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Fostering Democracy in Iraq

Tristam E. Niederer
Western Michigan University

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FOSTERING DEMOCRACY
IN IRAQ

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Tristam E. Niederer

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Tristam E. Niederer, M.A.

Western Michigan University, 2008

This thesis evaluates democracy in Iraq and determines if the current institutions are fostering democracy. When the institutions in place are not fostering democracy, I evaluate why they are not and how they could promote democracy. I employ a case study approach of Iraq by first looking at the region's history. I then analyze the works of leading experts of democracy in divided society theory to develop a democratic framework for Iraq. Finally, I focus on the Iraqi government's institutions and the Iraqi Constitution to evaluate their effectiveness.

The purpose of this thesis is two-fold. First, as a deeply divided society, the lessons learned in Iraq are valuable for other democracies emerging in divided societies. The framework for democracy in divided societies that I developed may be applicable in other countries. Secondly I show how Iraq's past history of authoritarian rule followed by rebellion and chaos and the eventual emergence of a dictator that can be avoided through a framework for democracy in its divided society.

In the democratic framework I developed, I determined that autonomy/federalism, power sharing, proportionality and minority rights are important criteria for a divided society to maintain democracy. Based on these criteria I conclude that with its current Constitution and formal institutions Iraq is heading in the wrong direction for creating a stable democracy.

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CHAPTER I
INTRODUCTION

Democracy in Iraq

On December 15, 2005, Iraq held a nationwide election to create a new government. This election, designed to form a parliament, marked the first democratic elections in the country. In just over two years, the Iraqis drafted a constitution and held elections to fashion a new government.

Despite these advances towards democracy, Iraq is still failing to manage the ethnic violence that is destabilizing the country. The sectarian violence is eroding the democratic process.

The result of the ethnic conflict on Iraq is staggering. According to the Brookings Institutes 2007 report on Iraq, since the end of official combat in May 2003 until December 2006, the total number of civilians killed by violence of any kind totals 53-59,000 persons[1]. Further the violence is causing large numbers of people to be internally displaced. By August of 2007 the number had reached an estimated 1,205,000 people. These figures reflect the consequences of the war on the Iraqi people.

If the civilian casualties and displaced people seem to be injurious, the cost to the infrastructure of the state is equally damaging. Prior to the invasion in April 2003, it was estimated that Iraq's oil production was at 2.5 million barrels of oil per day. By September 2007, that number had decreased, with production down to

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[1] http://www3.brookings.edu/fp/saban/iraq/index.pdf

2.33 barrels of oil per day[2]. The result is $101. 6 billion dollars in oil revenue by September 2007, up from prewar oil revenue's of $5 billion dollars. However, while this seems like a major increase, it must be remembered that the price of a barrel of oil in 2003 was less than half of what it is in 2007. This combined with the $420 million dollars to repair Iraq's oil infrastructure and the further $1.7 billion dollars allocated for the maintenance of the oil infrastructure means that very little has been gained in oil revenues since the invasion[3]. Inflation has risen from 36 percent in 2003 to 50 percent in 2006. While there have been increases in some areas of infrastructure, many of these increases are insignificant. For example unemployment numbers in Iraq have consistently hovered between 25-40 percent, down by about 10 percent from June 2003[4]. These statistics are only a few examples of the toll placed on Iraq by the ethnic violence.

This conflict is due largely to the divisions between Iraq's two Islamic factions: the majority Shi'a and the minority (but former ruling faction) Sunni. Further violence between central and southern Arabs and northern Kurds creates yet another dimension of ethnic conflict.

Managing ethnic conflict will prove to be the most difficult challenge for Iraq's democracy. The immediate problem for Iraqi political institutions will be to manage this ethnic violence. What democratic institutions can manage ethnic conflict in a divided society and still promote and maintain a stable democracy? Though this applies to Iraq, it also applies to many other divided societies.

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[2] Ibid
[3] Ibid
[4] Ibid

However, given its unique ethnic disparities, whatever is the final outcome for Iraq's democracy it will be a valuable lesson for other divided societies.

The purpose of this thesis is to discuss what Iraqi democratic institutions can do to quell ethnic violence in a divided society and promote stable democracy. I will focus specifically on Iraq to get the answer. Do the political institutions adopted by divided Iraq foster democracy and can these institutions help stabilize the ethnic violence in that country? As Mohammed Rabie points out "conflict can never be eliminated; it can only be managed to minimize its negative impact, reduce its intensity, and facilitate its positive role in human development" (Rabie 1994, 50). Finding out how to manage conflict democratically is the goal then of this paper.

A Background to the Problem

In order to comprehend the violence in Iraq, it will be helpful to understand the social and political situation first. As previously stated, Iraq is a deeply divided society along three lines: ethnic (Arab and non-Arab); religious (Shi'a and Sunni Muslim); and economic (oil reserves in the north and south, and sparse agriculture in the central region). This is the result of artificially created borders following the collapse of the Ottoman Empire after World War I, which will be examined in greater detail in the History chapter. Following this forging of regions, Iraq became a state composed of three different regions: Kurdish speaking Sunni and Shi'a Muslim Kurds in the north, Semitic speaking Sunni Arabs in the central

region, and Arabic speaking Sunni and Shi'a Muslim Arabs in the south (Polk 2005, 5-6).

The ethnic divides are deep and longstanding. 75-80 percent of the country is compromised of Arabs in the central-southern region, while a sizeable Kurdish population (15-20 percent) resides in the north. The remaining 5 percent of the country is composed of Turkoman, Assyrian and other groups in the northern region (BBC: Country Profile Iraq 14/11/06).

Iraq's religious divide occurs between the Arabic speaking Sunni Muslims and the Arabic speaking Shi'a Muslims. The Shi'a resides mainly in the south, while the Sunni populate the central region. Both groups overlap in the area around Baghdad. Of the 16-20 million Arabs in Iraq, 65-80 percent are Shi'a and 20-30 percent are Sunni. There are 3.6 to 4.8 million Sunni and Shi'a Kurds in the north, while Turkomans and other groups number about1.8 million. These latter groups are mixed religions, comprised mostly of Sunni and Shi'a but also of some Christians (Polk 2005, 6). For the break down of this population, see the map and table below.

Distribution of Ethnoreligious Groups and Major Tribes

Ethnic Group	Estimated Population	Also Found In	Religion	Language
Arabs	16 to 20 million	Throughout North Africa and the Middle East, Iran	65-80 percent Shia, 20-30 percent Sunni, less than 5 percent Christian	Arabic (Iraqi dialect)
Kurds	3.6 to 4.8 million	Turkey, Iran, Syria, Armenia, Georgia, Azerbaijan	Mostly Sunni, Shia, and Yazidi minority	Kurdish
Turkomans	300,000 to 800,000	Related to other Turkic peoples in Turkey, Azerbaijan, Iran, and Turkmenistan	Primarily Sunni	South Azeri Turkish
Others	As many as 1 million	Mostly Christians, Iranians, and other groups found in the Middle East	At least 50 percent Christian; Shias, Sunnis, and members of other religions account for the balance	Mostly Arabic, some Persian and other languages

Figure 1. Distribution of Ethnreligious Groups and Major Tribes in Iraq

Source: (http://www.lib.utexas.edu/maps/middle_east_and_asia/iraq_ethno_2003.jpg)

These ethnic and religious divides have existed in the Mesopotamian region prior to the British creation of the state of Iraq in 1920. The history section will provide more detail on these divides, but it should be noted that the level of violence in the country being seen currently has never before existed. The American led invasion of Iraq in spring 2003 escalated the divides and tensions that are now being experienced. The US invasion appears to be the immediate cause of the tensions in Iraq. While Saddam Hussein (a Sunni) attacked the Shi'a and Kurdish populations during his reign, this was state sponsored attacks and not the individual militia type attacks being seen now. What this leads me to conclude is that the tensions in Iraq were created artificially, and this gives some credence that the same tensions can be helped through formal institutions at the state level and informal institutions at the local level of governance.

The final dividing line is oil, which creates an economic divide. Several analysts have pointed out, agriculture in Iraq is sparse, and the country is just able to feed itself. Its farming is dependent on the Tigris and Euphrates Rivers which means that only about 33,000 square kilometers of the country can be farmed (Polk 2005, 9).

Despite the poor topsoil of Iraq, beneath this surface lie vast oil fields. Oil was discovered in Kirkuk (in the Kurdish north) in 1927. Since then other oil fields have been discovered, largely in the south.
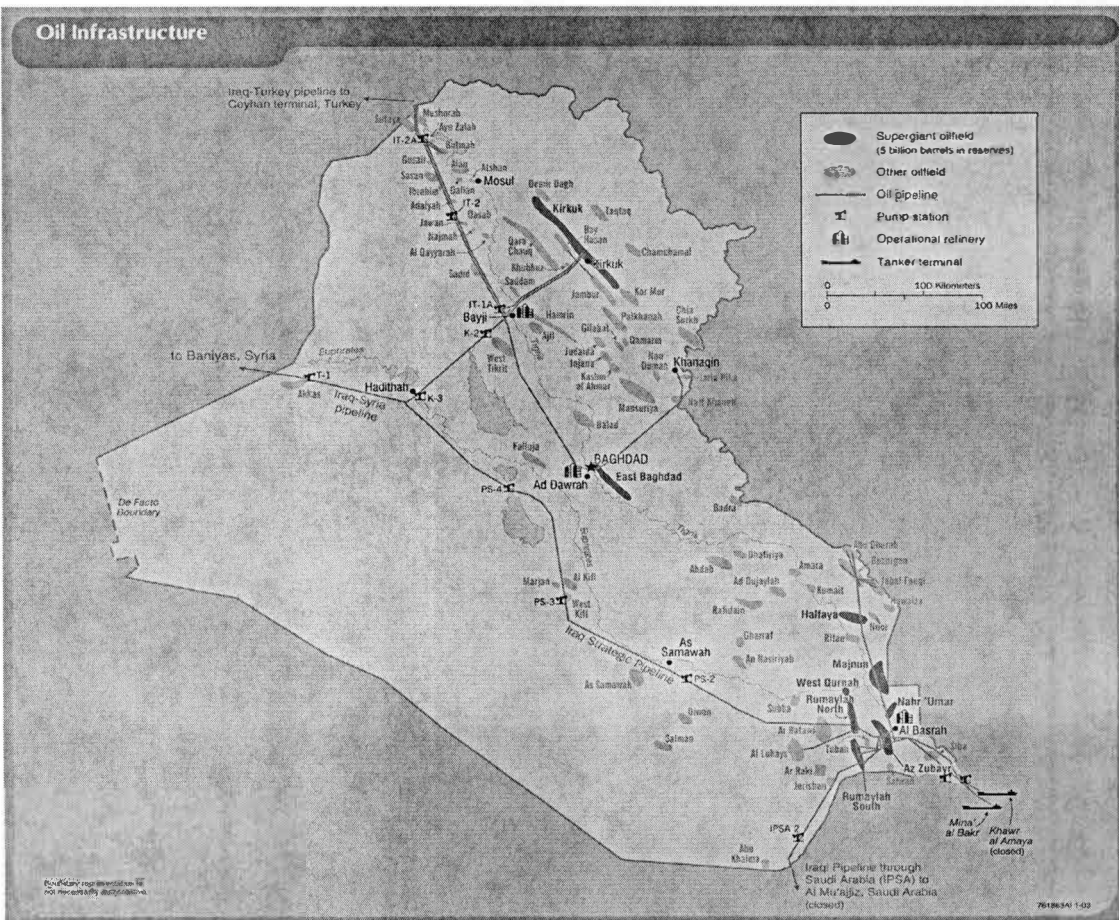
Figure 2. Iraq Oil Infrastructure

Source (http://www.lib.utexas.edu/maps/middle_east_and_asia/iraq_oil_2003.jpg)

Now that understandings of the problems facing Iraq have been explained,
I will turn to the methods and structure of the paper. Since this paper is seeking to
answer a question about a specific country, I will employ a case study approach
and study Iraqi politics and conflict in more depth. A literature review on divided
societies is included in this thesis, which focuses on elements that have been used
to manage conflict in other divided societies. The final section focuses on a
discussion of the current Iraqi government institutions, others suggestions for a
solution to Iraq and my final assessments of the current Iraqi governmental
institutions.

