Iran's role in Iraq because he knew "Iran invited all main political parties except Alawi's list to Teheran to discuss how the political process should be."[559] Thus, Iran stated by strongly attempting to ignore Allawi and by the end succeeded in preventing him from becoming Prime Minister. That kind of the intervention from Iran led to increasing conflict between communities, especially between Shiites and the Sunnis.

Obviously, Iran's role in Iraq came through the Shiite political parties, which meant it had no direct intervention. Patrick Cockburn said, "the departure of the US troops and the success of the Sadrists in the election means that Iranian influence will be higher under the new government."[560] This did happen during the negotiation process, especially when "Tehran has been seen as trying to forge Shiite unity behind one Shiite prime ministerial candidate, whether or not that is Maliki."[561] For that purpose, "Iran hosted negotiations in Tehran on a preliminary agreement for a Shiite-Kurdish alliance to form the Iraqi government."[562] Dara Saeed, Kurdish former minster and member of the delegation for forming the government, pointed out "explicitly, Iran demanded that Maliki take the second term instead of Allawi because it thought if Allawi become Prime Minister, it means the return of the Ba'ath

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[557] Independent, "Allawi: Iraqis Need to Protect Their Country http://www.independent.co.uk/news/world/middle-east/allawi-iraqis-need-to-protect-their-country-1928989.html," March 27, 2010, [accessed: 20 February 2016] sec. News.

[558] Azzaman Arabic Daily Newspaper, "Against Iran's Intervention", Vol/12 Issue 3555. http://www.azzaman.com/qpdfarchive/2010/03/31-03/P1.pdf," March 31, 2010.

[559] Azzaman Arabic Daily Newspaper, "Press Conference", Vol 12, Issue 3556. http://www.azzaman.com/qpdfarchive/2010/04/01-04/P1.pdf," April 1, 2010.

[560] Cockburn, Patrick, "Links to Baathists Could End Allawi Hopes of Seizing Power" Http://www.independent.co.uk/news/world/middle-East/links-to-Barsquoathists-Could-End-Allawirsquos-Hopes-of-Seizing-Power-1930673.html [accessed: 20 February 2016]," *Independent*, March 29, 2010.

[561] Katzman, Kenneth, "Iran-Iraq Relations (Congressional Research Service Report for Congress, April 15, 2010)," 2010. P.7

[562] Parker, Ned and Usama Redha, "Maliki Warns Nearby Nations.," April 13, 2010.

Party."[563] Moreover, Saeed said "a number of Shiite parties did not accept Maliki as the Prime Minister for the second term but Iran asserted that he should be the Prime Minister, and so he became."[564] Thus, Iran was driving the political process especially when the US-led coalition started to withdraw its troops from Iraq. Iran's influence now replaced that of the US-led coalition.

Calling for national unity government was the top priority of all political parties because the situation required it, and because there was little hope of forming a majority government. Although Allawi won the election, he did not propose a majority government, but rather demanded national unity government. This was declared after Allawi and Talabani's meeting. In their press conference Talabani and Allawi noted that they "discussed [their] ideas about the current situation, and there is necessity for a genuine power sharing government."[565] Moreover, Ammar al-Hakim, the leader of the Islamic Supreme Council of Iraq, asserted "that there is a necessity to form the National Unity Government, including the four main blocs which received the vast majority of votes."[566] See Table 14. This meant that all communities believed that they should collaborate in order to form the incoming government. It also meant that it was impossible for any group to form the new cabinet alone, even the groups who received the largest percentage of seats. According to the permanent constitution the largest bloc in the CoR shall take the responsibility for forming the government.[567] Formally, the largest bloc was Allawi's list, which represented the Sunnis, but it did not have the chance to take that responsibility because the Shiites – and especially Maliki – demanded continuing for the second term.

In addition, the Shiites tried to make a coalition between the two main Shiite coalitions, SOL and INA, in order to make the largest bloc in the CoR and obtain the right to take responsibility for forming the cabinet. That attempt started early after the conclusive results of the March 2010 elections. Regarding this, Khaled al-Asadi declared, "both coalitions, SOL and INA, made an agreement for forming the largest bloc in the parliament to obtain the nomination for the Prime Minister by the president elect."[568] They made that kind of coalition under the name of the National Alliance (NA), which included all Shiite political parties and coalitions. After that, the main point for them was to select who would be the Shiites' candidate for forming the incoming government. That was the big issue, not just among Shiite political parties but for the whole process, particularly during the negotiations. In addition, the external actors, especially the US and Iran, had points of view about who should take that position.

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[563] Interview with Dara Saeed former Minister in the KRG, March 3, 2016.
[564] Ibid.
[565] Azzaman Arabic Daily Newspaper, "Press Conference", Vol 12, Issue 3556. http://www.azzaman.com/qpdfarchive/2010/04/01-04/P1.pdf," January 4, 2010.
[566] Al-Hindawi, Fawzi, "Supreme Council", Azzaman Arabic Daily Newspaper, Vol 12, Issue 3557. http://www.azzaman.com/qpdfarchive/2010/04/03-04/P1.pdf," March 4, 2010.
[567] Iraq, "Permanent Constitution." Article 76 Section 1
[568] Al-Hindawi, Fawzi, "The Initial Agreement between SOL and INA Lead to Dialogue with Kurdistan Alliance," Azzaman Arabic Daily Newspaper, Vol 12, Issue 3567. http://www.azzaman.com/qpdfarchive/2010/04/14-04/P1.pdf," April 14, 2010.

Internally, there were political entities that were against Maliki becoming Prime Minister for the second term. Firstly, the Sadrist bloc protested Maliki's nomination for a second term, and demanded the SOL to suggest three candidates, with the NA being permitted to select one of them.[569] The Sadrist group had a negative relationship with Maliki, because during his first term Maliki had attacked them and arrested many of their members. For that reason, the Sadrist group did not support him to be the Shiites' nominee for the position of Prime Minister. The Sadrist group wanted to bargain with Maliki. They offered to support his nomination for Prime Minister in exchange for the release of their prisoners. Ali Al-Adeeb[570] pointed out that "the SOL discussed some of the demands from the Sadrist group in order to solve that issue among the NA and the Sadrists' primary demand to release their prisoners."[571] After negotiations, Maliki made an agreement to address their demands, and promised to release those who had not committed criminal offences. Later on, he did in fact follow through, but only on some of the promises. Thus, the Sadrist group changed their mind about Maliki and worked towards solving the issue between them, through buying and selling the positions.[572]

Secondly, the Iraqiya bloc rejected Maliki's bid to become the Prime Minister for a second term for two main reasons: 1) They knew that constitutionally the position should be held by a member of Iraqiya because it was the largest bloc and won the election, and 2) They said that their refusal of Maliki was not a personal issue, but in line with the notion of the peaceful rotation of power. For these reasons, Allawi called Maliki to give up the attempt to run for a second term because he thought that the rotation of power was necessary for developing a peaceful and stable political process.[573] That conflict between Allawi and Maliki remained up to the day that Maliki formally became the nominee for forming the cabinet.

Obviously, Maliki was not the only candidate to run for that position. Adil Abdul-Mahdi was another Shiite candidate in the running to be the Prime Minister, but he was a leader from the ISCI. Hamid Moalla, the Shiite leader, said, "the NA tried to solve the candidate issue through choosing Abdul-Mahdi as the only candidate by agreement among the Shiites, including the Sadrist group, and it could have been a positive solution."[574] This meant that instead of Maliki, Abdul-Mahdi had a strong chance to become the Shiites' candidate. That attempt was welcomed by other political entities, particularly Allawi's list. Therefore, Iraqiya decided to support Abdul-Mahdi to be the Prime Minister. That decision arose from a general meeting of the Iraqiya bloc, which resulted in making the decision to form an alliance with

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[569] Sami, Zena, "SOL We Do Not Have Candidate except Maliki," Azzaman Arabic Daily Newspaper, Vol 13, Issue 3569. http://www.azzaman.com/qpdfarchive/2010/04/17-04/P1.pdf," April 17, 2010.

[570] One of the leaders of SOL.

[571] Sami, Zena, "Release of Prisoners the Key of Deal to Affinity Sadrist with Maliki, Azzaman Arabic Daily Newspaper, Vol 13, and Issue 3649. Http://Www.azzaman.com/Qpdfarchive/2010/07/19-07/P1.pdf," July 19, 2010.

[572] Interview with: Nouri al-Maliki, interview.

[573] Al-Hamdani, Karem, "Allawi Call Maliki to Abandon the Position," Azzaman Arabic Daily Newspaper, Vol 13, Issue 3656. http://www.azzaman.com/qpdfarchive/2010/07/27-07/P1.pdf," July 27, 2010.

[574] Sami, Zena, "Biden: Blocs Nearly to Form the Government," Azzaman Arabic Daily Newspaper, Vol 13, Issue 3688   http://www.azzaman.com/qpdfarchive/2010/09/02-09/P1.pdf," September 2, 2010.

the ISCI and support its candidate for Prime Minister.[575] As Alia N G, a member of Iraqiya, said, that decision was the outcome of Iraqiya's acceptance of the reality that it would have difficulty obtaining the position of Prime Minister, because day by day the supporters of Maliki increased.[576] While Abdul-Mahdi gained support from the Iraqiya list, he did not receive broad support to obtain the position of Prime Minister. While Maliki received 89 seats in the CoR, Abdul-Mahdi's list received 30 seats. Moreover, external actors, particularly Iran, preferred Maliki to Abdul-Mahdi.

Consequently, Maliki was chosen on 1 October 2010 by the NA for a second term, but the leaders of Fadila and the ISCI did not agree with this step. That was good progress in the situation because Maliki became the only formal Shiite candidate supported by the vast majority, and was welcomed by others, for example the Kurds. Nechervan Barzani, the Prime Minister of the Kurdistan Regional Government, said, "the KDP welcomed that step and tried with its allies [SOL] to persuade other political groups in a positive way in order to form the National Unity Government."[577] The main reason that Barzani welcomed Maliki's candidacy was that his party had previously (on 8 August 2010) made an agreement with Maliki to support him for the next term. According to that agreement, Talabani would be the President, and Maliki the Prime Minister. The speaker of CoR would be a member of Iraqiya. The agreement also stipulated the creation of a National Council of High Policies for Allawi.[578] This meant that before Maliki's nomination by the NA in October 2010, they had already made decisions about all the main posts, distributing them among senior political leaders. This indicates that Maliki had a strong relationship with the Kurdish leader, and relied on this advantage to obtain his second term.

Another important point to consider is the impact of the external actors during that time. In fact, there was external influence regarding the choice of Prime Minister and how the cabinet would be formed. As mentioned earlier in this section, Iran was one of the key players to determine who would be the Prime Minister. At the beginning, Iran hosted the Shiites and the Kurds in Tehran to discuss solving the problem of the nominations for Prime Minister. Iran was particularly interested in obtaining a second term for Maliki. However, Hassan Kazemi Qumi, the ambassador of Iran to Iraq, denied it was attempt to influence government formation, stating that it was, "not realistic because the Iraqi people have an ability to form their government without any support from anyone, and Iran has a good relationship with all blocs and political entities. That issue is an internal issue. We do not have any intention to intervene in forming the incoming government."[579] In reality, Iran indirectly intervened through the Shiites' political entities. This was emphasized by Allawi many times, and he

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[575] Esra and Marwan, "Iraqiya Permit Their Leaders to Make an Alliance with ISCI." Azzaman Arabic Daily Newspaper, Vol 13, Issue 3725. http://www.azzaman.com/qpdfarchive/2010/10/19-10/P1.pdf," October 19, 2010.

[576] Interview with: Alia Nossaif.

[577] Basel al- Kateeb, "Nechervan Barzani Welcomed Maliki's Candidate." http://www.azzaman.com/qpdfarchive/2010/10/05-10/P1.pdf," *Azzaman Arabic Daily Newspaper, Vol 13, Issue 3713*, October 5, 2010.

[578] Document, "Erbil Agreement between Maliki and Barzani 8/8/2010," August 8, 2010.

[579] Azzaman Arabic Daily Newspaper, "Press Conference", Vol 12, Issue 3556. http://www.azzaman.com/qpdfarchive/2010/04/01-04/P1.pdf."

pointed out that Iran hosted all blocs except Iraqiya, questioning what their motivation was for this.[580] Moreover, Hanan Fatlawi said, "there was an Iranian role for forming each government through negotiation with political entities."[581] In addition, the Iranian delegation met with key political parties in Iraq, especially those of the Shiites and Kurds, to obtain support for Maliki, and made concessions among them.[582] Thus, Iran was a key player during the negotiation for selecting the Prime Minister, and ensuring that Allawi missed out on this position. Why did Iran strongly support Maliki for a second term? First, Iran wanted the Shiites to take that position because they had the majority in Iraq and their loyalty towards the Iranian people would be stronger. Second, Maliki was stronger than the other Shiite leaders, especially Abdul-Mahdi, because Maliki had received 89 seats in the March 2010 elections. Finally, they regarded Maliki as being more comfortable with dealing with Iranian interests in Iraq than the other candidates.

