

Iraq's Informal Consociationalism and Its Problems

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Abstract

This paper looks at the applicability of formal, informal, liberal and corporate consociationalism to Iraq. It examines the drafting of the Iraqi constitution in 2005 and the political system it consecrated. It argues that the political system in Iraq is a good example of informal consociationalism, with government formation governed by unwritten consociational rules and norms. It then examines the negative problems connected with this system, primarily exclusion and systematically sanctioned corruption. It concludes by examining the challenges posed to the post-2005 system by the mass protest movement that started in October 2019.

Introduction

The Iraqi constitution of 2005 and the political system it consecrated has become a key case study and debating point in the literature focused on peacebuilding in post-conflict or deeply divided societies. John McGarry and Brendan O'Leary herald the constitution – which O'Leary was involved in drafting – as a key example of liberal consociationalism (McGarry and O'Leary 2007). Matthijs Bogaards, by contrast, traces Iraq's current political problems back to what he terms the constitution's 'light' consociationalism, focused on temporary power-sharing measures and 'fluid federalism' (Bogaards 2019b:2). Still others emphasize the exclusionary, secretive and rushed manner in which the document was written and the flaws this has created (Aboultaif 2020; Anderson 2015; Arato 2009; Hay 2014; Horowitz 2008; McEvoy and Morrow 2005). These criticisms are all well founded. However, over and above this, the ethno-sectarian proportional distribution of jobs and state resources and

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the ideational 'groupist' assumption underpinning the constitution, although central to consociationalism, have directly contributed to the violent instability of the political system post-regime change and the de-legitimization of the elite that runs it (Brubaker and Cooper 2000).

What Form of Consociationalism Does Iraq Have?

To a remarkable extent, contemporary consociational approaches, whether academic analysis or normative prescription, follow the approach outlined in Arend Lijphart's early work (Lijphart 1969, 1977). Although Lijphart later stressed that his four pillars for consociational democracy were not meant to be rigid rules, his promotion of inclusive grand governing coalitions, a mutual veto on policy, segmental autonomy, and proportionality in both political representation and the distribution of state resources, are reproduced throughout the majority of work that claims to be consociational (Lijphart 1977:25, 33, 36–7; 2001:11; O'Leary 2001:42; Taylor 2009:9).

In an attempt to respond to criticisms that the consociational agenda was based upon a primordial conception of political identity (Dixon 2011), which he himself acknowledged, Lijphart later introduced the distinction between 'pre-determined and self-determined groups in power-sharing systems' (Lijphart 2001:11). This was reworked by later generations of consociationalists, including Allison McCulloch and Joanne McEvoy in this special feature (McCulloch and McEvoy 2020), as a contrast between corporate and liberal consociation, with the latter involving the recognition and political integration of whatever groups emerge in a given polity at a given time (Lijphart 2001; McCulloch 2014:503–4, 509; McGarry and O'Leary 2007:675; O'Driscoll 2017:317). A final distinction which has been added to Lijphart's work, and which is especially useful in analysing Iraq, is between formal and informal consociationalism: those consociational power-sharing agreements that are enshrined in law or within a constitution, and those that have been reached through private negotiations or have evolved to become unwritten norms or practices.

Iraq's claim to being consociational rests mainly on the political system brought to life by two national elections, the drafting of a new constitution, and its ratification by national referendum, all in 2005. The constitution itself and the process involved in drafting it are certainly controversial (Anderson 2015). The elections of January 2005 were for a National Assembly, which was to write the new constitution by August and have it ratified by referendum in October. This seven-month timetable was very short when compared to the drafting of other post-conflict constitutions (Al-Ali 2014:86–7). Iraq's truncated drafting period was further reduced by the slow process of post-election government formation. The head of the National Assembly's Constitutional Committee, Humam Hamoudi, was not appointed until 23 May, ahead of a 15 August deadline for the constitution to be drafted.

The role of both the Assembly and the Committee were then effectively scrapped on 8 August when the work of finishing the draft was taken over by a 'Leadership Council' (Morrow 2005:9; see also Arato 2009). This group was

comprised of Jalal Talabani (President of Iraq and leader of one of the two main Kurdish parties, the Patriotic Union of Kurdistan [PUK]), Masoud Barzani (President of the Kurdish Regional Government and leader of the other main Kurdish party, the Kurdistan Democratic Party [KDP]), Abdul Aziz al-Hakim (leader of one of the three main Shi'a Islamist groups, the Supreme Council for the Islamic Revolution in Iraq [SCIRI]), and Ibrahim al-Jaafari (leader of another Shi'a Islamist party, Dawa). Given the important role played by mutual veto and inclusive ruling coalitions in Lijphart's model of consociationalism, it is significant that those claiming to represent the Sunni section of society as well as those who mobilized secular and Iraqi nationalist votes were deliberately excluded from the Leadership Council.