In the first chapter I will look at an institutional and social history of Iraq since the collapse of the Ottoman Empire and the establishment of British Rule in 1920. I will attempt to review this history in terms of autocracratic and democratic aspects. By doing this, I hope to provide a context in which to frame the current situation. By examining the institutions that were rebuilt and replaced in these 87 years, one will better be able to understand the current political situation, as well as understand how the ethnic divides have been shaped and reinforced.

In the second chapter, I will examine some of the literature that deals with divided societies and institutions. This will help to determine which political institutions matter in political stability, and what kind of rights matter. Based on the literature review, I will develop a set of criteria that are important to manage conflict in divided societies and promote a stable democracy. With this framework I will be able to make assessments of the current Iraqi political institutions.

This leads to the third chapter, which will be an assessment of the current Iraqi governmental institution, and recommendations. The structure of this section will be to examine the dominant governing styles (presidential vs. parliamentary), electoral systems (first past the post, proportional representation, etc), and federalism and autonomy versus unitary structures. In examining these points, I will first look at the current Iraqi situation using the TAL (Law of Administration for the State of Iraq for the Transitional Period) and the Iraqi Constitution. I will also review other authors' suggestions. Finally I will put forward my own recommendations. I would hope that from this I can reach a conclusion about the direction in which Iraq's developing democracy is headed.

Many may ask: In a divided society such as Iraq, what incentives do the people have to work together and build a democracy? There are two dominant incentives that I assume could form the basis for the Iraqi people to work together to maintain a democracy. The first incentive is the removal of American and British invasion forces. This is assumed to be an incentive based on the level of violence projected at these groups[5]. Creating a secure country both internally and externally is the second assumed incentive based on reports from Iraq since March 2003. Since the US led invasion, internal violence among the groups has increased. An example of this amplified internal violence can be seen by the Sunni "Awakening Movements", which were created by the US to ensure some security within Sunni regions surrounding Baghdad. Since there was no unified security force in Iraq, similar militia groups have arisen throughout Iraq that is carrying out attacks against one another. This has in effect created a chaotic internal situation in Iraq and thusly threatens the internal security of the country (ABC News, 12/23/07, 'Sunni Awakening': Insurgents Are Now Allies'). External security is also assumed to be an incentive for the people of Iraq to build and maintain a stable democracy to ward off attacks from neighboring countries such as Turkey, Syria and Iran. Iraq historian William Polk argues on University of Michigan history professor Juan Cole's webpage that if Iraq is allowed to break up into three states "Turkey would extend its military incursions into Kurdistan, causing a major war", and Iran would increase its influence in the south, where they would no

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[5] http://www3.brookings.edu/fp/saban/iraq/index.pdf page 8, chart "Enemy Initiated Attacks against the Coalition and its Partners"

doubt attempt to influence the fellow Shi'a in the region[6]. What would essentially happen is that the people and culture of Iraq would be absorbed into the surrounding countries. The framework I discuss in Chapter 2 of this paper may be able to achieve both of these goals, but it should be noted that there are many other reasons that the Iraqi people would wish to work together to create a stable democracy.

The goal of this paper is to not only create a democratic model that will last but one that can bring stability to the country. If a democracy emerges it is expected that it will take at least one generation to become fully functional.

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[6] http://www.juancole.com/2007_06_01_juanricole_archive.html "Guest Essay: Polk on Iraq", 6/10/2007

CHAPTER II

AN INSTITUTIONAL HISTORY OF IRAQ: FROM THE OTTOMAN

EMPIRE TO THE PRESENT

Iraq's history is one that has been plagued with revolution, rebellion,

patronage and strong armed dictatorship. Since its inception as a state, the people

of Iraq have faced inequality or oppression at the hands of their various leaders,

whether they are colonial powers, kings, or dictators. This pattern of oppression

and authoritarian rule must not be allowed to continue.

The Mesopotamian Provinces

The modern history of Iraq (and its modern institutions) begins in 1920 with

the British Mandate. At this point the country was not only formed into one state

from three different provinces, but also institutions of authority (such as

parliaments, a standing army, and constitutions) were constructed to maintain the

state of Iraq. However, these institutions have their roots in the Ottoman Empire.

Iraq was known simply as the "Mesopotamian Provinces" during the time of

the Ottoman Empire. Three provinces existed in this period: Baghdad, Basra, and

Mosul. Mamluk Pashas[7] ruled from Baghdad through a tributary system. In the

time of their rule from 1747-1831, the Mamluk Pashas managed to gain autonomy

from the Ottoman Empire, and brought some degree of economic prosperity and

order to the Mesopotamian region (Tripp 2002, 9).

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[7] Mamluk Pashas were mostly Christian slaves who were taken by the Ottoman Sultan from Georgia, converted to Islam and trained as Calvary soldiers. They were under control of the Sultan and used to enforce his rule abroad. (Hourani 1991, 136)

Even at this early point in the Ottoman Empire's history (the late sixteenth-early seventeenth century) the three Mesopotamian provinces were divided amongst the Sunni, Shi'a and Kurdish social lines mentioned in the beginning section. Dynastic, parochial and tribal identities shaped the Kurdish speaking areas of Mosul. The province itself was divided among nomadic tribal groups, while the city of Mosul was more directly integrated into the Ottoman imperial system. Baghdad was similar, but due to the fact that it was farther away from Turkey, it was more remote. The Baghdad province was only partially under the authority disseminated from the Turkish capitol in Istanbul. While the cities were more influenced by Istanbul, the outlying provinces were agricultural, and the nomadic nature of the tribes shaped their practices and values (Tripp 2002, 10-11).

From the late seventeenth century until the Ottoman "reconquest" in the mid-nineteenth century, the Mamluk Pashas continued to grow more distant and independent of the Ottoman Sultan. As more power was centralized in Baghdad, a growing distrust of the government arose amongst the Shi'a tribesmen. The tribesmen already disliked the sultan and were further suspicious of the centralization of power that was occurring. It was ideas like these that made many Arabs in the region adopt Shi'ism and begin to shift the balance of Islam in the Baghdad Province[8]. The Pashas chose two routes in response to this growing problem: either by embracing Shi'a Islam, or (due to prejudices, threats of Persian invasion, and to appeal more to Istanbul) converted to Sunni Islam. The result of these moves helped to create deep rifts within the region. Further, because the

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[8] Note:Iraq has always been predominatly Shi'a since the original split in Islam. This is due in part to the fact that most of the 12 Imams (Shi'a Caliph) are buried in Iraq, making it the theological center for Shi'a Islam.

ruling elite were converting to Sunni Islam, this also meant that power was in the hands of the Sunni (Tripp 2002, 12-13).

Now might be a good time to discuss the Shi'a/Sunni division, as it would not only be a driving force of conflict throughout Iraq's history, but it also is the reason for the ethnic violence that the country is experiencing today. Of the Arab countries in the Middle East, only Iraq has a majority Shi'a population (a trait shared by its neighbor to the east, the Persian country of Iran).

The split in Islam between the Shi'a and Sunni Muslims occurred in the wake of the Prophet Muhammad's death. At the time of Muhammad's death, there were two competing thoughts in Islam as to who would be his successor. The first line of thought held that the leadership lay vested in the Meccans. This view was forwarded by Abu Bakr and 'Umar ibn al-Khattab, two companions of Muhammad, who argued that because Muhammad had lived in Mecca leadership of Islam should be based there. However the Prophet's immediate family, the *Ahl al-Bayt* ("people of the household") was not part of this agreement. Sunni history of the time excludes this group as a 'coherent and concrete socio-religious entity during the Prophet's time'. Shi'a history however is founded on the notion that the Prophet's successor should come from his family and not from his followers. Shi'a history holds that the Prophet's family "occupied a privileged leadership position in the socio-religious life of the community and that 'Ali was the only legitimate claimant to the leadership of the community" (Esack 2005, 54-55). This dispute is what eventually led to the split in Islam between the Shi'a and Sunni sects. The Sunni would choose Abu Bakr as the successor to Muhammad, while the Shi'a

would select Ali, Muhammad's cousin and son-in-law. For the Sunni, the caliph is Muhammad's successor, while the imam is the descendents of Muhammad, the successors to Ali, and the leaders of the Shi'a (Hourani 1991, 60-62). The violence in the region began shortly after this split when in 656, Ali's supporters killed the third caliph and the Sunni responded by killing Ali's son Husain. In time the Sunni became victorious, and thus the largest group in Islam, and revered the caliph for its strength and piety, while the Shi'a focused on developing their religious beliefs through their imams (Hourani 1991, 24-25).

By the mid nineteenth century, the Ottoman Empire began to realize that it was losing control of the Mesopotamian provinces and set about reasserting its authority over them. They had become convinced that their weakening control of the state was the result of its structure and began to rebuild it in a European centralized model. In order to stave off this decline, the Empire began a process of reconquering its provinces. This would include reforming administrative, legislative, and educational and resource bases of the state so that they would better serve the rapidly declining empire. This reversal in practice would bring about lasting institutional changes to Iraq, as it would transform the region from a tribal society to that of a settled agricultural one. To the Ottoman rulers, the belief was that farmers were easier to control than Bedouins, but for the three provinces it meant that they were being brought together in a forceful manner under a centralizing power (Polk 2005, 61; Tripp 2002, 14-15).The result was a strong resentment in the Mesopotamian provinces which resulted in revolts that were

crushed by the Ottomans. These revolts weakened the relationship between the provincial capitol of Baghdad and the outlying tribal lands (Tripp 2002, 19).

As the transformation from a tribal society into a state continued, a new political society emerged in the three provinces. Governor Midhat Pashat implemented a land law from 1858 and Vilyat Law of 1864 in 1869. The Vilyat Law effectively created the territorial boundaries of the three provinces and established a new administrative structure that was intended to bring governance down to the village level. The intended result was to allow people from the government to have some administrative duties. People would become involved in the working of the state through councils which included Ottomans as well as Muslim and non-Muslim representatives of the population (Tripp 2002, 15).

The land law that was introduced also seemed to bring about a sense of autonomy to the Mesopotamian provinces. Among the provisions of this law was the granting of title deeds to those possessed or occupied land. While the land remained the property of the state, the owner of it would enjoy complete rights of ownership to cultivate the tract of land (Tripp 2002, 16).

Despite what looked like positive movements towards self-governance, Governor Pasha's reforms had a more sinister motive. People with better skills and connections were able to increase their holding and control over formerly independent tribesman. Since the Sunni had remained in the cities, they were the group that benefited most from the system of favoritism, better known as patronage which Midhat Pasha created to carry out these reforms (Polk 2005, 61-62). The system of patronage that developed at this time in Iraq would have long

standing effects on the Shi'a tribes because patronage ensured that the same groups or tribes retained positions of power and employment in the areas of military, economic and political spheres. The reforms were intended to facilitate investment and tax collection. Growth of export trade had led city merchants and tribal leaders to invest in land reclamation, canal digging, and dam building, all helping to build the provinces infrastructure.

When Sultan Abdulhamid suspended the constitution and ended the liberalizing reforms mentioned above, a revolt by the Young Turks in 1908 and forced the Sultan to reintroduce the constitution. The reintroduction of the constitution allowed people who had been suppressed under the authoritarian movements of the Sultan to move into institutions of modern learning, and training in the military and professional fields was reopened. This allowed for the formation of clubs, groups and societies, newspapers, and journals entering the public sphere in the provinces (Tripp 2002, 21-23). This liberalization of politics emerged the Committee of Union and Progress (CUP) which eventually became the dominant party in the Ottoman Parliament.