Another key external player was the US-led coalition. Its agenda was to bring all political parties together through Joe Biden's proposal. His plan "would alter the structure of Iraq's government by bringing additional restraints to the authority of Iraq's Prime Minister and establishing a new committee with authority to approve military appointments, review the budget and shape security policy."[583] Moreover, the US-led coalition was "sympathetic to a compromise plan in which Prime Minister Nuri Kamal al-Maliki might retain his post with somewhat more limited powers while a new council with binding authority would be established under Ayad Allawi."[584] This meant that the US-led coalition's plan was to drive the negotiation towards distributing posts among senior political leaders and to create a new institution for Allawi to lead, allowing him some influence in the political process.[585] Biden's plan involved creating a new post for Allawi and shifting some powers to it from the Prime Minister. That suggestion meant that Maliki would remain in his post for the second term, and would prevent Allawi from becoming the Prime Minister.

As Biden argued, "the Iraqi people deserve a government that reflects the results of those elections, that includes all the major blocs representing Iraq's various communities and that does not exclude or marginalize anyone."[586] To achieve that approach, Biden visited Iraq several times and "had telephone contacts with Maliki, Allawi and Barzani to get support from them for forming the government."[587] That plan did not come from Biden himself, but from Obama's administration, which drew up the proposal and put it forward. Biden pointed out that "President Obama and I — and an outstanding team of American officials in Washington

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[580] Ibid. and see *Azzaman, Issue 3555. 31/3/2010.*
[581] Interview with Hanan Al Fatlawi Shiite MP, interview.
[582] Interview with Dara Saeed former Minister in the KRG.
[583] Gordon, Michael and Anthony Shadid, "U.S. Urges Iraqis to Try New Plan to Share Power." http://www.nytimes.com/2010/09/10/world/middleeast/10policy.html?pagewanted=all&_r=0," *The Network Times*, September 9, 2010.
[584] Gordon, Michael, "Biden in Iraq for Talks and Handover," August 31, 2010.
[585] Gordon, Michael and Anthony Shadid, "U.S. Urges Iraqis to Try New Plan to Share Power." http://www.nytimes.com/2010/09/10/world/middleeast/10policy.html?pagewanted=all&_r=0."
[586] Biden, Joseph, "What We Must Do for Iraq Now," *N.Y. TIMES*, November 20, 2010.
[587] Al-Hindawi, Fawzi, "Vice President of the United States Calls Maliki, Allawi and Barzani," Azzaman Arabic Daily Newspaper, Vol 13, Issue 3665. http://www.azzaman.com/qpdfarchive/2010/08/07-08/P1.pdf," August 7, 2010.

and Baghdad — played an active role in supporting this effort."[588] This meant they were strongly invested in solving that issue, and that it was the position of Obama's administration that Maliki should remain for a second term. This point-of-view was also shared by Iran. However, the US wanted to bring Shiites, Sunnis and Kurds into a coalition government, while Iran wanted to ignore the Sunnis, even going so far as to exclude them during discussions for forming the new cabinet.

From that point, Allawi did not support Biden's plan because it revealed that indirectly Biden supported Maliki. Mahmod Othman said, "Allawi refused America's proposal, which was based on the approach of Maliki remaining as the Prime Minister, and Allawi running the National Council of High Policies."[589] The main reason was that Allawi wanted to be the Prime Minister. As he pointed out "if there were powers, and there was clarity, and there was an explanation why we should not be able to form a government, then why not, to serve the country?"[590] It was very clear that Allawi understood that it was impossible for him to be the Prime Minister, especially when Biden suggested that he should run the new committee.[591] But there was also strong opposition from within Maliki's bloc, because they did not agree on shifting powers from Maliki to Allawi. Ali Allak, the senior Shiite leader in SOL, "refused Biden's plan, which was based on shifting some powers from the Prime Minister to the new committee, which would probably be run by Allawi."[592] Moreover, Wael Abdul Latif from the NA said, "the US's call for shifting powers from the Prime Minister is opposed to the permanent constitution."[593] Thus, the US's proposal did not receive support from both sides for different reasons. First, Allawi did not accept the new committee because it would not have much power and because it had not been established at that time. Second, Maliki and his group did not agree with shifting power from the Prime Minister to the new committee headed by Allawi.

During that time, there was an attempt from inside Iraq to find a solution between political parties to form the new cabinet, which was Masud Barzani's initiative. In fact, all political parties and external key players (the US-led coalition and Iran) welcomed that attempt.[594] This was partly because Barzani had openly declared his initiative, and had discussed it with the US and Iran, since there was little difference between what he proposed and what Iran and the US wanted. The US supported Barzani in achieving his aims and Biden "praised the recent initiative put forward by President Barzani to break the political impasse and move the

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[588] Biden, Joseph, "What We Must Do for Iraq Now."

[589] Ali, Sarah, "Allawi Stop Negotiation with Maliki," Azzaman Arabic Daily Newspaper, Vol 13, Issue 3674. http://www.azzaman.com/qpdfarchive/2010/08/17-08/P1.pdf," August 17, 2010.

[590] Gordon, Michael and Anthony Shadid, "U.S. Urges Iraqis to Try New Plan to Share Power." http://www.nytimes.com/2010/09/10/world/middleeast/10policy.html?pagewanted=all&_r=0."

[591] Ibid.

[592] Sami, Zena, "Uncertainty of Washington's Ability to Pass the Proposal of Dividing Authorities." http://www.azzaman.com/qpdfarchive/2010/09/14-09/P1.pdf," *Azzaman Arabic Daily Newspaper, Vol 13, Issue 3694-3695*, 14/9 2010.

[593] Ibid.

[594] Interview with Dara Saeed former Minister in the KRG.

political process forward."[595] In light of his initiative, Barzani called for a roundtable meeting among senior political leaders in Erbil (the capital city of Kurdistan).[596] They met on 7 November 2010 after eight months of elections. In his press conference, Barzani said, "this is a historic day for Iraq. This gathering of all main Iraqi leaders… reiterating that real power-sharing is the key to success for the new government in Iraq."[597] That indicated real progress in the negotiations among all of the leaders, since it allowed them to discuss their issues face to face, and to make final agreements about the incoming government. That vision was not only Barzani's view. Other leaders "also emphasized the need for genuine power-sharing mechanisms in the new government."[598] In light of the roundtable meeting in Erbil, political parties made an agreement called the Erbil agreement, which divided the main posts among senior leaders. They agreed that Maliki would be the only candidate for Prime Minister, that the Speaker of the CoR would come from the Sunnis, that the Kurds would take the presidency, and that a new post with real power would be created for Allawi.[599] Thus, Maliki received acceptance from all communities for his second term as Prime Minister, and on 8 November 2010 the Erbil Agreement was signed.

It consisted of nine main aspects: "Administration and Finance, Legislations, the Oversight Role, Security Reform Paper, Judicial Reform Paper, Balance in state institutions, Reform of the Executive Authority, National Accord (Consensus), and Accountability."[600] Each aspect included a method, stating how it would be implemented during the second cabinet of Maliki. The agreement acted as the agenda for the new government, the aim being that Maliki would go through it systematically during his time in office. Obviously, it included all political parties' demands, especially those of the Sunnis and Kurds, who asserted that the "vote on crucial issues like war and peace, strategic agreements, constitutional amendments shall be by 100 percent consensus."[601] Moreover, they asked for "achieving national balance in: Deputy Ministers, Ambassadors and Heads of agencies and the Independent Commission etc."[602] Because there was imbalance in the state institutions, they wanted reform in this area.

Consequently, although the negotiations took nine months, they resulted in an agreement designed to form a new government based on genuine power-sharing methods, as they claimed. While there was strong competition between Allawi and Maliki to obtain the role of Prime Minister, all communities' political parties demanded a National Unity Government

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[595] Kurdistan Region Presidency, "US Vice President Lauds President Barzani's Initiative to Move Political Process Forward." http://www.presidency.krd/english/articledisplay.aspx?id=HNdZD8fZD08=," September 3, 2010.

[596] Erbil Agreement was signed by: Rose Nuri Shaways, Deputy Prime Minister, Representative of Kurdistan Region President and Kurdistan Alliance, leader of National Coalition, Hassan Al-Sunaid, leader of IS, Salman Al-Jumaili.

[597] Kurdistan Region Presidency, "Iraqi Leaders Gather in Erbil to Break Political Deadlock." http://www.presidency.krd/english/articledisplay.aspx?id=JSVyFlWIh24=," November 8, 2010.

[598] Ibid.

[599] Interview with: Ali Baper, July 15, 2014.

[600] "Erbil Agreement, 2010, http://peacemaker.un.org/sites/peacemaker.un.org/files/IQ_101107_IraqErbilAgreement%20%28English%29.pdf," November 7, 2010.

[601] Ibid. Aspect 9 number 1.

[602] Ibid. Aspect 6.

based on consensus. Furthermore, there were bargaining deals among political parties to offer their support to different candidates. The Sadrist bloc, for example, strongly opposed Maliki at the beginning, but when many Sadrist followers had been released, they changed their position and supported Maliki. The Kurds also had an agreement with Maliki before he took the position. Iran and the US held the same point-of-view about Maliki, wanting him to be Prime Minister for a second term. Thus, all communities agreed to form the Genuine National Partnership Government, which consisted of all political parties. This is discussed in the following section.

7.3.2 Genuine National Partnership Government (GNPG)[603]

In light of the Erbil Agreement on 12 November 2010, senior political leaders agreed to distribute the main posts based on consensus among communities. After signing the Erbil Agreement Barzani said, "we [political leaders] agreed to settle the issue of the three presidency posts so that the parliament can begin its task from today onward."[604] Barzani emphasised that the process should produce "a government of real national partnership."[605] Therefore when the president nominated Maliki to form the cabinet, Maliki started another round of negotiations to establish the so-called Genuine National Partnership Government. Talabani said, "we believe that the government will be the Genuine National Partnership Government and will in no way exclude anyone."[606] The aim of the new government was to share the power and reduce conflict and violence among communities.

In line with that aim, during the negotiation for forming the government political leaders made the decision to distribute ministerial posts based on two main principles. The first principle was to consider the weight of each community's power. Barzani pointed out that "we cannot have one side taking everything. Each of us took a part and took what we deserved."[607] They did not want one single community occupying the entire political system, so they ensured that there was no way that a group with the majority could run the entire country. That was why they elected Talabani as President, Osama Nujayfe as the Speaker and Maliki as the Prime Minister, each one from a different community. Moreover, the Vice Presidents, Deputies of the Prime Minister and Deputies of the Speakers were distributed among the Shiite, Sunni, and Kurd communities. Those positions were distributed based on the weight of each community.

The second principle for distributing ministerial posts had its basis in the election results, and how many seats each community received. The political leaders made a point system based on parliamentary seats in order to distribute ministerial posts. Each post was allotted a certain

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[603] This was a term used by political leaders to describe the new cabinet.

[604] Kurdistan Region Presidency, "President Barzani's Press Conference in Baghdad Following Government Formation Agreement." http://www.presidency.krd/english/articledisplay.aspx?id=Qr1qOKvZB+Q=," November 12, 2010.

[605] Ibid.

[606] Al Sabaah, "Current Week... Starting Formal Negotiations for Distribution Ministers," *Arabic Newspaper*, November 27, 2010, (2116) edition.

[607] Kurdistan Region Presidency, "President Barzani's Press Conference in Baghdad Following Government Formation Agreement." http://www.presidency.krd/english/articledisplay.aspx?id=Qr1qOKvZB+Q="

number of points, and each point was equal to 2.24 seats.[608] While high-level positions were distributed in accordance with the weight of each component (Shiite, Sunni, or Kurd), they needed to adhere to the point system as well. Thus, the presidency was worth 10 points, the Vice Presidency and Deputy 5, the Sovereign Minister 4, the service Ministers 3, and the less important service Ministers 2, and the Minister of state just one point.[609] See Table 19. However, because some leaders criticised the point system, it was not fully implemented. The weight of the posts was based on the power, influence and role of each post within the political institutions. Consequently, both principles, the weight of each community's power, and the points system were implemented in order to reach a power-sharing arrangement and establish grand coalition government as a tool for conflict resolution.