This exclusion meant that the Iraqi constitution was drafted by the two dominant Kurdish parties, the KDP and PUK, and by SCIRI (Anderson 2015; Younis 2011). These three groups were united by a joint commitment to a highly federal decentralized Iraqi state. The other major Shi'a Islamist groups, the Dawa Party (then led by Ibrahim al-Jaafari) and Muqtada al-Sadr's movement, both actively opposed the federal aspects of the constitution – one from inside the process, one from outside – both to no avail (Hamoudi 2014:65). By writing the constitution to such a tight schedule, without any attempt at consultation and by actively excluding two of the three major Shi'a parties and those representing Sunnis as well as secular nationalists, the constitution became a lightning rod for those who felt alienated from the post-2003 political order and undoubtedly it became one of the main reasons for an escalation in the civil war (Dodge 2012:44–9; O'Driscoll 2017).

Beyond the flawed process of its drafting, Bogaards has argued that the constitution also contributed to Iraq's violent instability because it incorporated few or no power-sharing mechanisms. He argues that the weak, liberal, voluntary and informal power-sharing in the constitution failed to deliver 'a stable framework for the accommodation of communal tensions' (Bogaards 2019b:2). This argument echoes Donald Horowitz's critique that 'Apart from enshrining values of federalism [...] it is difficult to identify in that document any institutions designed to reduce ethnic or sectarian conflict' (Horowitz 2008:1230). However, in a different paper examining Lebanon's political system, Bogaards successfully develops the distinction between formal and informal consociationalism, arguing that the majority of rules that govern Lebanon's corporate consociationalism are informal (Bogaards 2019a:33, 35). Iraq's consociational system functions in a comparably informal norm-based way.

Bogaards is right to argue that the formal consociational rules in Iraq's constitution are minimal, with a number of them lapsing after a specified period of time. However, an examination of how government formation has functioned following each of Iraq's five national elections between 2005 and 2018 indicates that a consistent and inflexible set of informal rules has imposed a consociational logic on the system. After voting has finished and the tally is officially agreed, Article 55 of the constitution specifies that negotiations to appoint a government must begin with the selection of a Speaker for the Council of Representatives (Constitution of Iraq 2005). The informal

consociational rules stipulate that this has to be a Sunni. Negotiations then move on to the appointment of a President, formally regulated by Articles 70 and 72 of the constitution. Informally, the rule is that the President has to come from one of the two main Kurdish parties. Under Article 76 of the constitution, the President is tasked with selecting a representative from the largest bloc in parliament to become Prime Minister designate, who then forms the government. The informal rules of the system stipulate that the Prime Minister has to be a Shi'a. Each Prime Minister since 2005 has then appointed a Grand Coalition cabinet, comprised of those parties that claim to represent Iraq's various ethnic and religious communities and which had a degree of success at the ballot box. Hence, while the formal rules regulating this consociational system are indeed limited, the power of the informal norms, first applied in 2005, is such that this consociational process has regulated the formation of every government of national unity since then.

The Weakness of Iraq's Informal Consociational System

Iraq's political system has been undermined by two major weaknesses, however, both of which can be traced back to faults in Lijphart's original conception of consociationalism. The first is linked to his notion of proportionality, 'a method of allocating civil service appointments and scarce financial resources in the form of government subsidies among the different segments' (Lijphart 1977:38). In the process of government formation in Iraq after each national election, it is not only ministerial posts that are allocated to the victorious parties who claim to represent Iraq's ethnic and religious communities but also the right to appoint senior civil servants across government, as well as the 'private grades' comprising the Director Generals that run each ministry (Dodge 2019). Interviews carried out by the author in Baghdad indicate that in the aftermath of the 2018 election, for example, in addition to ministerial posts, the awarding of approximately 800 senior civil service jobs, spread across all ministries, was a central part of the government formation negotiations.