The reintroduction of the Ottoman constitution brought about a new hope for the decentralization of power from Istanbul to provinces. However, the CUP moved in just the opposite direction and began to centralize power in the government during 1913/1914. The increasing authoritarian nature of the CUP saw the party entrench itself in the Arab provinces and simultaneously reject the calls for autonomy in the region (Tripp 2002, 24). Due to the increasing centralization, many Arabs in the Mesopotamian provinces feared they would eventually lose

their cultural identity and as a result protests began to emphasize the importance of Arab culture and identity (Tripp 2002, 27).

Opposition to the CUP resulted in the growth of secret societies, the most significant of which was al-'Ahd (the Covenant), After its founding in Istanbul, al-'Ahd spread throughout the Arab provinces with the hope of establishing three independent provinces in the Mesopotamian region. Ottoman authorities arrested its members in 1914, and al-'Ahd was ended. Its idea of three independent provinces was further crushed when the British invaded the province of Basra in 1914 (Tripp 2002, 27-29).

Prior to the invasion, British merchants (with support from the government) had been in Iraq since the end of the sixteenth century. Needing a faster route to their empire in India, the British discovered that the Euphrates linked their empire in the West with that in the East. Beginning in 1764, the British established consulates in Basra and Baghdad in 1798. Challenges from the French, Russians and Germans were thwarted through plague (French) war between the Russians and the Ottomans and politics. The British pressured Kuwait to forbid trading with Germany, thus preventing the Germans from having access to the Middle East. These incidences helped keep British businesses in Mesopotamia secure (Polk 2005, 62-65).

When the British army invaded Basra in 1914 they easily defeated the Ottomans through the strong influence of the merchants and thus made their presence overt. Charles Tripp states "the history of Iraq begins here, not simply as

the history of the states formal institutions, but as histories of all those who found themselves drawn into the new regime of power" (Tripp 2002, 30).

By the end of 1918, the British had conquered the three provinces of Mesopotamia, but at a large price. The invasion to secure British interests in the region had cost 750 million pounds (today-$18 billion) and some 20,000 Indian troops, only to result in a state that had an uncertain future. At the end of hostilities in Europe, the future of the provinces was unclear, but one thing had emerged from the British presence in Mesopotamia. In a situation that is echoed today, the people of Basra, Baghdad and Mosul provinces were glad to see their Ottoman rulers dismissed, but they were equally apprehensive about the British occupation force (Polk 2005, 71-72).

The British in Iraq (1920-1932)

The British gained control of the Mesopotamian Region through the 1916 Sykes-Picot Agreement that divided the former Ottoman Empire between the French and the British. The document accepted Arab independence, but in accordance with *sharif* (a religious leader who is a descendent of the Prophet Muhammad) Husain, a member of the Hashemite clan.[9]

The Sykes-Picot Agreement established areas of permanent influence and began the period which is referred to as the "British Mandate". Following a tribal revolt in 1920 against British military occupation, an attempt was made to establish institutions of self-government under British control. The result was that

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[9] The Hashemite's were the clan to which Muhammad was born. Originally from Saudi Arabia, the Hashemite that were to eventually rule Iraq were of the Sunni Muslim faith (Hourani 1991, 318; Esack 2005, 36; Nydell 2006, 168).

the Hashemite Amir Faisal (who had been expelled from Syria by the French) was placed as king of Iraq under British supervision (Hourani 1991, 319). The placement of a Sunni in control of a predominantly Shi'a country is perhaps where the origins of the ethnic violence in Iraq today can be traced. Until 2003, the Sunni would hold power in the country. The reasoning behind the British decision to place Faisal in control of the new state comes from his exile from Syria, at which point the British protected him and established a close relation with Faisal. Thus, like the US when they placed Ahmed Chalabi (a man who had not been in Iraq since a teenager and was out of touch with the country) in power, Faisal too was out of touch with Iraq and detested by the population (Tripp 2002, 47).

As previously mentioned tribal Muslim's converted to the Shi'a faith due to disagreements with the Ottoman Empire over centralization. When the British Mandate took effect in 1920, many Shi'a were still tribal people. The First Commissioner of Iraq, Perry Cox, found it easier to work with the more urbanized Sunni Muslim's when he established the provisional "Council of the State". Nearly all high officials in the newly formed British state, all positions of military command, and the kingship were populated with Sunni. Cox rejected an offer from Shi'a clergymen that would have negotiated the tribal unrest that the British were encountering, and instead chose a move that effectively shut the Shi'a out of power in the new state, a move that would remain in place until 2003 (Tripp 2002, 45-48; Polk 2005, 78-79).

The state that the British were creating had been referred to as *al-Iraq* since at least the eighth century by Arab geographers, meaning 'the shore of a great river

along its length, as well as the grazing land surrounding it' (Tripp 2002, 8). The Arab geographers had used it to refer to the area between the Tigris and Euphrates Rivers. To the Europeans it was known as Mesopotamia and to the Ottomans, simply by the three provinces Basra, Baghdad and Mosul. During the era of the British Mandate the three provinces were incorporated into one state and the term "Iraq" began to be reintroduced as both a country and a term to describe the people's that inhabited that area (Tripp 2002, 8, 30).

When King Faisal took control of the new Iraqi state in 1921 only the *vilayet's* (regions) of Baghdad and Basra were part of the state. The third region, Mosul, was added in 1926 and completed the modern territorial boundaries of Iraq. Faisal would remain in power under British authority until his death in 1933. During his tenure, the Iraqi state would take on greater definition, and the structure of Iraq's politics would emerge. Faisal had an idea of what the state of Iraq should be and set about achieving independence from the British and integrating the communities of Iraq into one unitary structure that would allow the individual regions to feel that their interests were represented (Tripp 2002, 50).

During this period, the relationship with Britain was continuously debated. On the one hand, officials in Iraq realized they needed the British support, yet rejected its domination on the other hand. This oxymoron created a network of clients and associates whose relationships with the political player's dictated policy. Tribal shaikh's, Kurdish chieftains, and other notables from Iraqi cities and provinces congregated to Baghdad to ensure that their interests were represented, thusly turning Iraq into a reward state based on a patronage system. Continuing the

process begun by Midhat Pasha, the patronage system helped the British ensure order in the countryside, while at the same time creating a network of political and land interests. The patronage system established during the mandate became a part of Iraqi politics to this day (Tripp 2002, 50-51).

The British were aware of the opposition to their rule and to Faisal's wish for autonomy, and so they set about establishing a relationship with Iraq, via the first Anglo-Iraqi treaty in 1922 that made it appear as though the two states were equals. However, the treaty created an anything but equal position between the states. Instead it established a twenty-year agreement during which the King of Iraq would heed British advice on all matters that affected British interests, and that British officials would be appointed into eighteen posts of their choice to act as advisors and inspectors. The final provision of the treaty shifted a financial burden on Iraq, requiring it to pay half of the costs of the British officials, among other expenses. In agreeing to the terms, the council of ministers insisted that the treaty by ratified by the Constituent Assembly once it came into being following the May 1922 elections. The results of this agreement created a strong outcry as controversy surrounded the constitutional framework of the state as well as making Iraq politically and economically dependent on Britain[10]

The Electoral Law of 1922 and the constitution the British created decided the formal allocation of power in the state. Both documents would further the patronage system that was developing in Iraq by making it so that some could rely on the social structure to move ahead in the political system, while others would

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[10] Iraq: Library of Congress Country Study "World War I and the British Mandate"
http://historymedren.about.com/library/text/bltxtiraq9.htm

rely on the state structure. It was in this context that the 1922 elections took place. The Constituent Assembly that met for the first time in 1924 was composed of many British supporters. It reluctantly accepted the treaty, after the British promised they would fulfill the terms of the mandate in other ways if necessary. The adopted Iraqi constitution (known as the "Organic Law") was also passed by this assembly and established Iraq as sovereignty with a representative system of government and a hereditary constitutional monarchy. The constitution further granted the monarchy wide ranging powers that allowed it the right to call for elections, confirm all laws, regardless of parliament, suspend parliament, and to fulfill the treaty without permission of the parliament. The British had managed to create an indirect control on Iraq and remove themselves from directly ruling it.[11] The constitution granted Iraq no political freedom. The parliament was to be composed of hand picked members, chosen by an indirect ballot, but still allow the country to be a "representative system". Further the mandate divided the country into 14 governates that were overseen by locals who supported the King and the British advisors (Polk 2005, 88-89).

The passage of the Constitution not only established the formal machinery of the state but also allowed Britain to achieve two of its goals. First it allowed for British troops to be pulled out of Iraq, which had become a costly and unpopular campaign The Iraq campaign cost a young Winston Churchill and his Labour Party control of the parliament). Secondly it made Britain an advisor to the Iraqi state, without having direct control of it. This latter move allowed Britain to still fulfill the mandate requirements and also retain control of the country (Dodge 2003, 30).

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[11] Ibid

Growing opposition to the Mandate within Iraq led Britain to push for Iraq's entry into the League of Nations in 1932. Iraq was accepted into the League later in the year, and Britain's mandate came to an end. This period, while costly to Britain, also established many practices and institutions, such as the establishment of a permanent patronage system that would remain in place for the remainder of Iraq's history. Territorial boundaries had been laid, while a system of patronage had been adopted and would continue to grow in Iraq for the forthcoming decades. Clearly the years 1920-32 would have a lasting impact on Iraq.

Despite ending the mandate, British presence would still be felt until 1958. A new Anglo-Iraqi treaty was signed in 1930 that formed the basis for Britain's relationship with Iraq after 1932. The treaty placed responsibility for internal order on the King and made Iraq responsible for its own defense. At the same time it also provided Great Britain the use of all facilities in event of war and the right to move British troops through Iraq if necessary. Further, Iraq's army would still have British advisors and equipment, and the British would keep two airbases in Iraq. The provisions could be renegotiated after twenty years. In other areas the British would maintain advisors and British companies would remain in all sections of the economy, while British influence on the King and his ministers would remain (Tripp 2002 66, 77). When a revolution in 1941 was attempted, it would be against these practices that the rebels would revolt against.

The Hashemite Monarchy (1932-1958)

During the period of 1932-41, the patronage system became more entrenched in Iraq politics. Competition between the client networks for control of the center was turning Iraq into a secular state where the questions of economic privilege, redistribution of wealth and the idea of fundamental rights governed the politics. The patronage system was allowing state institutions to become personal instruments of power in the hands of individuals, creating factionalism among the people (Tripp 2002, 77-78).

Sunni domination continued to grow in Iraq following the 1933 Parliament elections, in which the leader of the Shi'a party *Ikha* ("Awakening") was alienated from the Parliament, helping to reinforce the Sunni dominated state. King Faisal recognized the growing isolation of Iraq's non-Sunni members but he did not wish to overturn the situation because it privileged both him and his supporters. When Faisal died in 1933, his son Ghazi took over as king and proved to be less sympathetic to the disparities in Iraq. During his time as a leader (which lasted until 1939) the Sunni were able to portray the Shi'a as traitors to a modern Iraq after a 1935 rebellion by Shi'a tribesmen, clerics, and Shaikh's. The rebellion was oppressed and the Sunni leadership dispersed the Shi'a tribesman, thus nullifying them as a threat (Tripp 2002, 80-84).

Little has been said about Kurdistan, which since 1925 had been incorporated into the Iraqi state. Originally the British led the Kurdish population in Mosul believe that they would have independence, but the discovery of oil in the region led to the British annexing the region and adding it to the Iraqi state in

1925. Despite this forging of the Mosul province into the Iraqi state, the region was not politically, administratively, or culturally integrated into Iraq. Following the end of the mandate, Britain allowed the Kurds to come under control of the Arab government in Baghdad. The belief was that as Sunni, the Kurds would sympathize with the Sunni minority in the south, and allow the Sunni to claim dominance in the Iraqi state. Instead, the Kurdish leaders took the opportunity of revolutions in the 1930s to try and advance their demands for cultural, administrative and territorial autonomy. Due to Iraq's instability in this period, the Hashemite monarchy was not able to assimilate the Kurds into Iraq. However, it proved to the Kurds that they would be fighting the Arabs in the south for their demands later (O'Leary, Salih 2005, 21-24).