Distributing Posts by Point System							
Posts		Shiite	Points	Sunni	Points	Kurd	Points	Note
1	The President of the Republic					1	10	Each point is equal to 2.24 seats. Shiites had 159 seats, 159/2.24= 70.98 points
2	The Vice president	2	10	1	5			
3	The Speaker			1	10			Sunnis had 101 seats, 101/2.24= 45.08
4	Deputy of Speaker	1	5			1	5	Kurds had 57 seats, 57/2.24= 25.44
5	The Prime Minister	1	10					
6	Deputy of Prime Minister	1	5	1	5	1	5	
7	Sovereign Minister	4	16	2	8	1	4	
8	Service Minister	10	30	7	21	3	9	
9	Minsters without Portfolio	4	8	3	6	1	2	
10	State Minister	4	4	1	1	2	2	
	Total	Shiite	88	Sunni	56	Kurd	37	
Total points were 181								
	Percentage of points	Shiite	48.6	Sunni	30.9	Kurd	20.4	There was similarity between the percentage of points and the percentage of parliamentary seats for each group. Kurds obtained more than the others by 2.9, because they took the minority ministry of Yazedy. This meant it was broadly proportional.
	Percentage of seats in the Parliament		48.9		31.0		17.5	
	Differences		0.3		0.1		2.9	

Table 19: Distributing Posts by Point System

[608] Al Sabaah, "Current Week... Starting Formal Negotiations for Distribution Ministers."
[609] Al Sabaah, "Today Maliki Start to Take over Names of Candidates for Ministerial Posts," *Arabic Newspaper*, November 25, 2010, (215) edition.

Another interesting point was Maliki's deal with all groups to establish his cabinet early. In fact, this was the reality of the Iraqi situation at that time, because political parties looked after their own interests and bargained with each other to obtain more power. In his interviews, Maliki said, "when I wanted to establish the cabinet, there were selling and buying positions. The Sadrists, for example: I bought their position by posts and I gave them two more ministers in return for supporting me in forming the cabinet."[610] That was a reflection of conflict among political parties, which led to increasing the number of ministerial posts to 46. After nearly one month of Maliki's negotiation with political parties, he was able to deliver his cabinet to parliament for voting. On 21 December 2010, the CoR unanimously approved Maliki's cabinet, but his cabinet did not include all ministers, and he postponed a number of ministries for two main reasons. First, there was only a single woman in this cabinet out of 46 ministers. Second, there were some candidates he regarded as suspicious, because he did not know they linked to Baathist party or not, or committed crime or not, so he asked some blocs to exchange those candidates for others.[611] Thus, ministerial posts were distributed among the three main groups and then political parties. Maliki pointed out the Genuine National Partnership Government was the most difficult type of government because there is diversity among communities, religions and loyalties, and it is difficult to satisfy everyone.[612] Moreover, he emphasised that it was a "hard task because we need to find places in the government for all those who participated and won in the elections."[613] Having finalised the cabinet after three months, Maliki delivered the second list to parliament for approval, which was obtained after discussion on 13/2/2011.[614] Consequently, Maliki's government was approved by all groups because each of them obtained posts. This did not mean, however, that it was not criticised. (See Table 20).

	Name	Position		Ethnicity	Bloc and Political Party
Rating Ministers in the Nouri al-Maliki Cabinet 2010-2014[615]					
Presidency of the Cabinet					
1	Nouri al-Maliki	Prime Minister		Shiite	SOL/ Daawa
2	Hussain al-Shahristani	Deputy of Prime Minister		Shiite	SOL/ Independent
3	Roz Nouri Shawes	Deputy of Prime Minister		Kurd	KA/ KDP
4	Saleh al-Mutlaq	Deputy of Prime Minister		Sunni	/Iraqiya/Hewar
Powerful Ministers (Sovereign Ministers)					

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[610] Interview with: Nouri al-Maliki, interview.

[611] Council of Representatives in Iraq, "Protocol of the Session No. (14) 21/12/210. http://ar.parliament.iq/LiveWebsites/Arabic/Container.aspx?MinutesOfMeetingsID=17," December 21, 2010.

[612] Ibid.

[613] Aljazeera, "Iraq Gets a New Government." http://www.aljazeera.com/news/middleeast/2010/12/201012211373655244.html" (Aljazeera, December 21, 2010).

[614] Council of Representatives in Iraq, "Protocol of the Session No. (32) 13/2/2011. Http://Ar.parliament.iq/LiveWebsites/Arabic/Container.aspx?MinutesOfMeetingsID=35," February 13, 2011.

[615] Council of Representatives in Iraq, "Protocol of the Session No. (14) 21/12/210. Http://Ar.parliament.iq/LiveWebsites/Arabic/Container.aspx?MinutesOfMeetingsID=17." And, Council of Representatives in Iraq, "Protocol of the Session No. (32) 13/2/2011. Http://Ar.parliament.iq/LiveWebsites/Arabic/Container.aspx?MinutesOfMeetingsID=35."

5	Acted by Maliki	Interior Minister	Shiite	SOL/ Dawa
6	Acted by Maliki	National Security Minister	Shiite	SOL/ Dawa
7	Abdul Karim al-Luaibi	Oil Minister	Shiite	Independent but associated with Daawa
8	Ali Yusuf Shukri	Planning Minister	Shiite	INA/Sadrist
9	Rafaa al-Esawi	Finance Minister	Sunni	Iraqiya/ Mustaqbal
10	Acted by Maliki around two years and then Saadoun al-Dulaimi	Defence Minister	Shiite Sunni	SOL/Dawa UAI
11	Hoshyar Zebari	Foreign Affairs Minister	Kurd	KA/ KDP
Low Powerful Minister (Service Ministries)				
12	Majid Mohammed Amin	Health Minister	Kurd	KA/PUK
13	Dindar Najman	Migration Minister	Kurd	KA/ KIU
14	Khairallah Hassan Babiker	Trade Minister	Kurd	KA/PUK
15	Raad Shallal al-Ani	Electricity Minister	Sunni	Iraqiya
16	Izzuldin al-Doula	Agriculture Minister	Sunni	Iraqiya/Iraqiyoun
17	Mohammed Tamim	Education Minister	Sunni	Iraqiya/Hewar
18	Mohammed Tawfiq Allawi	Communications Minister	Shiite	Iraqiya/Wifaq
19	Ahmed Nassar Dali al-Karbouli	Industry Minister	Sunni	Iraqiya/Tajdid
20	Abdul-Karim al-Sammaraie	Science and Technology Minister	Sunni	Iraqiya/Tajdid
21	Saadoun al-Dulaimi	Culture Minister	Sunni	Unity Alliance of Iraq/ independent
22	Adel Mhodr Radi	Municipalities and Public works Minister	Shiite	INA/Sadrist
23	Liwa Smisim	Tourism Minister	Shiite	INA/Sadrist
24	Mohaned al-Sa'adi	Water resources Minister	Shiite	INA/Sadrist
25	Mohammed Sahib al-Daraji	Housing and Construction Minister	Shiite	INA/Sadrist
26	Nasar al-Rubaie	Labour and social affairs Minister	Shiite	INA/Sadrist
27	Hassan Shimari	Justice Minister	Shiite	INA/Fadhila
28	Hadi al-Amiri	Transport Minister	Shiite	INA/ (ISCI)?
29	Jassim Mohammed Jaffar	Youth and sports Minister	Shiite	SOL/Daawa
30	Ali al-Adeeb	Higher Education Minister	Shiite	SOL/ Daawa
31	Mohammed Shiya al-Sudani	Human Rights Minister	Shiite	SOL/ Daawa
32	Sargon Lazon Sliwah	Environment Minister	Christian	Rafidain/Assyrian Democratic Movement
Ministers of State for affairs				
33	Dakhil Qassim Hassoun	Minister of state for civil society affairs	Kurd	KA/ YAZEDY
34	Turhan Abdullah	Minister of state for provincial affairs	Turkman	Iraqiya/Turkman
35	Ali Abdullah al-Sajeri	Minister of state for Foreign Affairs	Sunni	Unity Alliance of Iraq/ Wassat/Constitution Party
36	Jamal al-Batix al-Shammari	Minister of state for clans affairs	Sunni	Iraqiya
37	Safaa al-Din al-Saafi	Minister of State for Parliament Affairs	Shiite	SOL/ Independent

38	Amer al-Khuzai	Minister of State for National Reconciliation	Shiite	SOL/ Daawa
39	Ali Dabbagh	Minister of state and Government Spokesman	Shiite	SOL/Daawa
40	Ibtihal al-Zaidi	Minister of state for women's affairs	Shiite	SOL
Ministers without portfolio				
41	Abdul-Mehdi Hassan al-Amtari	Minister of state	Shiite	INA/Sadrist
42	Hassan Radia al-Sari	Minister of state	Shiite	INA/Hezbilah
43	Bushra Hussein Saleh	Minister of state	Shiite	INA/Fadhila
44	Diyah al-Asadi	Minister of State	Shiite	INA/Sadrist
45	Salah Mazahim al-Jabouri	Minister of state	Sunni	Iraqiya/Hewar
46	Yaseen Hasan Muhammed	Minister of state	Kurd	KA/ KIG
47	Abdul Saheb Kahraman Isa	Minister of state	Kurd	KA/Faeely

Table 20: Rating Ministers in the Nouri al-Maliki Cabinet 2010-2014

From the above table, you can see that the Shiite group received more posts, and they had an absolute majority. A Shiite obtained the post of Prime Minister, while another Shiite was granted the post of deputy, which meant that the leadership of the government was controlled by Shiites. Moreover, Shiites dominated the more powerful posts because they obtained five sovereign ministries out of seven, including the Interior, Defence and National Security Ministries. However, after two years, Maliki appointed Saadoun al-Dulaimi, a Sunni politician, to be the Minister of Defence. The first two years were very important for Maliki because during that time he appointed commanders from his party to powerful positions in the Ministry of Defence. Moreover, in June 2011, Maliki chose one of his followers, Falah al-Fayyad, to become acting National Security Minister.[616] Most of the Service Ministries were run by Shiites, because they obtained 10 out of 20 Ministerial posts, for both Ministers without a portfolio and Ministers of State. Thus, while the Shiites did not win the election, as the largest bloc they obtained the more powerful posts and an absolute majority of ministers. A number of points explain why they obtained the absolute majority of posts. First, they demanded that as the Shiite population totalled 60% in Iraq, they should obtain more posts by right. Second, they established the Shiite bloc, the NA, in the CoR, which consisted of 159 seats: just under absolute majority. Finally, in practice, the NA has dictated the Prime Ministership from 2003 up to now, and they intend to continue in this way indefinitely.

The second community to receive posts was the Sunnis. In general, the Sunnis won 31% of votes as the second largest component of Iraqi society. However, they received 28% of ministerial posts at various levels, but one of the powerful ministries intended for a Sunni was in fact run by Maliki for two years. This meant the Sunni group did not obtain a proportion percentage of posts in the cabinet. On the other hand, they won the March 2010 elections as the largest bloc, but this did not allow them to establish the cabinet. The third winner was the Kurds, who received eight ministers, one deputy Prime Minister, and one powerful ministry, that of Foreign Affairs. In the March 2010 elections, the Kurds won around 18% of seats and obtained 17% of ministers. This meant that the Kurds did not get more than was expected, and they did not make claims for more ministerial posts. As a result, grand coalition was reflected in the cabinet across the three main communities. While the Shiites received an

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[616] Dodge, Toby, *Iraq*. P.161

absolute majority of posts at each level, they tried to control other posts outside their jurisdiction, especially those which were more powerful. Maliki attempted to neglect the other communities and dominate the majority of influential posts. On the other hand, that action was not all by Shiite groups. Rather, it was because Maliki tried to control those posts by himself and he did not allow other Shiite parties to control security posts as well. Thus, that type of cabinet did not care about consociationalism as a tool for conflict resolution and peace. This is why it led to difficult issues among communities and created instability between political parties.

7.3.3   Performance of the Genuine National Partnership Government

When the cabinet first formed, political leaders welcomed the new government, and believed that the cabinet would lead to stability and conflict resolution. In fact, internal and external actors were very optimistic, voicing their opinion that the cabinet would "reinforce stability in Iraq and allow Iraq's political leaders to work together for the benefit of their country and people."[617] However, after about a year the government faced strong opposition from the Kurds, the Sunnis, and some Shiite political parties. The main question is: why did Maliki face this opposition? What happened? Why did it happen?