This proportionality at the core of informal consociationalism has given rise to systematically sanctioned corruption. Hence the function of the party-appointed civil servants, whilst overseeing government contracting in each ministry, is to siphon off illicit resources to fund the parties' operating budgets, fuelling personal corruption as well. Judge Radhi Hamza al-Radhi, the Head of the Commission on Public Integrity from 2004 to 2006, damned the government's contracting process as 'the father of all corruption issues' (Special Inspector General for Iraq Reconstruction 2011:8). Investigative journalists have exposed numerous cases of contract fraud involving ministers, foreign firms and either bogus agreements or bribes paid for preferential treatment in government bidding rounds (Saqr 2019). In confidential interviews carried out in Iraq by the author, senior government ministers suggested that as much as 25% of their annual budget was misappropriated through contract fraud.

The second dynamic within Iraqi politics that places doubt on Lijphart's approach and consociational power-sharing more generally surrounds the issue of dominant identities. Although Lijphart disavowed an earlier commitment to primordialism, consociational scholars have little to say about where identities come from, how sub-state communities are solidified and can change, or the validity of the national elite's claims to represent their constituencies (Anderson 2015; McEvoy and Aboultaif 2020). Inflexible 'segmental cleavages' remained central to Lijphart's work (Lijphart 1977:48). John McGarry and Brendan O'Leary also argued that identities can be 'inflexible, resilient, crystallized, durable, and hard', without saying why or how they became hard or how they could change. (McGarry and O'Leary 2007:671; 2009:17). As Paul Dixon (2020) argues in his contribution to this collection, this opens scholars who do not examine the process of identity formation and identity change but instead take those identities as given to the charge that their work is based on an assumption – whether passive or active, conscious or subconscious – of primordialism (Chandra 2001:8; Dixon 2011).

To avoid this charge, those working within consociationalism have to engage critically with comparative theories of political identity and the causalities behind identity change. To move away from the charge of primordialism, it is not enough simply to point to historical or contemporary examples of hard, inflexible or resilient identities as a justification for consociationalism. An extended engagement with both the empirical history and contemporary politics of where those identities originated and what agential and structural conditions have kept them coherent and at the heart of political and sociological interactions is needed. In addition, this has to be coupled with an overt engagement with contemporary social theory focused on examining identity politics. This is necessary to explain – from within comparative politics – why some identities are constantly reinvented and renegotiated to remain relevant while others fade into political and rhetorical obscurity (see for example Dodge 2018, 2020).

It is the failure of Iraq's consociational system that has driven a major transformation in Iraqi identities and political mobilization. Popular dissatisfaction with the political system is indicated by a steady decline in turnout at national elections, from a peak of 70% in December 2005 to 44% nationally in 2018, 33% in Baghdad and only 10% percent in Basra (Mansour 2018). More importantly, this widespread disillusionment with Iraq's ethno-sectarian consociational political system has given rise to an increasingly coherent protest movement that has seen over a million people repeatedly come onto the streets of Baghdad and Iraq's southern cities from October 2019 onwards.

This movement represents the high point of protests that started in 2009, and it has developed a powerful critique of Iraq's consociational system and the widespread corruption the protestors associate with it. It has also developed an alternative ideological platform based on a secular unitary Iraqi nationalism that demands equal rights and representation for all Iraqis, irrespective of their ethno-sectarian background (Dodge and Mansour 2020). The response of the

ruling elite empowered by the post-2005 consociational system has been to deploy increasing levels of deadly violence in an attempt to defend their right to rule and the benefits that come with it in the face of the failure of their ethno-sectarian rhetoric.

Conclusion

Iraqi politics post-2003 has clearly been shaped by a coherent and sustained consociational bargain struck by the country's ruling elite. As such, it provides a powerful case study of how informal consociationalism, beyond the legal structures of a constitution, can underpin the workings of a political system from government formation through to resource allocation and the everyday functions of the state. However, the way the Iraqi constitution was drafted clearly indicates that it created an exclusive elite pact and as such exacerbated feelings of resentment and alienation amongst key sections of Iraqi society (Lindemann 2008).

The Iraqi experience of consociationalism echoes McCulloch and McEvoy's argument in this collection (McCulloch and McEvoy 2020) that the choices made during the adoption of a power-sharing arrangement impact on its later performance and lifecycle. Moreover, and beyond the failings of the formal constitutional process, the informal consociational system, through its proportionality, has given rise to widespread and systematically sanctioned corruption, which has alienated an even broader section of society from the ruling elite and the system as a whole. Finally, this alienation and the protest movement it has given rise to has driven a transformation in political mobilization and identity politics beyond sectarianism, which consociationalism would be hard pressed to explain. When faced with this protracted challenge to their right to rule, Iraq's ruling elite responded with an extended campaign of violent suppression, putting the very survival of Iraq's democracy into question.

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