This instability in Iraq was due to a lack of direction in the state and ethnic violence. The executives had no support from any parties in the parliament, while no decision could be made about either a pro-or-anti British policy. Likewise, no decision could be agreed upon as to whether Iraq should be Pro-Iraqi or Pro-Arab in its foreign policy stance. Rather the only ideas that could be formed were based on personal interests of those in power (O'Leary, Salih 2005, 20).

The first Hashemite monarchy came to an end in 1941 with a coup led by Prime Minister Rashid Ali. After attacking the British airbase near Baghdad, the British retaliated and Ali turned to the only ally who would help: Germany. Despite some help from the Germans, the British were able to defeat the Iraqi's with a small disjointed army of troops from their surrounding colonies. Rashid Ali was defeated and the young regent king and the Ambassador to Iraq, Nuri al-Said,

were returned to Iraq and order restored (Polk 2005, 95-96). The result of the coup meant that political activity in Iraq ended for sometime and an attempt to change the rules was thwarted.

The period 1941-1958 was noted for strong handed authoritarianism, especially from the likes of Nuri al-Said, who would either rule outwardly as Prime Minister, or from the wings in some other capacity. Al-Said's political views certainly shaped this period and he held a belief that politics existed on two levels: one that was dominated by alliances, co-ops and destruction or neutralization of the opposition, while the other view held that success was dependent on these factors in order to explain the region and Iraqi history (Tripp 2002, 108).

Under al-Said's direction the patronage system already in place was increased in scope. He would make sure that the major beneficiaries of public expenditures were the powerful families at the core of Iraqi influence. Nuri further believed this strategy could only work if the security forces were loyal. The result was a pyramid of patronage that would uphold and support the monarchy until 1958 (Tripp 2002, 110).

Following the restoration of the monarchy in 1941, the King would have less power and much of the state administration would fall to the new Prime Minister, Nuri al-Said. Under al-Said's direction a series of purges occurred to rid the country of the revolutionary forces and politicians. These purges allowed for many new positions to open in the government, and the patronage system made it permissible for these positions to be filled. After order was brought to Iraq, al-Said

resigned in 1944, and Tariq al-Suwaidi became the new prime minister. Under his direction detention camps were ended, censorship laws were lifted, and most importantly a new electoral law was introduced. This electoral law retained the two-stage elections established by previous laws, but also divided Iraq into 100 electoral areas. This latter move allowed for more representation in the outlying areas of Iraq (Tripp 2002, 112-114).

The moves instigated by al-Suwaidi led to a liberalization of politics unseen before in Iraq. Many new parties arose, including those that opposed the British openly, those that supported Arab nationalism, and those that supported socialist dogma, among other interests. However, this liberalization was short lived when al-Suwaidi resigned in the face of opposition in 1946 and al-Said was reinstated as Prime Minister by the regent king. Al-Said realized that the same opposition to Britain that had existed since 1920 still existed and urged the regent king to sign a treaty with Britain that would paint British-Iraqi relations more favorably, and lessen British appearance in Iraq. This treaty created political upheaval when it was realized that relations with Britain had not changed, but been merely altered. The British would continue to be supervisors in the region, and still control most economic policies. Following the upheaval another round of arrests, tortures and imprisonment or exile of legislators occurred (Polk 2005, 98). What looked like a possible end to the monarchy and British rule was quickly put down and strong armed order was restored.

With the emergence of the United States and the Soviet Union as the two dominant superpowers in the world, foreign policy suddenly became dominant in

the Middle East, as these two powers would vie for control of this region, as in other areas of the world. Iraq became a political battleground against this backdrop. Driven by a hatred of the newly created state of Israel, and of General Nasser's strong Arab-Nationalism coming out of Egypt, Iraq would become even less stable as the decade of the 1950's continued.

It was during the early 1950's that oil became a major commodity in the world market. Al-Said set about restructuring Iraq's economy around oil (shifting from agriculture) while politically establishing a one-party state. The single party (the Constitutional Union Party [CUP]) he created would be the only legitimate political organization in Iraq and all politicians who wished to enter the parliament were required to join it. Economically, al-Said set about gaining greater revenue for Iraq's oil from the British dominated Iraq Petroleum Company (IPC). As demand for oil increased following the war, the IPC's revenue increased. Nuri persuaded the IPC to give more of the revenue to Iraq, which eventually resulted in a 50-50 split of the income. Additionally it was agreed that Iraq could receive 12.5 percent of its production of oil to sell on the world market. This would allow for the profits of the oil to develop Iraq's infrastructure. Dams, highways, and bridges were constructed with this new income. Revamping the agricultural sector was less successful. Rather than fixing the structural problems of the current lands, new lands were brought into being and agricultural production fell. Less productive lands were left to poor farmers, while the land suitable for production was owned by wealthy individuals who merely used it to increase their control on the state. The Development Board (which contained American and British technical experts,

and received plans for infrastructure development from American and British firms) was met with opposition. The failure to develop the agricultural sector in Iraq created dissent in the farming community and the beginnings of the 1958 revolution were planted (Tripp 2002, 128; Polk 2005, 100).

As he had done in 1944, al-Said wished to rule Iraq from the sides and stepped down as its Prime Minister in 1952. Al-Said could easily still rule due to his control of the state networks. When Mustafa al-'Umari became PM (with al-Said's approval) he set about making electoral reforms. However it was clear from the outset that free and fair elections would not occur, and instead electoral reform became the rallying cry of the opposition. Martial law was again declared when violent uprising occurred in the wake of the 1952 elections. While a planned revolution had been curbed, it was clear that opposition was growing to the Iraqi state structure, the monarchy, and Nuri al-Said's authoritarianism (Tripp 2002, 130-131).

May 1954 saw Iraq's freest elections to date, when the National Front (composed of the Peace Partisans, National Democratic Party, and the Istiqlal Party) won areas in urban Iraq. However, with al-Said's CUP still dominant in the Parliament, the National Front's victories were meaningless. Nuri al-Said dissolved parliament disbanded his own party and attacked the opposition, thereby making himself the ruler of Iraq. All this, in the name of "the good of the state" would remain in place until 1958 (Tripp 2002, 137).

If domestic policies were creating dissent in Iraq during the mid-1950's, al-Said's foreign policy decision to join Turkey, Great Britain, the United States,

Pakistan and Iran in the Baghdad Pact in 1955 would solidify opposition to the Iraqi government. Having no interest in Nasser's pro-Arabism, al-Said was driven by an Iraqi Nationalist perspective, and this is what drove his foreign policy decisions. The formation of the Baghdad Pact by the aforementioned nations created a common defense for the region and an economic pact which stated that Britain and the United States would pledge assistance to Iraq if Iraq was attacked (Hourani 1991, 363). In the following years, this agreement would be the basis for Western Support of Saddam Hussein.

The Baghdad Pact ended up dividing the region following Nasser attacking it and stirring up Arab Nationalism in Iraq. Iraq had still been perceived by many Arab nationalists as a British satellite, and the formation of the pact only underscored this opinion. Now that the US was involved as well, anti-Western, Pro-Arab nationalism was growing in Iraq (Louis and Owen 2002, 17-18).

In 1956, Nasser defeated the British at the Suez Canal and further heightened Arab nationalism. The US feared Iraq would be the next country to fall, and passed the Eisenhower Doctrine to funnel aid to Iraq that year. However, it was not enough to end revolutionary uprisings, as two years later the monarchy, the British influence, and the Western influence in Iraq would end.

The revolution of 1958 forever changed Iraq's political landscape. The revolution was driven by powerful internal, social, and political forces, and external pressure by British and American officials in Iraq claiming that the USSR and Egypt were responsible for the strife proved to be untrue. Rather, it was later

proven that Iraqi nationalist sentiment which had been brewing for sometime was responsible for the change.

The Iraqi Republic (1958-1968)

After the coup, General Abd al-Karim Qasim appointed himself Prime Minister. Supported by the Iraqi Communist Party (ICP) Qasim set about making sure other parties could not gain power in the state by appealing to the various factions that arose in the wake of the coup that everyone must work together for a common good of establishing a real Iraqi state. Qasim was initially successful at this by furthering Iraqi society through such measures as increasing women's rights, Iraqi youth rights, and trade union and peasant rights. He also initiated a land reform that redistributed the land to the peasants and small landowners. However, as was the case in prior land reform attempts, landless peasants received very little (Tripp 2002, 154-53).

Despite his promises of greater openness in Iraq, Qasim became increasingly dictatorial in power. Qasim did nothing to create representative institutions or hold parliamentary elections. It was finally after failed foreign policy initiatives (including trying to nationalize the ICP and lying claim to Kuwait) that Qasim was overthrown in 1963. It was at this point that a once little known and little supported party known as the Ba'ath party took power (Tripp 2002, 160-67).

The Ba'ath (renaissance) had emerged in the wake of the 1958 revolution but was suppressed by Qasim's regime. It drew support from the young generations of Shi'a and Sunni Arab nationalists. Despite appealing for a single

Arab nation, the Ba'ath party had become more socialist in its rhetoric since 1958, leading to its mass appeal. Using this appeal, the Ba'athists made their first attempt at gaining power. After initially purging their rivals, they lost the support of the army and appeared to no longer be contenders for power in Iraq. After their removal, the resulting government over the next decade was headed by two brothers, first Abd al-Salaam Arif (until his death in 1966) and then Abd ar Rahman Arif until 1968. The brothers Arif reversed the partial openness and lower class reform Qasim had attempted to create. Instead they reestablished the patronage system, kinship and tribal affiliation to court power and dismantled what was left of the Ba'ath party at the time (Hourani 1991, 404-405; Tripp 2002, 177).

The Arif brothers' tenure as rulers of Iraq came to an end in 1967 in the face of yet another defeat against Israel. The defeat sparked demonstrations in Iraq and leading these demonstrations was the recently recreated Ba'ath party (Abd al-Salaam Arif had dismantled the party again after an attempted coup in 1964). The first thing the Ba'athists realized they had to do was to neutralize Abd ar Rahman Arif's elite Republican Guard. They did this by appealing to a number of its members who felt disillusioned by the system of patronage. It was when Arif went abroad in 1968 that the Ba'athists seized power in a bloodless coup which resulted in Arif's resignation (Polk 2005, 117; Tripp 2002, 191).

The Ba'ath Party and Saddam Hussein (1969-2003)

The result of this coup was yet another installation of the same type of regime with another name. The Ba'athists was led by former military personal

under the direction of General Hassan al-Bakr. Al-Bakr centralized all offices of leadership: president, prime minister, secretary general of the Ba'ath party and chairman of the "Revolutionary Command Council". Further al-Bakr designed the political order to include extended families, clans and tribal networks from the Sunni Arab region that would (if disproportional) influence the state politics. This system of patronage would allow Saddam Hussein to take control of Iraq in 1979 (Tripp 2002, 193).

Al-Bakr continued to centralize all state activity so as to support himself and his associates in power. As his close associate, Saddam Hussein was able to further his own power at this time by gaining control of the security apparatus of Iraq in the mid-1970s and being appointed a general in 1976. The following year Hussein took control of Iraq's oil policy and in 1979 took over for al-Bakr when he resigned.

Saddam Hussein had already proven himself a worthy administrator. During the 1960s, relations with Iran had soured and under Saddam's direction the Shi'a were targeted because of their relations with Iran, a trend that would continue through his rule. More threatening to Hussein however where the Kurds to the north. Hussein realized early that he could not defeat them in a military battle and instead he ordered a massive migration of Arabs into the Kurdish region offset the non-Arab population there. When this policy failed, Hussein was willing to grant the Kurds autonomy in 1975, until it was realized that the Kurdish region held vast amounts of oil. Kurdistan would remain a part of Iraq until 1991, under constant attack from Hussein (Salih 2005, 21-22; Polk 2005, 121-22; Tripp 2002, 213-14).