The government had been formed under the Erbil Agreement, with the three main communities all involved in shaping the agreement. However, the Erbil Agreement was not implemented perfectly because only some of its nine aspects were put into practice. Political parties from all three communities were constantly demanding its full implementation, but Maliki's party, which was most powerful, did not consider their demands. In relation to that issue, the president at the time, Talabani, said, "generally, some participants in the political process surrounding the Erbil Agreement [referring to Maliki] do not recognise their obligations."[618] That kind of criticism arose after one year of Maliki's cabinet because political leaders had been waiting for the implementation of the Erbil agreement's strictures, but had not seen any action. Within Maliki's cabinet, the opposition parties challenged Maliki to implement the Erbil Agreement because day by day they saw Maliki centralising the power and ignoring the other political groups. Yaseen Hasan, a former minister in Maliki's cabinet, pointed out that "Maliki did not trust other parties, especially the Kurds, the Sunnis and Sadrist group in his cabinet. That situation led to him clashing with them, particularly with Sadrist Ministers, and specifically with Nasar al-Rubaie, the Labour and Social Affairs Minister. On two occasions, Maliki left a ministerial meeting because of arguments with Nasar."[619] Thus, instability spread even to the council of ministers, and the political atmosphere involved more conflicts among diverse groups, which produced a deep crisis among them. From that point, we can say that the kind of grand coalition government envisaged by the Erbil Agreement did not happen in practice.

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[617] GOV.UK, "Foreign Secretary Welcomes Formation of Iraqi Government."
Https://www.gov.uk/government/news/foreign-Secretary-Welcomes-Formation-of-Iraqi-Government"
(Foreign & Commonwealth Office and the RT Hon William Hague, October 21, 2010).
[618] Al Sabaah, "Talabani," *Arabic Newspaper*, November 26, 2011, (2399) edition.
[619] Interview with Yaseen Hasan, July 26, 2014.

Moreover, political crises increased when Maliki wanted to arrest the Sunni Vice President Tariq al-Hashimi in December 2011, "accusing him of enlisting his bodyguards to run a hit squad."[620] When Hashimi became aware that Maliki wanted to attack him and take him to prison, he immediately flew to Kurdistan to protect himself. The fact that this could happen was totally incompatible with the Erbil Agreement's aims "to prevent the use of the law with double standards or to use the law for political purposes".[621] Maliki's accusations led to an undermining of the previously-held consensus between the Sunnis and Maliki. While the Sunnis wanted to bring more of their members into the cabinet, they faced the uncomfortable reality that they were being targeted by him.

Another instance of Maliki's prejudice against the Sunnis was his raid on Sunni leader and Minister of Finance Rafaa al-Esawi's ministry, house and office on 21 December 2012. Esawi said, "Militia forces had raided the finance ministry, my office and home in an illegal action and they arrested all the employees and guards."[622] The reason Maliki raided Esawi was because Esawi's "bodyguards were reported to have been accused of terrorism-related offences."[623] Thus, Maliki continued to attack the Sunnis, and his acts made the political situation worse.

Maliki only began to attack the Sunnis' leaders, beginning with al-Hashimi, when the last US troops had left Iraq in December 2011. The US-led coalition had played a crucial role for creating a kind of balance among all ethno-religious communities, and in its absence the dynamic changed. That was why Gen. Odierno said, "I've always believed the United States played the role of honest broker between all the groups."[624] Thus, the US-led coalition's withdrawal negatively affected the political process. While present, the US-led coalition prevented one group from dominating all political processes and neglecting other groups. As long as the US-led coalition was there, Maliki could not neglect and marginalise other communities, and the political process could develop.

Maliki's actions derived from his belief that a power-sharing arrangement would not work, and that majority rule was the only realistic method for leading Iraq. He argued that "power-sharing cannot be the foundation of solving our problems."[625] Moreover, he said "relying on power-sharing and ignoring the constitution [which stipulated majority rule in the cabinet] disrupted state-building."[626] Maliki had changed his mind about a power-sharing government

[620] Morse, Dan and Asaad Majeed, "Iraq Prime Minister Al-Maliki Challenges Restive Provinces." Https://www.washingtonpost.com/world/middle_east/iraq-Premier-Nouri-Al-Maliki-Chides-Restive-provinces/2011/12/24/gIQAzegYFP_story.html," *Washington Post*, December 24, 2011.

[621] "Erbil Agreement, 2010, http://peacemaker.un.org/sites/peacemaker.un.org/files/IQ_101107_IraqErbilAgreement%20%28English%29.pdf."

[622] BBC NEWS, "Iraq's Sunni Finance Minister Denounces Raids."" (http://www.bbc.co.uk/news/world-middle-east-20808769, December 21, 2012).

[623] Ibid.

[624] Scarborough, Rowan, "U.S. Troop Withdrawal Let Islamic State Enter Iraq, Military Leaders Say," *The Washington Times*, July 26, 2015.

[625] Morse, Dan and Asaad Majeed, "Iraq Prime Minister Al-Maliki Challenges Restive Provinces." Https://www.washingtonpost.com/world/middle_east/iraq-Premier-Nouri-Al-Maliki-Chides-Restive-provinces/2011/12/24/gIQAzegYFP_story.html."

[626] Al Sabaah, "Press Conference of Maliki," *Arabic Newspaper*, April 2, 2012, 2501 edition.

and wanted to ignore what had been agreed in the Erbil Agreement. For that reason, Allawi criticized the situation, stating, "Maliki has violated the constitution to consolidate his own power by using security and military forces to intimidate and oppress political rivals."[627] Thus, the Genuine Unity Partnership Government did not succeed because Maliki was neglecting the Erbil Agreement and facing opposition from all other groups.

Maliki was now facing strong opposition. Senior leaders from the Sunnis, the Kurds and Al-Sadr tried to enact a vote of no confidence in the CoR. On 28 April 2012, Barzani, Talabani, Al Sadr, Allawi and Al Nojaefi wrote a letter consisting of 9 demands. It generally focused on preventing one-man rule, criticising Maliki's way of governing, and demanding the adoption and upkeep of the Erbil Agreement.[628] The nine demands were: the provision of services to all communities, the adoption of the Erbil agreement, that no one would act in place of another minister, that the role of parliament would be enforced, that dictatorial tendencies would end, that a politicised army would be avoided, and so too politicised security services, that the premiership would be limited to two terms, and that all involved would adhere to those principles.[629] They sent the letter to the NA and put in place a 15-day deadline for receiving a positive response from the Shiites, especially Maliki. However, they did not receive a positive response. Maliki strongly opposed that letter and reasserted his own beliefs regarding the way a country should be led. That made the situation more complicated and led to more conflict between communities. His own views were clearly incompatible with a broad-based government and power-sharing arrangements. In his interview, Maliki pointed out, "each one of those people had aims. The Kurds wanted to export oil independently and I said 'no'. The Sunnis' leaders, such as Al-Hashimi, had problems. I sent them to court, and they did not agree with that. The Sadrists wanted to release their prisoners and I did not accept that."[630] Thus, Maliki resorted to explaining the situation by making recourse to the actions of the other parties, rather than his own. He did not elaborate on any of the points that the other parties had seen as genuine issues of contention. It was this dismissive attitude that pushed the other political leaders to work together towards a vote of no confidence against Maliki and the establishment of a government with real partnerships.

When the leaders learned that Maliki and the NA did not accept their letter, they went for the second option, which was the vote of no confidence. According to the permanent constitution Article 61 Section 8 B1, "the President or the Republic may submit a request to the CoR to withdraw confidence from the Prime Minister."[631] This vote of no confidence requires an absolute majority in the CoR.[632] Those opposing Maliki needed to amass support. To guarantee that the action would pass, they collected signatures from MPs who would vow their support before the vote. An absolute majority was achieved. After that, the President was required to send his request to the CoR, but this did not happen, because some MPs

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[627] Allawi, Ayad, "Allawi: Iraq's Slide toward Renewed Violence."," *Washington Post*, April 9, 2012.

[628] Visser, Reidar, "The 9-Point Letter from Arbil," *https://gulfanalysis.wordpress.com/2012/05/05/the-9-Point-Letter-from-Arbil/*, May 5, 2012.

[629] Ibid.

[630] Interview with: Nouri al-Maliki, interview.

[631] Iraq, "Permanent Constitution."

[632] Ibid. Article 61 Section 8 B 3.

backed out, and withdrew their signatures at the last minute. Thus, the key leaders from the three main communities could not succeed in their plan, and Maliki continued as Prime Minister. Day by day the conflict between the communities increased dramatically, especially between the government and the parliament, which was headed by the Sunni leader Al Nojaefi. Thus, Maliki's second term did not embody power-sharing arrangements. Rather, it produced instability, conflict, and violence instead of peace and stability.

In light of the above discussion, while in name and distribution of posts, Iraq had a grand coalition government, in reality its implementation was incompatible with the values of consociationalism. In this case, partnership government was not a tool for conflict resolution. It did not bring peace, stability, power-sharing, and a fair decision-making process, which are the usual distinguishing features of a grand coalition government in a deeply-divided society.

7.4   Mutual veto

Mutual veto is another subject for analysis. We need to know how it was implemented and how it affected conflict resolution in Iraq during the second term of Maliki's cabinet. As discussed in the previous chapter there are two types of mutual veto in the permanent constitution, presidency veto and super majority veto. In this section, I am going to illustrate how both were implemented and how they affected power-sharing arrangements.

7.4.1   Presidency veto (formal veto)

According to the permanent constitution, the presidency veto was defunct at the end of the first term of Maliki's cabinet in 2010, because it was related to the transitional period from 2005 to 2010. After 2010, the President of the Republic had more power than the Vice Presidents. According to the Article 73, Section 3, the duty of the President of the Republic is "to ratify and issue the laws enacted by the Council of Representatives."[633] This meant that when the president received laws from the CoR, he could either accept or refuse them. While the presidency council consisted of three main groups (see Table 18), the president alone had the right to sign or accept the laws. The Vice Presidents did not have this power. Thus, there was no Presidency veto, and no mutual veto, for all representatives in the presidency council. The presidency council did not function well during that period for two main reasons. First, at the end of 2012, President Talabani had been sick (he had suffered from a cerebral aneurysm) and he left his position without anyone taking his place. Second, two Vice Presents left the presidency council, Al Hashimi, who was attacked by Maliki in 2011, and Adil Abdul Mahdi, who resigned from his post on 11 July 2011. Therefore, just one of the Vice Presidents remained: Khudier Al-Khuzae from Maliki's bloc. This meant that during that period the presidency lacked any clear function or influence on political development. While formally the presidency veto (formal mutual veto) finished its term in 2010, there was no way that it could have been implemented in practice.

7.4.2   Super majority veto (Two-thirds)

As discussed in the previous chapter, 12 cases in the constitution required a super majority, 11 of them related to the CoR's seats and just one related to two-thirds of voters in three or

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[633] Ibid.

four governorates.[634] During that period, when the parliament conducted any of those cases it required two- thirds majority. This was a big issue because it was difficult to maintain two-thirds majority. For instance, when the CoR wanted to elect the President by a two-thirds majority in 2010, it failed because none of the candidates obtained two-thirds at the first round of voting. However, in the second round of voting Talabani received the vast majority by 195 votes, and he became the President.[635] The main reason why he did not get two-thirds initially was because Iraqiya boycotted voting and withdrew its members from the session, delaying the process. Thus, this type of veto, used by Iraqiya to break down the process for electing the presidency, did not work because constitutionally there was a way to solve it: through the second round of voting.[636]

Another issue related to the super majority veto is the formation of the Federal Supreme Court under the permanent constitution. According to Article 92 Section 2 "the Federal Supreme Court shall be made up of a number of judges, [and] experts … the work of the Court shall be determined by a law enacted by a two-thirds majority of the members of the Council of Representatives."[637] In order to pass that law, the CoR prepared a bill in 2011, but it did not obtain support from all communities. There were different views about forming the Federal Supreme Court. The Kurds in particular demanded that there should be a veto within it in order to protect their interests and avoid majority tyranny. Arif Tayfor said, "there were two main controversial points. First, we demanded the veto and second, the Shiites demanded it as well for the Shiites' Scholar. We agreed that it should not only be Scholars who can exercise that right, because there are secular groups, and they should have it as well."[638] Moreover, the Shiites did not agree on the Kurds having the veto because they wanted to make decisions by majority, not through consensus.[639] The main barrier to issuing the law related to the requirement of the two-thirds majority. If the Shiites could issue that law by simple majority, then they would not have to consider the demands of the other parties. However, the two-thirds majority prevented the Shiites from obtaining this requirement. Thus, the two-thirds majority indirectly worked to give a veto to minority communities to protect their rights and to forbid majority communities from ignoring their rights.

Another case, the declaration of high alert emergency in the country, required a super majority. When the so-called Islamic State (IS) controlled Mosul and the majority of Sunni areas in 2014, Maliki demanded the declaration of a state of emergency in the country. As he stated, "the council of Ministers has decided to declare a state of high alert and to mobilise all efforts to face up to existing challenges… and he asked Parliament to declare a state of

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[634] For more information, you can see all cases which need a two-thirds majority within the Iraqi Permanent Constitution through articles "52 First, 61 Fourth, 61 Ninth A, 65, 70 First, 92 Second, 126 Second and Third, 136 Second, 137, 138 Second A and D, and 142 Section 4."

[635] Alsumaria, "Electing Talabani for the Second Term."http://www.alsumaria.tv/news/34096/," *News* (Bagdad, November 11, 2010).

[636] Iraq, "Permanent Constitution." Article 70.

[637] Ibid.

[638] Interview with Arif Tayfor the former deputy speaker, interview.

[639] Ibid.

emergency and general mobilisation."[640] Constitutionally this requires two-thirds of the CoR to reach a decision and enact the law, with such a declaration based on the joint decision of the Prime Minister and President (according to Article 61, Section 9A). Maliki, however, requested it by himself, without having shared his proposal with the President. That demand happened just a few days before parliament ended its term. Maliki wanted to continue for a second term, and realised that a state of emergency would allow him – in charge of it – to extend his power. He therefore demanded a session in the parliament to discuss the issue and make a decision about whether to implement a state of emergency. After two days of Maliki's demands, the Speaker of the CoR called for a session; however, the Sunnis and Kurds boycotted that session, which led to its postponement without any decision. This was because only 130 MPs attended the session, which was not two-thirds.[641] If the Sunnis and the Kurds had supported Maliki's proposal for declaring a state of emergency, he would have been able to continue to govern Iraq indefinitely, without a specific time proposed to cancel the emergency period. The only thing that did not allow Maliki's proposal to be accepted was the two-thirds majority rule, because it was required for enacting the law regarding a state of emergency. In this sense, super majority veto within the constitution is one way to protect a group's right and to create a favourable atmosphere for maintaining their interests, and avoiding majority tyranny.

During the second term of Maliki's cabinet, mutual veto did not encourage movement towards a power-sharing arrangement. The only type of veto available in reality was the Super Majority veto, through two-thirds of members of the CoR. As we can see from the important case discussed earlier, it did partially work in practice. However, the Presidency veto did not exist during that period because constitutionally it related to the previous period from 2005 to 2010. Thus, Mutual veto was effective to a certain extent, and did not affect the whole process for achieving consociationalism.

7.5   Creating a New Region

Creating a new region in Iraq was one of the controversial issues between the Shiites and Sunnis during that period. Constitutionally, the formation of a new federal region in Iraq is very clear, but the problem was with the implementation of it. There were different views among politicians about the way to deal with that issue. What was new in terms of the Sunni and Shiite positions? Who tried to create a new region and who was against that attempt? What was the outcome? In this section, I will investigate those questions through each community's position and their attempts towards creating a new region as a tool for reducing violent conflict.

Although the Sunnis had been against federalism when the permanent constitution was being drafted, circumstances since then brought about a change in their position, and they demanded the creation of another region in their area. The main reason was that the Sunnis felt neglected by Maliki in the political process, and that he treated them as second-class citizens, rather than as members of a genuine partnership in the political process. That

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[640] BBC, "Iraq PM Maliki Calls for State of Emergency over Mosul," *News* (UK, http://www.bbc.co.uk/news/world-middle-east-27785764, June 10, 2014).
[641] SKY NEWS ARABIC, "Iraq's Parliament Fails to Quorum," *NEWS* (Abu Dhabi, June 12, 2014).

situation was reflected in the Sunni provinces, where people thought that their interests were not being protected. The Sunnis therefore proposed establishing a region, starting with the Saladin governorate's declaration for federalism in October 2011.[642] The Sunnis' leader supported that demand, and they thought it would be a good way for making a safe place without domination by Maliki. Osama al Nojaefi, the former Speaker from the Sunni community, said, "the constitution explicitly provides articles for the right to form regions through article numbers 117, 118,119, 120 and 121… All should respect the constitution and nobody has a right to stop this right."[643] Al Hashemi also highlighted that right and said, "converting from governorates to federal regions explicitly exists in the permanent constitution and it should be implemented by the government providing conditions for it to succeed perfectly. However, the problem is: the people who wrote the constitution in 2005 are against creating a new region."[644] In other words, the Sunnis had changed their position, and thought that the only solution for them was to create a new region. This indicated positive progress towards the implementation of the constitution in terms of building genuine federalism, but it faced strong opposition from the Shiites, which made it impossible.

The Sunnis' change of heart regarding federalism was due to several reasons. Ammar Wajih, the Sunnis' leader, pointed out in his interview that "nowadays the Sunni Arabs want a region in order to establish a safe place for the Sunnis people."[645] The Sunnis had suffered under the authority of the Shiites and wanted to govern their provinces by themselves through a system of self-determination. As Saleem al Jubouri, the speaker of CoR, said, "that is the outcome of the reality: the central government centralised the power and the Shiites did not share the power with the Sunnis. That led to the Sunnis' demand for the region and decentralization in order to obtain benefits from it."[646] The Sunnis knew that their role had been marginalised. Excluded by the Shiites, they complained about Maliki's way of governing the country. Despite attempts to find a solution to protecting their rights by boycotting and demonstrating, nothing was effective. Eventually, the situation led to an uprising in the Sunnis' area.[647]

The Sunnis' demand for the region was based on governorates, not the whole Sunni area, which included three or four governorates. Ahmed A. al-Masari, the Sunnis' leader and MP, said, "we need the unity of Iraq and if the aim of the creation of regions means self-determination, the provinces system [region based on the governorates] will achieve that. Forming the three regions based on ethnic-religious lines may divide Iraq into three states: Shiite, Sunni and Kurd, but we want the unity of the country."[648] The Sunnis did not have one single, overarching view regarding the style of the region they demanded. The only thing they

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[642] Visser Reidar, "In Salahaddin, a Confused Federalism Bid" (Iraq and Gulf Analysis,https://gulfanalysis.wordpress.com/2011/10/27/in-salahhadin-a-confused-federalism-bid/, October 7, 2011).

[643] Al-Taee, Allah, "The Council of Representatives Conference," *Al Sabaah, Arabic Newspaper*, November 15, 2011, 2390 edition.

[644] Al Sabaah, "Al Hashemi: The Formation of Regions Is Constitutional Order," *Arabic Newspaper*, November 30, 2011, 2402 edition.

[645] Interview with Ammar Wajih Zainulabdeen.

[646] Interview with Saleem al-Jubouri the Speaker of Parliament from Sunni group, interview.

[647] Interview with Jamal Al-Gailani, August 6, 2014.

[648] Interview with: Ahmed A. al-Masari, interview.

wanted was to be independent from the Shiites' authority. The problem was that the Shiites did not agree with creating any region at all, as they believed that this would separate the country. Ayad al-Samarrai pointed out, "when the Sunnis called for federalism the Shiites rejected it and they did not accept that proposal."[649]

Why were the Shiites against establishing a new region in Iraq? What were their views about it? It is obvious that the Shiites and the Kurds strongly supported federalism. In addition, one of the Shiite political parties (ISCI) had suggested establishing a region for the Shiites in the South of Iraq in 2006. During the period 2010-2014, there were different views about forming a region for the Sunnis, separate from the Shiites. Ammar al-Hakim, the leader of ISCI, pointed out that "federalism is a constitutional right, and that principle should organise our plans, guaranteeing interests for all communities. And then it should consider the sensitivities, time conditions and constitutional procedure."[650] Although al-Hakim had previously backed his own party's proposal for creating a region in the South, he did not support the establishment of a new region for the Sunnis. Souzan al-Saad, a former MP from the Fazial Shiite Party, said "that demanding threatens the unity of Iraq because it will divide Iraq into many parts and produce sectarian fights."[651]

Similarly, the Sadrist group was against any attempt towards forming a new region in Iraq. Hakim al Zamely, from the Sadrist bloc, said, "calling for establishing the Sunnis' region at this time has high risks that could negatively affect other provinces and places demanding that."[652] In his interview, Hani, also from the Sadrist bloc, said, "Saeed al Sadr [the head of the Sadrist group] asserted that implementing federalism at present has a risk and would be cause for dividing Iraq because infrastructure has not been completed in the country to deal with their federal application. For that reason, Saeed al Sadr believes in delaying federalism."[653] This meant that the Sadrist group did not support federalism. The Sadrists believe that it will be a long time before conditions will be sufficiently stable to implement federalism.

Finally, Maliki's attitude was crucial, since he was the Prime Minister during that period for the second term. He said, "we will not allow the establishment of federalism in Iraqi provinces because it will be a cause for tearing the country apart."[654] However, there was no unity in Iraq in practice because the region of Kurdistan was also moving towards more independence, and because the Sunni provinces did not agree with being governed by the Shiite majority. Maliki asserted, "We do not reject the demand, but we say that the time is not appropriate

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[649] Interview with: Ayad al-Samarrai.

[650] Al Sabaah, "Al-Hakim: Federalism Is the Constitutional Right," *Arabic Newspaper*, November 20, 2011, 2394 edition.

[651] Al Sabaah, "Representatives: Calls for the Establishment of Regions Is the Seed for the Division of Iraq," *Arabic Newspaper*, November 24, 2011, 2398 edition.

[652] Al Sabaah, "Sadrist: Establishing Regions in This Stage Has High Risks," *Arabic Newspaper*, November 5, 2011, 2387 edition.

[653] Interview with: Hani Mousa. Shiite MP from Sadrist bloc, October 18, 2015.

[654] Dinar Updates, "Maliki: Iraq Is Not Ready for Federalism" (http://www.dinarupdates.com/showthread.php?2306-Maliki-Iraq-is-not-ready-for-federalism, December 2, 2012).

for it."[655] In his interview, he stated: "yes, after political stability and destroying IS, come and establish federal regions in the peaceful way. But forming them based on sectarianism is not good… Establishing federal regions based on the provinces could be fine, as Basra [the Shiites' city] demanded."[656] Hence, there was no support for the Sunnis' demand, and the entire Shiite community was against creating a region for the Sunnis, even if it was based on a single governorate.

In light of the above discussion, it is obvious that some political parties did not allow the Sunnis to form another region. The Shiites thought that attempts to do this would threaten their own position of governing the whole country. This shows that there was an exchange in the Shiite and Sunni groups' positions regarding establishing federation regions. The Shiites originally accepted federalism, but when they saw the authority that they monopolised in the political institutions, they changed their mind, and opposed federalism. Moreover, when the Sunnis saw that they were being neglected, they changed their minds, and worked towards establishing a region, in order to prevent their provinces from being controlled by Shiite authority. The Kurds, although they already had their own region, did not take any side in the debate for creating a new Sunni region. Hence, the establishment of a new region, an element of consociationalism, was not implemented during that period. The inability to create a new federal region – as an instrument for gathering communities and making power-sharing work – meant that further conflict arose.

7.6 Conclusion

As discussed above, it was obvious that the implementation of consociationalism faced more challenges. Some consociational principles were implemented, but those were not really significant because they did not lead towards consociational democracy. Proportional representation is reflected in the CoR and CoM, as each community obtained its ratio of seats and high-level positions. It was based on the permanent constitution and electoral law, and was a formal requirement for forming the CoR and an informal requirement for shaping the CoM. While proportional representation was fully implemented in the CoR, this was not the case with the CoM.

Grand coalition government is another key element of consociationalism. In Iraq, it was the result of an informal agreement, based on the Erbil Agreement. While there was distribution of posts between communities for the purpose of forming a broad-based cabinet, this was not compatible with the values of grand coalition government and power-sharing arrangements. In reality, grand coalition government could not be implemented in Iraq, since one political party from the Shiite community was able to control the entire process, with no opportunity for sharing the power among other communities.

There were two types of mutual veto, presidency veto and super majority veto. However, only the super majority veto was able to be implemented constitutionally. Despite being a formal requirement to prevent majority rule, it did not really work during that period because it was only partially implemented, and could not stop the tyranny of a powerful group.

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[655] Ibid.
[656] Interview with: Nouri al-Maliki, interview.

Moreover, creating a new region, for which there were stipulations in the constitution, did not work in the period. Interestingly, however, attitudes towards federalism changed during this time, with the demand for the creation of a new Sunni region, which the Shiites refused. The Sunnis wanted to protect themselves from the Shiite domination, but despite having the constitution on their side, they could not get what they wanted. This means that the Shiites were a significant barrier to creating a region for the Sunnis.

Since consociational elements were only partly reflected, the political process became more complicated, and crises arose among communities. We can see better results where consociational elements were formally required, and worse results where they were not. (Table 21 shows the implementation of it). This means there was lack of actual and true implementation of consociational elements that affected by politician's performance that opposed the formal reflection of consociationalism.

During Maliki's second term, Iran's role in Iraq increased and replaced the role of the US-led coalition. This happened during the negotiations to form the new cabinet, select a new Prime Minister, and establish how powerful ministries would be distributed. The rule of Iran was the result of the absence of the US-led coalition. Iran wanted to side-line the Sunni community and support the Shiites in controlling as many of the positions as possible. This caused more crises between the Sunnis and Shiites in the political process.