When he assumed power in 1979, Saddam Hussein established a dictatorial model that demanded obedience and used large scale violence to obtain it. However, as we have seen through Iraq's history, the factors that allowed Hussein to carry out this style government were not alien. Tripp states that "the values he [Hussein] espouse[d] on the political logic of the system he established in Iraq have all been prefigured in previous regimes to varying degrees" (194). Over the next 24 years Hussein would manipulate Iraq history to create a state based on exclusivity, mistrust, patronage and violence in which a small group held power at the center.

Saddam's rise was clearly the result of the state apparatus that had been built over time in Iraq. There was no revolution, no murder, just a simple change of power. Since 1920 various leaders had established an elaborate and complex bureaucratic system. The complexity of the system made it difficult for anyone to oversee the whole system, making that person vulnerable to those at the top. Saddam Hussein had merely moved through this system since 1964 until he rose to the top of it.

Hussein created numerous state institutions to help him appear as a representative of the Iraqi people. In 1980 parliament was reinstated for the first time since 1958, although as a façade to make it appear that there was some supervision of the government. Its representatives were appointed by Saddam who held all of the power. What had been created was yet another patronage system, although this time much more elaborate and sustained by violence (Tripp 2002, 226).

The next major change to Iraqi political institutions would not occur until after the Iran-Iraq war during the 1980s. In short at the end of the costly war in which neither side was a winner, Iraq was nearing bankruptcy. After taking out loans from its neighbors, and from the west (namely the United States), Iraq was going to attempt to rebuild its shattered infrastructure through the sale of oil. However the price of oil had declined in the years after the war and Iraq could not pay its loans back. Its neighbor to the south, Kuwait, began to demand its money that it had leant Iraq. Saddam, realizing he could not pay asked that the loan be cancelled, and when Kuwait declined, Saddam demanded Kuwait should help rebuild Iraq's infrastructure. Kuwait rejected this as well and Hussein made the threat that Iraq would take what it wanted by force. On August 21, 1990 this is indeed what Iraq did when they invaded Kuwait (Tripp 2002, 252; Polk 2005, 128-140).

Saddam attempted to justify the invasion by laying a historical claim to Kuwait. Kuwait had been a part of Iraq (it was part of the Ottoman province of Basra) but had been severed when the British created the Iraqi state in the 1920's. Qasim had earlier attempted to reunite Kuwait with Iraq in 1961. However he did not use force to try and retake it, and the British placed troops in Kuwait to ensure that no further threats were made. Until 1990, this was the last action Iraq had made about claiming Kuwait (Tripp 2002, 166).

After being forced to withdraw from Kuwait in 1991, Saddam brutally put down a Shi'a uprising. A further rebellion in the Kurdish north nearly resulted in an equally brutal repression. However the UN stepped in and created a 'safe

haven' north of the 36th Parallel. Under this provision, Iraqi jets and military were prevented from crossing this line.

This move created a de facto autonomous Kurdish region that would remain in place until 2003. In May 1991, the Kurds of Iraq held what can arguably be called the first free and fair elections in the Iraq. They created a national assembly and achieved a goal that Kurds since 1920 had been attempting: self-government. Brendan O'Leary and Khalid Salih take two opinions of this however. The first is that the failure of the two parties in Kurdistan (Kurdish Democratic Party (KDP) and Patriotic Union of Kurdistan (PUK)) failed to create a unified security force which resulted in a civil war in the mid 1990s. The other opinion argues that even with this civil war, life has been better for all in Kurdistan after the partition. Indeed it is argued that while much work needs to be done in the region, it was the freest part of Iraq in the states history (O'Leary and Salih 2005, 24-29). Sadly this experiment came to an end when Saddam was overthrown and Iraq was once more ignorantly unified.

The remaining two thirds of Iraq would fall victim to the weight of crushing sanctions and an increase in power by Saddam, who relied once more on the patronage system. In the mid 1990's the Oil for Food program was enacted which allowed Iraq to export oil in return needed health supplies and food, however these were restricted based on what the UN determined could make weapons of mass destruction. Despite his brutality in the 1990s, Saddam Hussein had been severely weakened after the first Gulf War. The southern portion of Iraq was portioned in the mid 1990s further reducing Hussein's influence over the state. By 2003,

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Hussein was no threat to anyone in the region and barely a threat to those outside of the narrow central part of Iraq (Polk 2005, 165).

The institutional history of Iraq ends here. Since 2003 a provisional Iraqi government has been able to pass a constitution that does not work. The state has devolved into chaos and no one (either Iraqi's or the US) know what direction the state will take. However, just by examining the institutional history of Iraq what we are seeing in Iraq is nothing new. The ethnic violence and upheavals have been a part of the Iraqi state since its formation. Further the history has shown us a pattern: out of the chaos and rebellion that has cycled through and through, a strong armed dictatorship usually emerges. However, as the rest of this paper will examine perhaps there is a democratic alternative to bringing order to Iraq.

CHAPTER III

FOSTERING STABLE DEMOCRACY IN DIVIDED SOCIETIES

Nelson Polsby writes that "for a political system to be viable, for it to succeed in performing tasks of authoritative resource allocation, problem solving, conflict settlement, and so on, in behalf of a population of any substantial size, it must be institutionalized" (Polsby 1968, 144). Polsby means that organizations must be specialized to political activity or else the system will become "weak and incapable of servicing the demands or protecting the interests of its constituent groups" (Polsby 1968, 144). It is also important that the political system be free and democratic and that representatives be institutionalized to promote diversity. Political opposition must also be legitimized and contained in the political system (Polsby 1968, 144).

The considerations Polsby outlines above are the guidelines with which my framework for a stable democracy in divided society will develop. It will be important that the framework accounts for diversity among ethnic groups, maintains political opposition, protects minorities, and is above all democratic in all aspects. With these criteria in mind, this chapter aims to identify elements that stabilize democracy in divided societies. By looking at autonomy, power-sharing, proportionality, a framework will be developed to create for democracy in divided societies. For the purposes of this paper, I use Nordlinger's definition of regulation in an intense conflict, which I replace with stability for a divided society. This is defined as "the absence of widespread violence and governmental repression"

(Nordlinger 1972, 11). For the purposes of this paper, I argue that the minimalist elements of democracy as defined by Robert Dahl are necessary but not sufficient for a divided society. Dahl defines a democracy as "the continuing responsiveness of the government to the preferences of its citizens, considered as political equals" and that in order for democracy to continue over a period of time citizens must be able to formulate their preferences, be allowed to practice individual and collective action, and have their preferences weighed with no discrimination (Dahl 1971, 1-2). Political rights, such as elections and rights to form organizations, and civil rights, such as freedom of speech and the right to vote are listed by Dahl as some of the basic requirements for a democracy among a large number of people (Dahl 1971, 3). However these elements alone, which may facilitate majoritarian democracy, are not enough for Iraq. In this chapter I argue that in addition to the elements outlined by Dahl, divided societies will need supplementary other institutions.

A brief consideration of the roots of conflict may be necessary before I discuss how to manage ethnic conflict. For this discussion I turn to Mohamad Rabie's book *Conflict Resolution and Ethnicity* (1994). Rabie states that conflict is based on ideas, values, images, belief systems, sociopolitical structure and societal processes. Due to this, the aim to end conflict and, for the purposes of this paper, foster democracy should be to "introduce new ideas, institute new values and build sociopolitical structures both nationally and internationally to make human and institutional interaction more cooperative and less competitive and conflictual" (Rabie, 1994, 21).

Rabie states the conflict resolution should emphasize a reformation of "existing relationships through attitudinal, institutional and structural change" (22). State structure plays a role in either creating or controlling conflict. As Rabie points out, no government can commit to all of its citizens equally, and thus conflict is created. The level of conflict is often an outgrowth of a group's diversity and cultural differences, which tend to be heightened by the failure of the people in power to "act on the needs of their citizens as they perceive them" (Rabie 1994, 26). It is important that the state structure accommodate and understand the ideas, values, and issues of each group and to make sure that each groups interests are represented in the state institutions.

For Rabie, democracy is the best means to "facilitate political participation and integrate the opposition into the main political stream" (27). He goes on to state that democracy can allow for stability and prosperity to prevail, while at the same time allowing for an effective opposition, political participation, reduction of tension, control of corruption, accountability and regulation of dissent (28). Rabie mentions three models that can be used to achieve these goals. The first is the consociational, or consensus, model advocated by Arend Lijphart (1977). The second is the undemocratic control model, which places groups in a minority/majority role (61-63). The final model is Rabie's own 'shared homeland' model that calls for "political separation along nationality or ethnic lines, while maintaining or initiating economic and social unity across political lines" (Rabie 1994, 177). Rabie's model is important because it allows national minorities to form autonomous regions within existing states and still enjoy their freedom. This

model is different from the consensus model in the respect that the shared homeland model requires all political entities to share land with other national groups, as opposed to consensus democracy which separates the ethnic groups into segments.

Now might be a good moment to distinguish between what is meant between majoritarian and non-majoritarian democracy, as these terms will be used frequently in the following sections. The majoritarian model concentrates power in the hands of the majority and is exclusive, competitive and adversarial. Lijphart discusses ten dimensions of the executive-parties structures in majoritarian government. Characteristics of the majoritarian model include a dominance of the executive branch over the legislative branch, two-party system, majoritarian and disproportional electoral systems, and pluralist interest groups with competition among group (Lijphart 1999, 2-3). A unitary state is part of the majoritarian model. The main feature of the unitary state is that it concentrates the power of the government at the center. Related to this notion is that legislative power is concentrated in a unicameral legislature (Lijphart 1999, 2-3). The remaining characteristics which include rigid constitutions changed by extraordinary measures, legislatures that have the final word on the constitutionality of their own legislature, and central banks that are dependent on the executive branch are also features of a unitary state, but are not important for this paper. Since the goal of the framework I am developing is to eliminate a single majority, the unitary-majoritarian government is rejected.

In contrast, the non-majoritarian, or consensus model, seeks to maximize the size of majorities. Its institutions aim to have broad participation in the government and broad agreement of government policies. Contrasting with the above characteristics of majoritarian government, a non-majoritarian government has broad multiparty coalitions, an executive-legislative balance of power, multiparty systems, proportional representation, and coordinated interest group systems that are aimed at compromised and concentration (Lijphart 1999, 2-3).

Many authors including Arend Lijphart, Benjamin Reilly, Eric Nordlinger, Milton Esman, William Kymlicka, Ted Gurr and Donald Horowitz agree that non-majoritarian elements are needed for democracy to work in divided societies. These elements are divided between two schools of thought: group rights versus individual rights. Lijphart's consociational/consensus model is most associated with group rights because it includes grand coalitions, mutual vetoes, proportionality and power sharing among the groups. Essentially each of the elements of consociationalism is an attempt to reduce a single majority.

Horowitz on the other hand rejects group rights on the ground that a high price is often paid by the groups in conflict as each group will be forced to concede something. Horowitz argues for individual rights via fostering cooperation through incentives. The result of an incentive approach is that it will promote accommodation and moderation among ethnic groups (Horowitz 2002, 25). Also agreeing with Horowitz's moderate approach is Benjamin Reilly. Reilly argues that candidates must behave moderately and act accommodating in order to attract support from other groups (Reilly 2001, 10). In order to create this

moderate behavior, Reilly advocates centripetalism, which unlike consociationalism promotes bringing parties together at the center through compromising on issues (Reilly 2001, 11). Since it requires candidates to reach out to other segments of society, centripetalism promotes cooperation among the candidates.