Rating the implementation of consociational elements in Iraq from 2010-2014				
	Consociational elements	Implemented	Partially implemented	Not implemented	Notes
1	Grand coalition			√	While there was distribution of posts between communities for the purpose of forming a broad-based cabinet, this was not compatible with the values of power-sharing arrangements. In actuality, grand coalition government was not implemented because one political party, especially one man role, from the Shiite community controlled the entire process.
2	Proportional Representation	√			While proportional representation was fully implemented in the CoR, this was not the case with the CoM. This means it is not fully implemented in the government.
3	Mutual Veto			√	It did not work well during that period because it could not stop the tyranny of a powerful group which is the Shiite majority.
4	The creation of a new region			√	There was demand for creating the new region, but despite having the constitution on their side, it did not occur because the Shiites were a significant barrier to creating a region for the Sunnis.

Table 21: Rating the implementation of consociational elements (2010-2014)

Chapter 8 Conclusion

8.1   Introduction

The question that I have addressed in this thesis is whether Iraq was a consociational democracy in its formal institutions as well as in practice from 2003 to 2014. This is an important question because consociationalism (the elements of which include grand coalition, proportionality, mutual veto, and autonomy) is frequently practised as a way to resolve conflict within divided, post-war societies, such as Iraq after 2003, where it was promoted by a number of intervening states, particularly the US. This involved bearing in mind the role of the US-led coalition in the political development of Iraq during this period. Assessing whether consociationalism was actually practiced is of relevance to any assessment of the reasons for the continued violence and conflict in Iraq, and to evaluate the efficacy of consociationalism as a conflict-management tool. Textual analysis has been used as a method for the first part of the empirical chapter, which is about formal consociationalism in the constitution. It was crucial to map out the actual consociational elements in the constitution. The second part of this chapter examined the implementation of consociationalism. It traced the events that took place between 2003 and 2014. I have divided this into three main periods: from 2003 to 2005, 2005 to 2010, and 2010 to 2014. Three main types of data have been used: written primary sources (the permanent constitution, meeting minutes, memoirs, and public documents), interviews, and secondary sources (journal articles and books).

From this investigation, three general points can be concluded. Firstly, consociational elements were only partially reflected in the constitution. Proportionality and autonomy were fully reflected, but the mutual veto was only partially reflected. While a requirement for grand coalitions does not exist in the constitution, it was managed by agreement whenever required for forming a cabinet. (See Table 22) Two of the key features of consociationalism, proportionality and mutual veto, were formal requirements in the constitution, while the other two, grand coalition and autonomy, were not but were implicit in the document. Therefore, required elements had more chance to be implemented that the empirical investigation suggests.

Secondly, what is written and implied in the constitution regarding consociationalism affected politicians' implementation of it. The point I want to make here concerns the path dependency between the constitution and its implementation. Consociationalism was partially reflected in the constitution, and then partially implemented; however, there is a mismatch between institutional design on the one hand and the implementation of this design on the other. Despite the fact that the permanent constitution was compatible with consociationalism, consociationalism was at best partially practiced in reality. There were, then, different degrees of implementation of consociational constitutional provisions. Sometimes, what was in the constitution was not implemented, while on other occasions, politicians implemented consociational principles that were not in the constitution. (See Table 22) Complicating this further, the individual behaviour and attitudes of the politicians involved limited the practice of the power-sharing arrangements that the constitution recommends.

Finally, external actors, especially the US-led coalition, were crucial for the adoption of consociational elements in Iraq; Iraq was pushed in this direction in particular by the international presence, led by the US. When the US-led coalition was in power in the country, there was a better implementation of consociationalism. For instance, if you compare 2005-10 with 2010-14, you can see an improved implementation of consociationalism in 2005-10. (See Table 22). Consequently, while the permanent constitution included consociationalism features, the implementation of it did not correspond perfectly.

Rating the reflection and implementation of consociational elements from 2005 to 2014			
	Consociational elements	Constitutional reflection	Consociational implementation from 2005-10	Consociational implementation from 2010-14
1	Grand coalition	Not reflected	Partially Implemented	not Implemented
2	Proportional Representation	Reflected	Implemented	Implemented
3	Mutual Veto	Partially reflected	Partially Implemented	Not Implemented
4	The creation of a new region	Reflected	Not Implemented	Not Implemented

Table 22: Rating the reflection and implementation of consociationalism (2005-2014)

In addition, Table 22 corresponds with the focus on construction between formal reflection and the implementation of consociational elements I highlighted in the introduction and research question. The table demonstrates that there was partial consociational democracy in Iraq from 2005 to 2010, and it also shows that the practice of consociationalism declined between 2010 and 2014. The main explanation for this is that the political leaders' actions moved away from the actual practice of consociational elements to single community rule, especially by one political party, that is Malik's party. For that reason, the issue was not related to consociationalism because it was promoted in many cases, and was not part of a partial reflection of consociational elements because, according to consociational scholars, the Iraqi constitution is a consociational document. Consequently, the issue is more securely related to the way that consociational elements operated in practice and the effectiveness of external actions, in particular the US-led coalition.

The current chapter develops these findings in more detail, and is consequently divided into three main sections. The first focuses on the key findings regarding how consociationalism is formally reflected in the Iraqi political system after 2003. The second part examines the significant outcomes of the implementation of consociationalism. Third, the role of the US-led coalition in the political development, particularly in terms of consociationalism, will be outlined. Finally, I will make recommendations for further research in this field.

8.2 Reflection of Consociationalism in the constitution

Path dependency can be noted in the reflection of consociationalism in the constitution. There was path dependency throughout the period even before the permanent constitution, when the US-led coalition imposed the system of broad based institutions. After the invasion in 2003, the US-led coalition established the foundations for a power-sharing arrangement

through the IGC and the first Cabinet, which lasted from 1 September 2003 to June 2004. [657] These two institutions were established through a broad-based government style and involved representatives from each community in its proportion. Out of the 25 posts, the Shiites obtained 13 posts, the Sunnis 5 posts, the Kurds 5 posts, the Christians 1 post, and the Turkoman 1 post. Thus, political institutions set up even before the drafting of the constitution in 2003 shaped the later constitutional framework, which included a degree of proportional representation.

 Similarly, this system of power sharing was carried out and formalised in the TAL, which was characterised by provisions for federalism, grand coalition, proportionality and a mutual veto. Therefore, consociationalism was fully formally reflected and embedded in the TAL. This is addressed in more detail in chapter 5. A combination of direct appointment at the beginning of the invasion and the implementation of the electoral process later on, which formed political institutions across ethno-religious groups and produced the TAL, enabled power sharing principles to be consistently practised throughout the period.

Moreover, the constitution itself, when drafted, included firm provisions for federalism and mutual veto, but only limited provisions for proportional representation (limiting it to Parliament, not the bureaucracy and executive positions), and for grand coalition government and power sharing. As argued in chapter 4, this study found that certain elements of consociationalism are formally reflected in the Iraqi constitution, but that not all of them are explicit. Formally, proportionality occurs in a few constitutional articles, such as, 9(A) Armed forces, and 49 (the first section), which details the composition of the CoR.[658] In addition, provisions for proportional representation are found across a wider range of legislations and informal agreements, such as the Electoral Law and the Erbil Agreement.[659] The latter, which took place in 2010, advocated the appointment of certain individuals to high-level positions. These instances of proportionality, both formal and informal, are compatible with the theory of consociationalism because it takes different forms, democratic or authoritarian, formal or informal, and liberal or corporate in different divided places.[660]

Another consociational element is grand coalition. This research highlighted, however, that there are no provisions for grand coalition government in the constitution and other legislation. It is only apparent in Article 138 (2) of the constitution, which deals with electing the Presidency, and prescribes that it should consist of three people from the three key communities for a specific period from 2005 to 2010. However, for the government we can see grand coalition in informal agreements (e.g. the Erbil Agreement) among significant political leaders. Therefore, formally, there is no chance for a single community to govern Iraq without getting support from other significant communities to form the cabinet. There are

[657] BBC, 1st September 2003. http://news.bbc.co.uk/1/hi/world/middle_east/3199561.stm and see Middle East newspaper (in Arabic) 2003, Issue 9044,2nd September 2003.

[658] Iraq, "Permanent Constitution."
[659] "Erbil Agreement, 2010, http://peacemaker.un.org/sites/peacemaker.un.org/files/IQ_101107_IraqErbilAgreement%20%28English%29.pdf."
[660] McEvoy, Joanne and O'Leary, Brendan, *Power Sharing in Deeply Divided Places*. P.27

many existing constitutional provisions requiring collaboration among communities, which aim to make it impossible for a single community to dominate, even if it has absolute majority in the CoR. Hence, grand coalition in Iraq is mostly managed on an informal basis.

The third consociational element that is formally reflected in the constitution is mutual veto. There are two types of veto provisions. The first, the Presidency veto, is placed in Article 138, sections 1 and 4, which state that "the Presidency Council shall issue its decisions unanimously."[661] Between 2005 and 2010, the Presidency Council consisted of three key communities, each one having the formal right to use the veto. The second, the super majority veto, is covered at 12 points in the constitution. All of them require a two-thirds majority of seats in the CoR to issue a law, or two-thirds of voters in three or four provinces to approve a constitutional amendment or to create a new federal region. Each of the key communities can use this right to stop a particular process by rejecting or withdrawing its members from the CoR. However, these vetoes are actually not very strong, especially after 2010, when the formal presidency veto was abandoned.[662] Thus, the super majority veto was the only veto to remain in the permanent constitution. The obligation to uphold the mutual veto gives more power to minority groups being neglected in the political process.

Finally, federalism is particularly well-represented in the permanent constitution, and acts as a foundation for the political system after 2003. Federalism is covered by several articles. In particular, political autonomy, which is the core of federalism in Iraq, is conspicuous. Creating a new federal region is a crucial point, because it encompasses all three forms of federalism: cultural, economic, and political autonomy. Article 117, section 2 emphasises this point, observing that "this Constitution shall affirm new regions established in accordance with its provisions."[663] In addition to giving governorates the right to create a region, the permanent constitution also "leaves the decision about what the number of regions and their boundaries should be to the governorates."[664] That process should be put to vote through a local referendum. As Article 119 states, "one or more governorates shall have the right to organize a region based on a request to be voted on in a referendum."[665] This study finds that the issue with creating a new region in Iraq is that it is only optional, rather than an obligation. This means that according to the provisions of the constitution, the government is not obliged to take responsibility for carrying out the entire process.

While consociationalism was the most logical and applicable system for Iraq, support for consociational institutions was mixed among all communities. There were some powerful voices both from Iraqis themselves and the international community, which was pushing for a broadly consociational system. However, support for these institutions among Iraq's political parties was mixed. The main reason for this was that some political parties did not feel that consociationalism would allow them to obtain what they wanted. This led to it only

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[661] Iraq, "Permanent Constitution."
[662] Ibid. Article 138, Section 1
[663] Ibid.
[664] Bogaards, Matthijs, "Iraq's Constitution of 2005: Three Problems, Four Misconceptions, Some Suggestions."
P.16
[665] Iraq, "Permanent Constitution."

being partially reflected in the permanent constitution. However, its adoption was more well-received than other alternatives, such as majority rule.

The argument I shall make here is that one cannot simply examine the permanent constitution and then its implementation. What happened at each stage of the process influenced the next. One cannot understand the constitution without looking at the work undertaken early in the occupation and at the TAL, nor can one understand the implementation of consociationalism without regarding the constitution. This does not mean that consociational elements translate directly from one stage to the next, but certain elements are carried through.

In retrospect, policy-makers should have considered two points, which were not in fact taken into account. First, they should have made *all* consociational elements a requirement in the constitution. Second, failing that, they could have put greater emphasis on the existing consociational elements. This would have been better for Iraq. My opinion is that there was no intense interest among the key communities for all consociational elements to be represented in the constitution. While all parties were in favour of power sharing, there were reservations from each community, particularly the Shiites, who were not particularly interested in power sharing until they were sure that they would obtain what they wanted. The explanation for this is related to the different communities' thoughts about the political system. The Shiites were not entirely supportive of the consociational elements, while the Sunnis were completely against them. The only fully supportive community was the Kurds.

8.3   Implementation of consociational elements
The implementation of consociational characteristics was the core of this investigation, in line with the aims of the study. My research highlighted that the implementation of consociationalism differed from the constitutional provisions, in the way that they operated. That is to say that some political institutions effectively adopted a number of consociational features, while other consociational provisions in the constitution were only partially implemented. In the following sub-sections, the research findings in relation to the four individual characteristics of consociationalism are summed up.