Autonomy/Federalism

Autonomy is defined by Milton Esman as "the right [of ethnic groups] to select officials and control significant areas of public affairs, preferential access by natives to economic opportunities, and privileged or exclusive status for the ethnic language in education and government transactions" (Esman 1994, 7). This definition explains why autonomy is important for a group. It allows a group to maintain control over itself and make its own decisions on matters that concern the group (Lijphart 1977, 41). As Kymlicka notes, autonomy and federalism will allow groups to develop their cultures in the best interests of their people[12]. In this way, the group is able to maintain its individuality within the state (Kymlicka 1995, 27). Autonomy is necessary for these reasons, as well as allowing a group economic, social and political rights (Gurr 1993, 79-82).

Milton Esman discusses two types of autonomy. The first type of autonomy is territorial, or segmental, autonomy that may be used when an ethnic group is geographically concentrated. Territorial autonomy is a mild form of self-determination according to Esman. In order for territorial autonomy to work, the

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[12] It should be noted that Autonomy is not always a solution to ethnic conflict, nor does it always settle a group's claim of independence.

ethnic group should be geographically concentrated. Federalism allows for this type of autonomy 'because it facilitates the sharing of two identities: regional and national' and allows for participation at the center to 'convey a role of decision making in executive as well as legislative institutions' (Esman 1994, 223).

Non-territorial cultural autonomy on the other hand applies to a group not concentrated in a particular territory. This form of autonomy allows "minority ethnic communities to operate, at public expense, their own language and even to maintain tribunals that apply to their own legal system in disputes among members of their community" (Esman 1994, 224). As Esman notes, cultural autonomy takes toleration in an ethnically mixed state, but if it works it can be an effective method of conflict management.

Esman points out that regional or territorial autonomy has been able to stabilize relationships various groups, including the Walloons and Flemings in Belgium, a German speaking minority in Italy and Christians and Muslims in Turkey (223-224). Due to its stabilizing factors, territorial autonomy would work best in Iraq as a means of conflict regulation. In regional autonomy, the groups would practice cultural autonomy, as the Kurds have been since 1991.

Ted Gurr also argues for regional autonomy. Gurr states that regional autonomy is less threatening and a less costly alternative to civil war and secession. Gurr points out that regional autonomy is more negotiable than independence. There are five types of arrangements he points to that can be made to accommodate autonomists' demands: confederalism, federalism, territorial autonomy, regional administrative decentralization, and community autonomism.

Territorial autonomy is not necessarily the same as federalism as regional autonomy does not mean self-governance. Federalism allows for overrepresentation in smaller subdivisions of the 'federal' chamber (Lijphart 1977, 42). Within any of these types of arrangements groups in dispute are better able to work out any of the following: groups rights to use its own cultural aspects (language, religion, etc), control of its land and resources, resource development within group preferences, funding from the central government for infrastructure development (education, medical and welfare), control of internal security, participation in state decisions, and protection of the rights of its members (Gurr 1993, 299). Democratically, these means can be achieved through pluralism and power-sharing within a federal state according to Gurr (306).

Kymlicka argues for autonomy, through federalism, for the same reasons that Gurr does. For Kymlicka, in order to protect minority groups rights through autonomy a liberal style democracy will need to be created that will accommodate cultural differences, and protect civil and political rights of individuals (26). For Kymlicka cultural diversity arises when previously self-governing, territorially concentrated cultures are incorporated into one state. This formation results in 'national minorities' that will wish to maintain themselves as distinct societies alongside a majority culture and will demand "various forms of autonomy or self-government too ensure their survival as distinct societies" (10). For Kymlicka, autonomy through federalism is the way in which these goals can be achieved.

Mohammad Rabie's shared homeland model is another form of autonomy. The shared homeland model is a combination of both territorial and cultural

autonomy in the respect that it allows ethnic minorities to be either culturally independent from the state, full autonomy within the existing society, limited self-rule, cultural autonomy, and control over specific matters, such as religious practice (Rabie 1994, 177). The shared homeland model requires that the various entities share their national or group resources with the other autonomous political entities or independent states that emerge at the end of the state building process. The model further divides national minorities into different cultural groups, but individual, economic, and social concerns would remain united. The end result of the shared homeland model is that it would "permit several political entities to coexist harmoniously within one homeland, while preserving their separate national identities and cultural sovereignties" (Rabie, 1994, 180).

Finally Lijphart argues that segmental autonomy allows the minority to rule itself in its own concern. This increases the plural nature of the society, which as Lijphart argues is the idea because it allows "the segments to turn into constructive elements of democracy" (Lijphart 1977, 42). The natural outgrowth of autonomy as we have seen is federalism.

One time critic of federalism Donald Horowitz has also acknowledged the importance of regional autonomy and federalism on conflict reduction. Horowitz argues that "territory can partition groups off from each other and direct their political ambitions at one level of government, rather than another" (Horowitz 2002, 25). Horowitz acknowledges that regional autonomy can foster intra group competition and promote political stabilization. Political stabilization occurs when politicians of different groups need to interact at the center. Incentives can create

autonomous regions preventing secession, which drives politicians to the center and lead them to concentrating on their regional units for satisfaction (25).

Eric Nordlinger does not support federalism. He argues that it can exacerbate the conflict and allows the dominant segment to ignore or negate the demands of the minority (Nordlinger 1972, 31). Instead Nordlinger proposes a 'purposive depoliticization'. Essentially this conflict-regulating practice is a less decentralized than in a federal system. In the purposive depoliticized system "group leaders agree not to involve the government in public policy areas which impinge upon the segments values and interests" (26). He further argues that this process may be effective in containing the conflict at a particular level and may even help dampen it. Despite his attitude towards federalism, Nordlinger still encourages some form of autonomy in depoliticization.

Regional autonomy is a very important element in conflict regulation and creating a stable democracy. In order to achieve it, a federalist style system is required. However, the question becomes what kind of federalist system will allow for regional autonomy: asymmetrical or symmetrical federalism? Yash Ghai states that ethnically based federations or regional autonomies have different structures and orientations from federations like the United States and Australia (Ghai 2002, 157). Ethnic federations tend to 'emphasize diversity and multiplicity of values'. Several other aspects make ethnic federalism different from US-style federalism. These include an emphasis on self-rule rather than shared rule, division of powers focused on cultural matters, differing party structures, which includes no connection between national and regional parties, and finally asymmetrical

features of the ethnic federations as opposed to more symmetrical features of classical federations (158).

Charles Tarlton gives a good explanation of why an ethnic federation must be asymmetrical. An asymmetrical or symmetrical state will determine its "participation in the pattern of social, cultural, economic and political characteristics of the federal system of which it is a part" (Tarlton 1965, 861). Briefly the symmetrical model of federalism treats every unit as equal in terms of economic factors, population, cultural patterns, etc. In contrast the asymmetrical model treats the individual regions as unique and requires the federalist system to respond to the specific social structures within that region (868-869). If regional autonomy is a means to overcome conflict, the asymmetrical model of federalism may be more suitable.

Federalism may provide autonomy to groups if the respective groups are geographically concentrated. Lijphart notes that federalism supports the goal of all democratic conflict reducing institutions. It decentralizes the state via four elements: bicameralism, strong and active judicial review, constitutional rigidity, and degree of independence of the central bank (Lijphart 2002, 52). Only the first two elements are related to the consensus style democracy. In the case of this paper the first element, bicameralism, is important because it offers additional safeguards for minority interests and autonomy (52). In divided society, the bicameral legislature might resemble the US Congress, with the exception that the representatives are elected on ethnic terms rather than population. In this type of model, the lower house would be formed via population, and thus the largest

ethnic group would control the majority of seats. However, the upper house would have equal representation among the ethnic groups, thus allowing smaller groups to be better represented.

Segmental autonomy fosters the plural nature of a society (Lijphart 1977, 42). Both Gurr and Esman give credence to pluralism which according to Gurr is "an orientation that gives greater weight to the collective rights and interests of minorities" (Gurr 1993, 309). For Gurr pluralism means 'equal individual and collective rights'. While he notes the economic advantages of pluralism which means a shift from programs that enhance individual opportunity towards programs that allocate jobs and resources on the basis of ethnicity, it is the political advantages that are most relevant for this paper. Politically, pluralism leads to the emergence of institutionalized ethnic politics. This allows political parties to ensure that communal interests will be represented in decision making (310).

Power Sharing

Power sharing is another important element that is important to the stabilization of ethnic conflict in democracy. Lijphart defines power sharing as the formation of a government through a "grand coalition of the political leaders of all significant segments of the plural society" (Lijphart 1977, 25). For the purposes of this paper, I have broadened the definition of power sharing to refer to the sharing of central government power by different ethnic groups. However, power sharing is different from autonomy because it refers to governing through coalition cabinets. While autonomy allows the ethnic groups to self-govern in their

respective regions, power sharing divides power among the ethnic groups at the national level of government. Esman notes that power sharing is an accommodative method that is subject to "continual strain and [is] vulnerable breakdowns" (Esman 1994, 258). Instead, Esman proposes multiethnic coalitions because they "can insure that ethnic communities or factions within them participate in government" (Esman 1994, 258). Based on this redefining of the term, in this section power sharing may include a stable governing coalition (Nordlinger 1972), electoral incentives to bring together various ethnic factions (Reilly (2001) and Horowitz (1985 and 2002)), arenas of bargaining (Reilly 2001), and grand coalition (Lijphart 1977).

Nordlinger proposed the stable governing coalition as one of his six points of conflict regulating practices. He states that coalitions are formed prior to an election with an "avowed aim of conflict regulation" (Nordlinger 1972, 21). However how these coalitions are brought into being is left unanswered. Reilly and Horowitz argue that appropriate incentives facilitate the formation of coalitions because the groups would need to accommodate one another to form the coalition (Reilly 2001, 11).

The use of incentives in coalition building comes from the theory of centripetalism. Centripetalism has been shown not to work with Fiji as an example. In the 1999 election, Fiji's main political parties attempted vote pooling, but the deals reached undermined the prospects for interethnic accommodation. This resulted in a coup the following year (Reilly 2001, 124). Centripetalism also assumes that institutional incentives for interethnic accommodation must be

strong, yet in Sri Lanka they were weak and the result was that these weak incentives eventually undermined the governing coalition's effectiveness (Reilly 2001, 125). Despite these drawbacks, centripetalism may still hold some elements that may be necessary for my framework. In *Democracy in Divided Society* Benjamin Reilly states that three phenomena occur in a centripetal society. These are electoral incentives, arenas of bargaining, and the formation of centrist, aggregative, political parties. Electoral incentives are needed for a candidate to reach out and attract votes from a range of ethnic groups other than their own. The result is moderate political rhetoric (11). In Iraq this may not be attractive for political candidates, but may be necessary. An article in the New York Times from September 18, 2007 notes that internal migration in Iraq is reshaping the country's ethnic and sectarian landscape (refer to the intro for more detailed numbers about the internal migration). Specifically the Sunni are moving north and west, and Shi'a south. While this is due to the Sunni being forced out of their homes because of violence, the fact cannot be escaped that this migration is reshaping Iraq's ethnic areas (NYTimes, Sep 18, 2007). The result may be that a Shi'a candidate will need to appeal to a Sunni population and this may tone down political rhetoric. If a Shi'a' voter would vote for a Sunni candidate, or vice versa, remains to be seen.

Reilly notes that arenas of bargaining bring together political actors from different groups with an incentive to bargain and negotiate for cross partisan and cross ethnic ideals (Reilly 2001, 110). In Iraq as a whole this may not work, but in an area such as Baghdad where there is a large cross-cutting cleavage of ethnic

groups, a moderate candidate may emerge. For the rest of Iraq, a grand coalition as outlined by Lijphart may be the only logical choice for Iraq.

The grand coalition as explained by Lijphart is characterized by the participation of leaders from all significant segments of the plural society (Lijphart 1977, 31). Further Lijphart states that grand coalitions have been able to achieve stability and unity during "critical transitional periods by stilling partisan passions and strengthening consensus" (Lijhart 1977, 29). In order to form the grand coalition, an attitude of moderation is required (31).