8.3.1   Proportional representation
Proportionality was represented in various ways from 2003 to 2005 and from 2005 to 2014. During 2003 to 2005, proportionality was an outcome of the appointment of the distribution of posts among key communities, and the passing of the electoral law, mainly drafted by the US-led coalition. Under the US-led coalition's appointments, the Shiites obtained absolute majority in all positions, starting with the IGC, and ending with the Transitional Government (TG) in May 2005, in which the Shiites' political parties dominated across all posts. The Kurds received 20% of posts in the IGC, but in the TG they obtained more than this ratio because the Sunnis boycotted the political process. The Sunnis formally had the right to obtain 20%, but they did not participate in the TNS and the TG, which led to an increase in the ratio of Shiites and Kurds in the TNS and TG. In addition, the Turkomen and Christian communities, as minorities, obtained 3% to 4% of posts. Thus, this study noted that it was the US-led coalition's method for proportionality through direct appointment that established the foundation for each community to obtain its due proportion in the political institutions. This kind of formula

came from the US occupation, and no-one really challenged it. Rather, it carried through with very few amendments, and was very difficult to change. This is an example of path dependency by the US-led coalition.

From 2005 to 2014, the ratio of each community in parliament, the Shiites, the Sunnis, and the Kurds, had slightly fluctuated. According to the election results, the Sunnis' community received just 1.8% of votes and seats in the January 2005 election, which increased to 20.5% of votes and 21.45 seats in the December 2005 election. The main reason for the large gap was because in the January 2005 election they boycotted the process. They could keep their proportionality in the March 2010 election because the Secular list joined the Sunnis' group under the Iraqi National Movement list, which got 30% of votes and 31% of seats. The Kurds' community lost their ratio because in the January 2005 election, they received 25.7% of votes and 27.2% of seats, but in the December 2005 election, they got 22.96% of votes and 21.09% of seats. In the March 2010 election, their proportion slightly increased to 22.1% of votes, but the number of their seats decreased to 17.5%. They could not keep their proportionality because of amendments to the electoral law, which negatively affected their proportional representation in the CoR. The proportionality of the Shiites was an exceptional case, because in the January 2005 election, they received 48.2% votes and 50.9% of seats, but in the December 2005 election, they obtained 42.38% of votes and 47.28% of seats. Moreover, in the 2010 elections, they obtained 42.4% votes and 48.9% of seats. This study found that only the Shiites' community received more than their due proportion over that period, resulting in their over-representation.[666]

This meant that while proportionality was practised broadly during this period, each community's share of the vote fluctuated. It did, however, translate into a relatively proportional number of representatives in each election. The January 2005 election was less representatives because the Sunnis' community was absent and they did not participate in that election.[667] Furthermore, the March 2010 election was less proportional because there was a wide gap between percentage of votes and percentage of seats. Notably, the Shiites obtained more seats by 6.5%, and the Kurds lost 4.6% of seats.[668] Thus, the December 2005 election result was broadly proportional. Thus, while the number of allocated seats diverged from the vote share, it did not do so dramatically, or in a way that changed the outcomes. Thus, the elections were broadly proportional.

Consequently, there was ample opportunity to practise proportional representation during the period under the occupation. Each community had received its ratio in the parliament, despite the number of votes fluctuating at some points. Proportionality was implemented largely because it was a formal requirement for the election process and the formation of political institutions. The lack of implementation of proportionality, especially in the January 2005 election and the TG in 2005, was not related to the formal requirements. Rather, it was related to the attitude of the Sunnis' community towards the political process, and their boycotting of the election. An important point that arose during this study is that

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[666] See the Table 3 in Chapter 6 and 7.
[667] Katzman, Kenneth, "CRS Report for Congress Doc. RS21968."
[668] See the Table 3 in Chapter 6 and 7.

proportionality played a significant role in the political development of Iraq, and was crucial for forming the cabinet, because it showed each community's weight in an exact number, and generated election results that made coalition government across the communities a necessity for a parliamentary majority. From that point of view, it is an essential element of consociationalism, not a secondary element, as Lijphart pointed out.[669] Rather, I argue that in the Iraqi context, it is a primary concern, and the empirical chapters 5, 6, and 7 demonstrate this clearly.

8.3.2 Grand coalition

Immediately after the invasion, as a first step towards rebuilding formal political institutions, the CPA established the Iraqi Governing Council (IGC) on 13 July 2003.[670] Its structure was very similar to grand coalition government because it was a broad-based institution. Successive political institutions continued in this tradition, with the Iraqi Interim Government (IIG) also based on grand coalition. This was in accordance with the TAL.[671] It had formed without neglecting or excluding any key communities. This study pointed out, as noted in chapter 5, that the main reason for this was the influence of the US-led coalition forces, since they were aware that this kind of government does not allow a single community to monopolise the power. The second key motivation for forming a broad-based cabinet was the provision of the TAL, because there were several places in it that required unanimous agreement between ethno-religious groups. Thus, the external actors and the TAL helped to implement grand coalition government. However, while the TAL stated that the government should be formed broadly, the Transitional Government (TG) was not a broad-based government, because the Sunnis boycotted the political process. This meant that while formally grand coalition was requirement for forming the government, the TG had in reality formed with a few Sunni ministers, which did not meet the requirements for grand coalition.

Following that stage, particularly when grand coalition was not a formal requirement for forming the cabinet, the implementation of grand coalition took different forms. After the approval of the permanent constitution in 2005, up to 2014, two cabinet governments had formed. All political parties demanded the formation of a grand coalition government under the name of NUG and GNPG. While negotiations took a long time, five and nine months respectively, they resulted in an agreement designed to form a government based on power-sharing methods. It was clear that the government structure, in terms of distribution of high-level positions, was a grand coalition government, and was based on consensus among the three main communities. However, in reality its implementation and performance was incompatible with consociationalism.

Grand coalition government is not reflected in the permanent constitution. Instead, majority government is stipulated in Article 76 Sections 1 and 4, which require the largest bloc and absolute majority in the CoR to form and approve the cabinet.[672] It was only after much

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[669] Lijphart, Arend, *The Wave of Power-Sharing Democracy. The Architecture of Democracy, Andrew Reynolds*. P.39

[670] Bremer, L. Paul, McConnell, Malcolm, and Gaines, *My Year in Iraq*. P.99

[671] Iraq, 2004, "Law of Administration for the State of Iraq for the Transitional Period." Article 2, section B1 of the TAL

[672] Iraq, "Permanent Constitution."

pressure and hard negotiations that NUG and GNPG were formed. It was not in the interests of the community that had the majority of the population and the majority of seats in the CoR to institute power-sharing among all communities. The behaviour of Maliki's government and the political parties associated with him indicate that they were attempting to undermine power sharing and consociationalism, which gradually led to authoritarian policies instead of power-sharing arrangements. This means that the implementation of grand coalition did not lead to power-sharing in practice, nor did it create the conditions for a fair decision-making process, which are the usual distinguishing features of a grand coalition government in a deeply-divided society.

As a result, the implementation of grand coalition government under the occupation was better than it was under the permanent constitution and informal agreement. This is because after the occupation ended, it was only partially implemented, and so did not contribute to bringing down the level of ethno-religious violence. The way in which politicians operated the NUG and GNPG in reality meant that they could never implement genuine grand coalition. The main reason that grand coalition is not reflected in the constitution is because it was not a requirement, and only arranged by informal agreement. If grand coalition had been formally enshrined in the constitution, it could have been better implemented, and prevented any political leader, political party, or community from neglecting that kind of principle.

8.3.3   Mutual veto

During the period 2003-2014, we can identify two kinds of mutual veto, the veto of presidency members, and the super majority requirement which creates a de-facto veto. As noted, after 2010 the constitution no longer foresaw the presidency veto.[673] Between 2006 and 2010, each community's representative in the presidency council had made use of the veto opportunity. This study pointed out that each community had used the veto to protect its rights. It was a formal requirement that did not allow any community to be outvoted on that occasion. As addressed in chapter 6, the presidency veto had worked when President Talabani, and Vice-Presidents Adil Abdul Mahdi and Tariq Ai-Hashemi, used it. That kind of veto was formally reflected in the permanent constitution, and that helped with its implementation during the transitional period. Moreover, the super majority veto had partially worked, especially in the case of establishing the Federation Council, because the Kurds used the veto since they did not agree with that kind of proposal.[674] Thus, both types of mutual veto were implemented, but at different levels and occasions, which in practice prevented the neglect of minority communities' views, and avoided one-man rule.

For the period of the second term of Maliki's cabinet, the implementation of mutual veto was not as strong as in the transitional period. Only the super majority veto remained, through a two-thirds majority, on different occasions, which was highlighted in Chapter 7. It did not work very well and did not make practical sense because the rights of minorities were not protected. As I concluded, mutual veto was effective only to a certain extent in contributing to a consociational system, because it did not prevent the dominance of Maliki and the Shiite parties associated with him over the whole political process. The lack of formal provisions for

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[673] Ibid. Article 138 (Fourth).
[674] Interview with Arif Tayfor the former deputy speaker, interview.

mutual veto directly affected the implementation of it over this period, especially during 2010-2014. That is why this study highlighted that in practice the veto worked better during 2006 to 2010 than in the period between 2010-2014, which faced lack of veto provisions.

8.3.4   Creating a new region

Creating a new federal region in Iraq was a controversial point between communities, especially between the Shiites and the Sunnis. The reason is that the devolution of the power between regions and the central government was a matter to be dealt with among political parties. When the Shiites and Sunnis demanded the creation of a new region, the greatest concern of each community was to exert their own power far from the central government. As argued in chapter 6, the Islamic Supreme Council of Iraq (ISCI) proposed a plan for establishing a new federal region for the Shiites in the south of Iraq in 2006. That was according to the initiative declared by Abdul Al-Aziz al-Hakim, the leader of ISCI.[675] It had been refused by some key political parties from the Shiites' community and the entire Sunni Arab community. They claimed that the new federal region would lead to the dissolution of the country and its division into small states, which they saw as unacceptable, thinking that it would lead to an increase in conflict violence between communities. This study pointed out that the Iraqi people were not ready for creating the new federal region, even though provisions for this are formally enshrined in the permanent constitution.

However, during the second term of Maliki's government from 2010 to 2014, the situation experienced a total about-face in terms of creating the new federal region. This was because the Sunnis, who were against the ISCI's proposal for creating the region for the Shiites in the south, demanded the creation of a region for the Sunnis. The Sunnis wanted to protect their rights through creating a new federal region, governed by the Sunnis themselves, to curtail the Shiite dominated government's authority. This attempt started from a proposal from one of the Sunnis' provinces, Salahaddin province, in October 2011.[676] The Shiites strongly opposed the Sunnis' bid, and they did not allow them to create what they wanted. They thought that attempts to do this would threaten their own position of governing the whole country.

This meant that at different times both Sunni and Shiite parties proposed and supported the creation of new regions, and at other times opposed it. Basically, the closer they were to power, the more likely they were to oppose a new region. The primary motivating factor was the desire to obtain majority posts and powerful positions, through which they thought they could control the whole country. Moreover, when the Sunnis were side-lined by the majority of the Shiites, they changed their thinking, and demanded a new federal region. Thus, I argue that the behaviour of politicians was and continues to be the real barrier to creating a new federal region, because in the pursuit of their own interests, they neglected key provisions of federalism, and did not allow it to be implemented at all.

As a result, creating a new federal region, either for the Shiites or for the Sunnis, did not work in the period from 2005 to 2014. Moreover, there were disagreements between the central

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[675] Allawi, Ali A, *The Occupation of Iraq Winning the War, Losing the Peace*. P.408
[676] Visser Reidar, "In Salahaddin, a Confused Federalism Bid."

government and the Kurdistan regional government regarding authority for the Kurdish region as an existing federal region. The problem revolves around provisions for the administration, control, and management of resources, such as oil and gas, etc. This study argued that the Shiites' and Sunnis' attitudes towards federalism changed during this time, with the demand for the creation of a new federal region for the Shiites, which the Sunnis refused, and later on, the Sunnis own equivalent demand, which was refused by the Shiites. Each of them wanted to assure a place for themselves. Another important finding is that the provisions for federalism in the constitution are only optional. They are not a compulsory requirement in the political system.