Lijphart notes that a grand coalition defies one of the principles of democracy: that there should be a strong opposition party. At the same time it fails the turnover and two-turnover test that are used to measure stable democracy (40). However, as he notes, this is a view of democracy that consists of a majoritarian-minority relation, which is exactly what both this framework and the authors of the cited works are trying to avoid in divided societies.

Gurr notes two problems of power sharing. The first is that power sharing arrangements are not easily constructed, especially when the groups are unequal to begin with (311). He looks to Horowitz who states that power sharing is more feasible in unranked systems. In a ranked system political, economic, and social status are cumulative so that one group is subordinate to another. Iraq resembled a ranked structure where the Sunni were always the dominant group since the time of the Ottoman Empire. However, in the last ten years of Iraq's history the country has become an unranked society in which the ethnic (and in this case) religious groups are internally stratified and autonomous as a whole society (Horowitz

1985, 22-32). Due to the unranked nature of the society, Iraq is a suitable candidate for power-sharing.

The second problem Gurr notes is that in some cases one group is more advantaged than another (311). In Iraq's case the Sunni who were once dominant are now the disadvantaged group, creating a potential problem for power sharing. In order to avoid such a situation Gurr cautions that policies of accommodation must be pursued slowly and that nonviolent means are preferred so that groups that may be potential allies are not alienated (312-13). Finally, in accordance with Reilly and Horowitz's moderation tactics, Gurr identifies one key to constructive management of ethno political conflict is to "search out politically and socially creative policies that bridge the gaps between the interests of the minorities and the state" (313). The other tactic Gurr mentions is to begin conflict management at the early stages of open conflict. Unfortunately this opportunity has passed in Iraq.

In consociational theory closely allied with power sharing is the concept of the mutual veto. Nordlinger explains that the mutual veto "provides that governmental decisions cannot be taken unless they are acceptable to all major conflict organizations" (25). While a compromising method, the mutual veto is important because it guarantees power to weaker segments of society and encourages them to disavow violent politics. Lijphart argues against the notion that the mutual veto will lead to a tyranny by the minority by stating that it is a weapon that all minority segments have and can use. Thus it also protects minority rights by allowing the minority group a means by which to override decisions by a majority group. Further more, it provides security which means its use is unlikely

because each interest is self-protected, the struggle for power is prevented, and attachment to it is weakened and everyone's ability to use it is suppressed. Finally each group will realize the potential for deadlock from unrestrained use of the veto and will not use it frequently (Lijphart 1977, 37).

The Proportionality Principle

Proportionality allows for "all groups [to] influence a decision in proportion to their numerical strength" (Nordlinger 1972, 23). While power sharing brings the ethnic groups together at the national government level, proportionality allows for the groups to receive allocations of government aid, welfare, etc in accordance to their size. Nordlinger points to several ways in which the principle of proportionality may be applied as a conflict managing tool. Elective and appointive governmental positions may be distributed according to the proportional size of their respective segments. Proportionality may also be applied to the government's allocation of resources to the various segments of society. However for this paper it is important to note one aspect of proportionality. Nordlinger states that it "reduces the degree and scope of competition for governerable power, administrative positions and scarce resources..." (Nordlinger 1972, 23).

Lijphart agrees with the notion that proportionality allows for a fairer allocation of civil service appointments and financial resources among the different segments. Secondly because it is neutral and impartial, proportionality removes potentially divisive problems from decision making processes and thus

eases the burden on the government. Finally proportionality translates voting into parliamentary seats as stated above (Lijphart 1977, 38-40).

It is not surprising that Kymlicka would agree that proportionality an essential means to preserve individual and minority rights. For Kymlicka group representation is important in a society. Proportionality encourages 'ticket balancing' and makes under representation more visible (Kymlicka 1995, 134). Proportionality, Kymlicka points out, leads to a more representative legislature than single-member majoritarian systems and allows for group representation to take place. Group representation is an important element for democracy because it can be seen as a response to disadvantaged groups' views and interests and allows the said group to be better represented (141). Thus proportionality leads to group representation which allows disadvantaged groups to take part in government.

Minority Rights

Kymlicka puts forth the idea that in a multicultural or divided society, "universal rights, assigned to individuals regardless of group membership, and certain group-differentiated rights or 'special statuses for minority cultures" must be guaranteed (Kymlicka 1995, 6). Through the elements outlined and discussed above, a single party majority can be reduced and individual liberal rights secured in a divided society.

We have seen how Kymlicka defends federalism and PR because they protect individual and minority group rights, but there is one more aspect that should be provided for. Kymlicka notes that ethnic groups will make demands on

the state to protect against discrimination and prejudice. These demands are referred to as "polyethnic rights", which "are intended to help ethnic groups and religious minorities express their cultural particularity and pride without it hampering their success in the economic and political institutions of the dominant society" (31). Polyethnicity is important because intended to integrate groups into the larger society. Thus in a fractional state like Iraq, including ethnic groups is important so that secession does not occur, and instead stability is created (Kymlicka 1995, 177-78).

The above framework will be used to assess the Iraqi institutions in the final chapter.

CHAPTER IV

POLITICAL INSTITUTIONS IN IRAQ

I employ the framework developed in Chapter Two to assess the appropriateness of the current political institutions in Iraq. Since October 2005, Iraq has been governed by the Constitution of Iraq (2005), which replaced the interim constitution known as the Law of Administration for the State of Iraq for the Transitional Period (TAL). Chapter's 3, 4, and 5 of the Iraqi Constitution outline the shape of the government, while Chapters 1 and 2 discuss the Basic Principles and Rights and Freedoms of the Iraqi people. In this chapter, Chapter's 3,4, and 5 of the Iraqi Constitution will be closely examined and compared with the similar provisions of the TAL and the Iraqi Constitution from 1970-2003. This comparison will focus on three political institutions: federal versus unitary state, an electoral method, and presidential versus parliamentary government. The current institutions will be compared against other experts' institutional recommendations for Iraq as well.

The Brookings Institute (2007) places Iraq at a freedom index of 5.05 on a ten point scale, with one being the lowest score and ten the highest. The indicators of freedom for this measurement look at election of the head of government, election of parliament, fairness of electoral laws, right to organize political parties, power of elected representatives, presence of an opposition, transparency, minority representation, level of corruption, freedom of assembly, independence of the judiciary, press freedom, religious freedom, rule of law, and property rights

(Brookings Institute 2007). Lebanon has a freedom index of 6.55, and Israel 8.20. In its region, Iraq places fairly high on the freedom index, with neighbors Iran and Syria ranking 3.85 and 2.80, respectively. However, globally Iraq places a 6 on both political and civil liberties scores due to the growing violence and insecurity (Freedom House: Iraq 2007)[13]. Despite this high placement in the region, the level of violence, discussed in the introduction, suggests that, among other things, the current democratic institutions may be insufficient to end the ethnic tensions. My goals in this chapter is to asses the current formal political institutions in Iraq against the framework established in Chapter 2, review other institutional recommendations for managing the ethnic violence in Iraq, and finally conclude with my recommendations.

Democracy and Islam

Article 1 of the Iraqi Constitution states "Islam is the official religion of the State and is a foundation source of legislation" (Iraqi Constitution, 2005). This point is important since it has been argued that Western style democracy is incompatible with Islam (Huntington1997), and that Islam is undemocratic in nature. However, Indonesia (with a Freedom House ranking of two for political rights and three for civil liberties) is an example of a country with a large Muslim population and a democracy (Freedom House: Indonesia 2007). Indonesia's success at maintaining a large Muslim population and democracy is attributed to a moderate form of Islam (Indonesian Matters, 2005). Other countries with a large

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[13] 1 indicates the highest level of freedom, 7 the lowest.

Muslim population include Malaysia that has a four in both political rights and civil liberties, and Turkey is at level three in both categories (Freedom House: Turkey 2007). In Malaysia Islam and democracy exist together through a program known as "Islam Hadhari". Islam Hadhari is a form of government derived from the basic principles of the Qur'an. A moderate form of political Islam, Islam Hadhari emphasizes modernization techniques that are consistent with Islam (Bashir, 2005). In Turkey, the ruling party's (Justice and Development Party, AKP) politics are similar to Christian Democratic parties in Europe. The AKP respects traditional Islamic tradition, values and cultural values, while at the same time promoting political values of democracy, rule of law and human rights (Bilici, 2007). These three examples offer proof that democracy and some form of moderate Islam can coexist with democracy. How democracy may work in Muslim societies is the focus of this subsection.

In the Middle East, the term 'state' should not be considered the same as it is in the West. In many Middle Eastern countries, the state is considered in religious terms, and encompasses persons beyond the territorial boundaries of individual states (Vatikiotis 1988, 60). The individual states are beholden to the Qur'an and the supremacy of Islam. States such as Iran under Shah Pahlavi and Lebanon made attempts to create secular states and collapsed when Islamism[14] prevailed against the secular forces. Notions of power and authority are based on religious ideology and suggest that in order for a regime to exist in the Middle East it must incorporate Islam (Vatikiotis 1988, 60-61).

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[14] Islamism is the term given to extremist Islamic thought (Nydell 2006, 103).

Interestingly enough, Iraq was one state in the Middle East that had maintained a relatively secular government under the rule of Saddam Hussein. The secular state had been established in Article 1 of the 1970 Iraqi Constitution (which would remain in place until its replacement by the TAL in 2004), which stated that the objective of the state of Iraq is to create one Arab state and further the socialist system (Iraq Interim Constitution 1970). Contradicting Article 1, Islam was established as the religion of the state in Article 4. During his rule, Hussein and the Ba'ath Party would pursue objectives contrary to Islam yet court Islamic values as a means of intimidation and patronage (Tripp 2002, 217). However, through modernization movements Hussein and the Ba'ath Party extended rights to women, such as allowing them to serve in high level government positions, not seen in surrounding Islamic countries. Further secular moves by Hussein included abolishing Islamic Law in favor of a Western Style legal system, making Iraq the only country in the Middle East not to be led by Islamic Law (al-Zainy 1995). Hussein's modernization and secularization of the state of Iraq was done to the ire of the theocratic Shi'a. With the Shi'a now in control of the government, the state of Iraq has become more theocratic. However as demonstrated in the examples of Turkey, Malaysia and Indonesia it would appear that in order for democracy to survive in Iraq, a moderate form of Islam may need to be pursued.

In Islam it has been argued that sovereignty belongs to God, as opposed to liberal democracy in which it is placed in the hands of the individual. However, the more proper view, according to some, is that Islam has always had a point of

'adl, or justice, which is similar to the Western democracy version of freedom (Ibrahim 2006, 6-7). Further, the *maquasid al-shari'a* (higher objectives of the *shari'a*[15]) preserves all religion, life, intellect, family and wealth, ideas that are also found in Lockean liberalism. Freedom of conscience, freedom of expression, and sanctity of life and property are also present in the Qur'an, demonstrating that Islam is not incompatible with democracy (Ibrahim 2006, 7). It is also argued that elements of a constitutional democracy and civil society are explained as moral imperatives in Islam. Morally, freedom of conscience, freedom of expression and sanctity of life and property are outlined in the Qur'an (Ibrahim 2006, 7). However, as explained below, the absence of democracy in the Arab world is the result of militant Islam, which is a reaction against Western influence in the region.

Scholars such as Huntington (1996) and Fukuyama (1992) have argued that Islam is a monolithic faith based on the assumption that it is devoid of individualism, liberalism and political freedoms. It is also argued that Islamic culture, Islamic interpretations and Islamic religiosity do not allow for democracy in the Islamic countries. According to Jamal, scholars know "very little about the conditions under which Islam reinforces views that are supportive of either democracy or Islamism" (Jamal 2006, 54). Further there appears to be very little data about the ways that "Islam structures individual-and-community-level support for democracy as well as Islamism in the [Middle East]" (Jamal 2006, 54).