8.4   The role of the US-led coalition (external actors)

As noted in this study, throughout the whole period of political development, the role of the US-led coalition was crucial. At the beginning of the invasion, they had a strong influence on rebuilding the political system. It was obvious that they wanted power to be shared between significant communities, and they tried to ensure this by drawing up an equation based on the three main communities' participation. They acted as the foundation for forming political institutions, starting with the IGC and ending with the second period of Maliki's government. The role of the US-led coalition is reflected in the TAL, which formally included consociational elements. In addition, their role in drafting the constitution extended to giving the Iraqi people more chances to contribute to writing their own constitution. The US-led coalition had a real role during negotiations for forming the cabinets in 2006 and 2010, and they affected the direction of appointing the Prime Minister and other posts between communities.[677]

At the start of the occupation, from 2003 to 2005, the US-led coalition determined how political development would progress. During that period, it came up with a new political system wherein the Shiites would obtain absolute majority, the Sunnis 20%, and the Kurds 20%, which was reflected practically across institutions. This demonstrates that they wanted power sharing instead of one-man rule. This study pointed out that during that period, the US-led coalition established the foundations for a power sharing arrangement. Therefore, consociational elements were formally reflected in the TAL, in the legislations which formed the Iraqi Interim political institutions, and in the January 2005 election, which was run under their provisions.

In the transitional period from 2005-2010, the US-led coalition made a plan to withdraw its troops from Iraq by the end of 2010. The Iraqi people would then be granted more opportunity to drive their political process. Iraq remained, however, under the US-led coalition's troops, because the Iraqi army was still not ready to take responsibility for the issue of security in Iraq. This meant that the US-led coalition still had the power to affect the direction of Iraq's political development. It could influence the direction of the political process, especially during the negotiations for forming the cabinet, and discussions concerning who should take positions such as that of Prime Minister. The point was that the US-led coalition tried to encourage the Sunnis to participate in the political process, and to

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[677] See the negotiation section in chapter 6.

take posts in the political institutions. Alongside this, they struck a balance between ethno-religious groups to avoid the domination of one community, especially the Shiites, because of their absolute majority in the government.[678] On the other hand, since the Shiites knew that the US-led coalition still had a large role on account of its troops, they realised that they could not attack other communities, especially the Sunnis, or neglect them in the cabinet.

However, when the US-led coalition withdrew its troops at the beginning of the second term of Maliki's government in 2011, the situation immediately changed, and the Prime Minister began to target the Sunnis leaders, starting with Tariq al-Hashimi in December 2011. Moreover, the entire system, which was formulated to be a power-sharing system, was attacked by the Prime Minster, who advocated ignoring the consensus in favour of a 'majority rules' system.[679] This means that the absence of the US-led coalition negatively affected the political process, and led to an increase in the level of conflict violence. That was why the 2005-2010 period was better than 2010-2014 in terms of the positive influence of the US. That is, the US-led coalition had a positive role in bringing all ethno-religious groups together without letting any group neglect another or attack them in the political process.

Thus, you can see that when the role of the US-led coalition was strong, the implementation of consociational elements, especially the gathering of all communities together to share power, was much better. In addition, when the US-led coalition stepped down, Iraq's political development was negatively affected, leaving a government with little aptitude for dealing with minority communities. This study pointed out that the role of the US-led coalition was crucial for implementing consociational elements in Iraq. When the US's power declined, consociationalism crumbled. It opened the gates to external influences and the rise of Iranian power. In addition, consociationalism could not thrive while domestic support for it was so shallow, as highlighted earlier.

In his study, Lijphart did not realise the extent of the role of external actors in cases of consociationalism, but McGarry and O'Leary realised that the role of external actors is, in fact, very important "in the promotion and operation of consociational settlements." [680] They made their case from an examination of Northern Ireland's 1998 Good Friday Agreement. This study reinforces their findings, because I argue that the external actor will affect the direction of the implementation of consociational elements, and promote agreement among communities to reach a consensus. The only difference is that the US-led coalition played its role as an occupying country.

However, as argued in chapters 5 and 6, there were different agendas for external actors, both the US-led coalition and Iran. The US-led coalition was crucial for bringing all communities together to participate in the political process, without letting one single community neglect other community. On the other hand, it was in the interests of Iran, whose influence increased after the US-led coalition withdrew its troops in 2011, to neglect minority

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[678] See Table 3 in chapter 6.
[679] Dodge, Toby, "Iraq's Road Back to Dictatorship." P.149
[680] McGarry, John and Brendan O'Leary, "Consociational Theory, Northern Ireland's Conflict, and Its Agreement. Part 1: What Consociationalists Can Learn from Northern Ireland," *Government and Opposition* 41, no. 1 (January 2006): 43–63.

communities, particularly the Sunnis, and to push the Shiites forward to dominate the entire country. Therefore, while the role of the external actor is important, it is important to understand its agenda, and whether it advocates power sharing or tyranny by single group.

8.5   Conclusion

As I have demonstrated, my contribution consists of three points. One of my contributions is empirical, because I examined how in the particular case consociationalism was partially implemented between 2003 and 2014. This has been demonstrated by unique empirical work, that is interviews with key Iraqi senior leaders from that period, with access to meeting minutes and memoirs and which disagrees that the literature addressing the Iraqi case is fully consociational, such as Lijphart etc. The second contribution of this thesis is adding to the wider literature on consociationalism in Iraq and as a conflict resolution tool or a conflict management tool, and in particular, to power sharing literature. I highlighted how, through political negotiations and political ambitions, individuals can abuse the system. Part of the research analysis is studying the question of the role of consociationalism as a conflict resolution tool (especially when the US and UN thought it would work as a tool for conflict resolution). The empirical analysis highlights how it has not operated in that way in Iraq, because of the way it has been implemented. This raises questions about its utility as a conflict resolution tool, and opens up new avenues for future enquiry and research. The main point of my research is that the case of Iraq can tell us that consociationalism that is compatible with the Iraqi constitution was not implemented correctly and there is a mismatch between formal reflection and practice. The ongoing conflict between communities is increased by Maliki's victimisation of his political opponents set a precedent for instability, where individuals could abuse the system, allowing for a wider gap between the communities, and contributing to the rise of IS.

The third contribution is the impact of the US-led coalition: the Iraqi case demonstrates that the role of the US was crucial for adopting and implementing consociational elements. The US pushed to shape formal political institutions through the lens of consociational elements. When the US was in power, the direction of the political process headed towards ensuring that there would be consensus among key communities and that the political institutions should be broad-based. The political process of 2005-10 promoted that direction. However, when the role of the US declined, some internal actors and Iran were presented with the opportunity to abuse the consociational systems already in place, as the political development between 2010 and 2014 was improving it.

If not in its entirety, can consociationalism be *partially* implemented as a conflict resolution tool? In the case of Iraq, it could not. The outcome of partial implementation of consociationalism from 2003 to 2014 resulted in the neglect of minority communities. It did not lead to a decrease in conflict violence in Iraq, nor did it bring stability, peace, or sustainability. Moreover, IS could flourish, and the gap between the Kurds and the Shiites became wider, with high levels of distrust between communities.

This led to a widening gap between communities. In 2014, the country faced threat from IS, which mostly overtook the Sunnis' area. The Sunnis asserted that they required their own federal region after the recapture of their area. Most Kurdish political parties have decided

to go to referendum regarding the issue of independence on 25 September 2017.[681] Masoud Barzani pointed out that the main reason for the Sunnis' and Kurds' demands is fourteen years of regime collapse. As he said, "Baghdad has failed to implement key provisions of that constitution, and we have good reason to believe that it never will."[682] This shows that the real reason for the widespread failure to implement the constitution is the behaviour of the politicians. Barzani states that "failure of the political system is also responsible for the drastic deterioration of relations between Sunnis and Shiites that led to the rise of the Islamic State."[683] While the referendum was held on 25 September, it did not lead to the Kurdish independence and not go as planned. Thus, the lack of implementation of consociationalism caused instability and distrust among all communities.

This study contributes to the field of the practice of consociationalism as a conflict resolution tool in Iraq by using sources which have not previously been used before for this kind of empirical work, and by covering the time period from 2003 to 2014. In future, it might be worth continuing to investigate the possibility of a solution for Iraq, which is now basically divided into three different parts. Therefore, there are several areas of study in conflict reduction that remain to be investigated. Is consociationalism still an applicable solution for reducing conflict violence in Iraq or are formal divisions and partition required?

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[681] KRP, "President Barzani Meets with Kurdistan Region's Political Parties to Set the Date for the Referendum" (Kurdistan Region Presidency, June 7, 2017).

[682] Barzani, Masoud, "The Time Has Come for Iraqi Kurdistan to Make Its Choice on Independence," *The Washington Post*, June 28, 2017, sec. Opinion.

[683] Ibid.

List of Elite interviews

	Name	Position	Ethnicity	Date	Place	Note
1	Abdulrahman S.Kareem	Former Minster 2003-2004	Kurd	10.7.2014	Erbil	
2	Ammar Wajih	The Senior leader of Iraqi Islamic Party IIS	Sunni	12.7.2014	Erbil	
3	Ali Baper	The head of the Kurdistan Islamic Group KIG	Kurd	15.7.2014	Erbil	Former member of CoR 2010-2014
4	Fakhradden Qader	The Secretary of Kurdistan Parliament	Kurd	16.7.2014	Erbil	
5	Yousif Mohammed	The Speaker of Kurdistan Parliament	Kurd	16.7.2014	Erbil	
6	Jaffar Hagi	The Deputy Speaker of Kurdistan Parliament	Kurd	16.7.2014	Erbil	
7	Mahmood Hamad Amin	Former Member of Iraqi Parliament 2005-2010	Kurd	22.7.2014	Halabja	
8	Bayan Tofiq	Former Minister 2014-2016	Kurd	26.7.2014	Sulaimany	Former member of The INC
9	Yaseen Hasan	Former Iraqi Minister 2010-2011	Kurd	26.7.2014	Sulaimany	
10	Aram Shikh Mohammed	The Deputy Speaker of Iraqi Parliament	Kurd	26.7.2014	Sulaimany	

11	Alaa Makki	Former Member of Iraqi Parliament 2006-2014	Sunni	3.8.2014	Erbil	
12	Hussein Balisani	Former Member of Iraqi Parliament and Member of constitution committee 2004-2010	Kurd	4.8.2014	Erbil	
13	Ahmad Abdulwahab Majid	Former Member of Iraqi Parliament and Member of constitution committee 2004- 2005	Kurd	5.8.2014	Erbil	
14	Mohamad Faraj	Former leader of Kurdistan Islamic Union KIU 2013- 2016	Kurd	5.8.2014	Erbil	
15	Jamal Al-Gailani	Former Member of CoR	Sunni	6.8.2014	Erbil	
16	Mohammed Senamoki	Former Member of CoR 2004-2005	Kurd	12.8.2014	Erbil	
17	Barham Salih	Former Prime Minister of KRG	Kurd	20.8.2014	Erbil	
18	Saieb Al-Gailani	The leader form the Sunnis community	Sunni	23.8.2014	Erbil	
19	Qader Saeed	Member of CoR	Kurd	2.9.2014	Erbil	
20	Qubad J.Talabani	The Deputy Prime Minister KRG	Kurd	11.9.2014	Erbil	

List of Elite interviews

21	Arif Tayfor	Former Deputy Speaker of CoR 2004-2010	Kurd	12.9.2014	Erbil	
22	Akram M.H. Al-hakim	Member of CDC and former Minister of CoM 2006-2010	Shiite	2.10.2015	By Email	
23	Salahaddin Muhammad	Former member of IGC 2003-2004	Kurd	5.10.2015	Sulaimany	
24	Mohsen Abdel Hamid	Former member of IGC and president, February 2004	Sunni, Kurd	7.10.2015	Erbil	
25	Mahmoud Othman	Former member of CoR and IGC	Kurd	8.10.2015	Erbil	
26	Rowsch Shaways	Former Deputy Prime Minister 2015	Kurd	10.10.2015	Erbil	
27	Yonadam Y. Kanna	Member of CoR	Assyrian	15.10.2015	Baghdad	
28	Alia N. G	Member of CoR	Shiite	15.10.2015	Baghdad	
29	Hisham Al-Suhail	Member of CoR	Shiite	15.10.2015	Baghdad	
30	Humam Hamoudi	Head of The CDC and Deputy Speaker of CoR	Shiite	15.10.2015	Baghdad	
31	Ayad Al-Samarrai	Former speaker of CoR 2010	Sunni	16.10.2015	Baghdad	
32	Ahmad A. Al-Masari	Member of CoR	Sunni	18.10.2015	Baghdad	
33	Saleem Al-Jburi	Speaker of CoR	Sunni	18.10.2015	Baghdad	
34	Hanan Al-Fatlawi	Member of CoR	Shiite	18.10.2015	Baghdad	

List of Elite interviews

35	Hani Mousa	Member of CoR	Shiite	18.10.2015	Baghdad	
36	Dara M. A. Saeed	Former Minister KRG	Kurd	3.3.2016	By Facebook	
37	Nouri al-Maliki	Former Prime Minister 2006-2014	Shiite	17.10.2015	Baghdad	
Total: 37 interviews (21 Kurdish, 7 Shiite, 8 Sunni, and One is Christian)						

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