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[15] *Shari'a* refers to Islamic law derived from the *Qur'an*, the *Sunna* of the Prophet, consensus of the community, and legal reasoning of the jurists (Esack 2005, 113-114).

There should be no reason to think that an Islamic democracy would not work in Iraq based on the arguments above. Indeed Iraq has had a more secular history than some other Middle East nations. They also had a history of neighborhood self-government that has worked within religious institutions. The idea that democracy lies within the people is summed up in the following quote by Thomas Jefferson: "[The people] are in truth the only legitimate proprietors of the soil and government" (Jefferson on Politics 2007). Jefferson's quote applies to Iraq where, despite the authoritarian nature of the regimes in its history, some form of democratic practices was carried out in churches, synagogues and mosques. These informal meeting places settled matters of dispute among neighbors. Professionals in Iraq, such as engineers, lawyers, teachers, and doctors, created participatory politics in the form of unions. While the Ba'ath Party co-opted and twisted these informal institutions, they have not disappeared (Polk 2005, 196-197). These associations and institutions may contribute in the democratization process. These informal institutions may maintain and support the formal institutions discussed below.

Federal versus Unitary State

Article 4 of the TAL established Iraq as a federal system with powers "shared between the federal government, governorates, municipalities, and local administration" (Article 4). The federal government established in the TAL was upheld in the Iraqi Constitution and is further explained in Section 5, Chapter 1 of the Constitution which establishes the "authority of the regions". There are

provisions in the constitution that allow for each region to establish its own constitution, provided it does not contradict the Iraqi Constitution (Article 120), and establishment of regional powers that include the right of regional governments to exercise executive, legislative, and judicial power in accordance with the Constitution (Article 121, Part 1). Other provisions include the individual regions' ability to have an equitable share of national revenues, the regional government's ability to amend the application of national legislation within its boundaries, and establishment of internal security forces (Article 121, Part 2-5). Finally Iraq's regions are established from the 18 governorates established under the TAL (Iraqi Constitution, Chapter 5, Part 1). "Governorate Councils" are created from the governors of these regions. A large degree of decentralization is allowed.

Briefly, a unitary system is not appropriate for a divided society. In a unitary state, such as the United Kingdom for example, local governments perform important functions, but they are subservient to the central government and their powers are not constitutionally guaranteed (Lijphart 1999, 17). Further, unitary states lack divisions of political power, which means that competition among groups is always at a national level, rather than a local level. As previously described, local governments in unitary states are merely administrative bodies, which execute policies of the center. Because of this, policymaking power in a unitary state tends to be unilateral, as opposed to federal states in which power is a combination of decisions between the national and local governments (Cohen 1997, 3). In a state as fractionalized as Iraq, local autonomy and self-government

is important and a unitary state would not meet the needs of Iraq's various groups. As explained by the United Kingdom example, the central government in a unitary state could deny regional groups such as the Kurds certain rights, such as religious practice. Thus in order to uphold regional and cultural autonomy and allow for self-government, a federal system is needed.

Federalism is a political philosophy that champions "shared" and "self" government entities. This philosophy is compatible with several federal systems such as confederations federations, federacies, associated states, leagues, and cross border authorities. Federation is the system, which is established in the TAL and formalized in the 2005 Iraqi Constitution (O'Leary 2005, 51). By the TAL's distinction, a federation is seen as two governmental powers units, the federal and regional, enjoying constitutionally separate powers. At the same time, these units may have concurrent or shared powers (O'Leary 2005, 51). The federal system in Iraq is based upon "geographic and historical realities and separation of powers, and not upon origin, race, ethnicity, nationality or confession" (TAL 2002). In the Iraqi Constitution the federal system is discussed merely as having a "decentralized capital, regions, and governorates as well as local administrations" (Iraqi Constitution, Article 116, 2005).

The elements of federalism are in place for Iraq. While the TAL provided for a majoritarian federation, the Iraqi Constitution provides for a much higher level of decentralization. In the majoritarian federation, political power is concentrated at the federal level and it "facilitates executive and legislative dominance of either through a popularly endorsed executive president, or through

a single-party prime minister and cabinet which has the confidence of the federal house of representatives" (O'Leary 2005, 53). In order for the TAL to be amended, a three-fourths majority and approval of the presidential council was required (Article 3). This same majority was required in order for the bill of rights to be abridged, extending the TAL, delaying elections, or reducing the power of the regions or governorates (O'Leary 2005, 52). Thus under the TAL a super majority was required for changes to the TAL.

In the Iraqi Constitution however more power is given to the citizens to amend the constitution. Similar to the approval of the Iraqi Constitution, any amendment is put to a referendum vote which requires approval by a majority of voters. If approved, the amendment must not be rejected by two-thirds majority in three or more governorates (Article 142). There is also a provision for amendment of the Constitution in Article 126, which states that approval by two-thirds of the Council of Ministers and approval by a majority in a referendum is needed.

While the Iraqi Constitution grants more of a role to the people in changing the constitution than the TAL, it is still majoritarian in nature. Instead the alternative to the majoritarian federation is the consensual federation. Consensual federation has "inclusive executive power sharing and representative arrangements in the federal government, institutionalizes proportional principles of representation and allocation of public posts and resources" and has a separation of powers, bill of rights, monetary institutions and courts, which are protected from the immediate power of the federal government (O'Leary 2005, 53).

Brendan O'Leary argues that it would be in the best interest for Iraq to adopt the consensual federation as opposed to the majoritarian federation. In the latter he argues that the Kurds in particular would face the possible loss of their linguistic, national, and cultural identities at the hands of an Arab or Shi'a majority. Likewise the Sunni face the same problem, and would want to seek a constraining federal system (O'Leary 2005. 53).

O'Leary (2005) argues for consensual federations because of the way they balance out the bicameral legislation. By separating the legislative and executive branches, a consensual federation is able to create two powerful chambers one of which represents the constituent regions (55). Under the TAL Iraq was not a full federation due to its lack of two chambers. Previously mentioned is the fact that while provisions are in place for an upper house in the 2005 Iraqi Constitution, it has yet to be enacted. As mentioned previously, Iraq has a majoritarian style federation in which a simple majority is needed to pass laws in the Parliament. As pointed out earlier, the Shi'a holds close to 50 percent of the seats in the National Assembly. When the number of Arab party seats is added (44 seats for the Sunni Iraqi Accordance Front and a further 25 for the Shiite/Sunni National Iraq List party) this brings the total number of Arab party seats in the National Assembly to 197, or about 72 percent of the seats (Brookings Institution 2007). The result is that the non-Arab parties are clearly in the minority and would require a second chamber to defend their interests. How that can be done is discussed below.

Federalism and territorial autonomy are two of the most debated aspects in Iraq's current system. The Kurds first had their demands met in the TAL and

formalized in Chapter 1 and 5 of the Iraqi Constitution, which grants them ethnic federalism. However, religious autonomy was not addressed in the TAL, while in Chapter 1 Article 2 of the Iraqi Constitution Islam is the official religion and any passage of a law that contradicts Islam (note: not Islamic Law) is barred. This interpretation is vague and is open to interpretation by whoever (rather Shi'a or Sunni) is in the power of authority. Religious rights are also established in article 2, where Iraq is recognized as a multiethnic, multi-religious, and multi-sect country that permits all religions and sects to practice religion freely. In the "Declaration of the Shi'a of Iraq", the Shi'a demanded autonomy for "teaching circles" and the right to establish their own schools, universities and other teaching institutions that would permit them to teach their religion (Anderson, Stansfield 2004, 195-96). Because of this, both Kurdish and Arabic are established as the official languages of the state, and all documents, public addresses, schools, etc are published in both languages (Article 4, Section 2).

These provisions are much more liberal than the Constitution under Saddam Hussein. The 1970 constitution established Arabic as the official language, only recognizing the Kurdish language and people in their region. Further, almost no autonomy was granted to the regions. This seems to be because of the socialist agenda of the Ba'ath party. Instead the state assumed all responsibility for economic activity and did not allow any independent private economic activities (Iraq Interim Constitution 1970). It was clear that when the current Iraqi Constitution was being drafted, the authors were trying to dismiss all elements of the Ba'ath Constitution.

There are others who argue that the Sunni will not accept federalism, since it would still keep Iraq unified under Shi'a domination (Galbraith 2006, 201). While the constitution allows for the Shi'a and Sunni to form their own institutions of self-government, it still contains power in the central government. The solution proposed by Galbraith and others is a three state partition among the groups (Galbraith 2006, 206). In the US Senate, Senator's Biden and Brownback support a similar solution with a loose confederation of the regions of Iraq. In this model, there is a Kurdish region in the north, a Shi'a region in the south, and a Sunni region in the central region. Baghdad would have little power other than managing oil revenues (Biden, 2007). Both Galbraith and the Biden-Brownback Amendment claim that Iraq's breakup is inevitable, and that hope for a unified state has passed. If too much power is decentralized, as Galbraith and the Biden-Brownback Amendment suggest, a breakup of the state of Iraq could occur due to a lack of a central governing power. That is, without anything to unify the regions, such as the promise of government funding for education, welfare, infrastructure, etc, the regions would be free to pursue their own agendas with no incentive to support the state.

It has been concluded that Iraq will need to have a federalist system because a unitary state, as noted above, will not allow for all of the ethnic group's needs to be met. However the question is what degree of federalism will work in Iraq? To promote power sharing, the consensual federal system has advantages over both the majoritarian federations and the highly decentralized separatist model of federalism described above. Besides maintaining the state of Iraq, the consensual

design would allow for the minority groups to be represented, as well as allow for proportionality to occur. The bicameral legislation would give the lesser groups in Iraq, the Sunni and Kurds, better representation proportionally via an upper house (the currently non-existent Federation Council). Since the Parliament is currently a majoritarian unicameral legislature, there is no opportunity for minority groups to be represented. Further, the way in which a bicameral legislation is enacted in Iraq under the constitution (with the Council of Union being created by the Council of Representatives which is explained in more detail below) this makes one house subservient to the other and betrays an important aspect of federalism: two balanced powerful houses elected by different constituencies.

Finally, because it still has a unicameral legislature in practice (as noted above the second chamber has, as of December 2007, yet to be created), the current Iraqi parliament fails to meet the power sharing element of my framework. A minority group such as the Kurds and Sunni may not have an equal share of power as the Shi'a (who holds 128 of the 275 seats, which are about 47 percent of the legislature) (Brookings Institute 2007). Without having a bicameral legislation, it is difficult to ensure proportional representation and protect the rights of the minority groups (the Sunni and Kurds). However, when the Federation Council is created it may still fall short of bicameral legislation. According to Article 65, the Council of Union (Federation Council) will be formed by a law enacted by two-thirds of the members of the Council of Representatives. Further the Council of Representatives regulates membership conditions, competencies and "all that is connected with it" (Iraqi Constitution 2005, Article 65). This gives the Council of

Representatives absolute authority over the Council of Union, thus contradicting the purposes of a bicameral legislature.

In order to meet the democratic framework I have discussed, the Council of Union needs to remove population as a means for representation. On what grounds its members are to be chosen remains to be seen. This aspect goes beyond the reaches of this paper and warrants further research. However, in order for the Council of Union to be an effective powerful second chamber some other means of representation is needed.

Historical precedence has suggested that it is unlikely that one branch of government would relinquish more power to another. Since the Council of Union's provisions is delayed until the next Parliamentary elections, perhaps this will allow for time and hindsight to take hold and influence the Council of Representatives decisions regarding the structure and rules of the Council of Union. While it would be naive to think that the Iraqi Constitution could be amended to allow the Council of Union its own power, at best what could occur is that provisions will be built in that will allow for the Council of Union to gradually attain more autonomy and legislative authority than currently provided. Making the Council of Union powerful is a necessary step in order to ensure that all of Iraq's minority groups are represented in the government. However as it stands the idea of one chamber of Parliament creating a second subservient chamber is a major design flaw that will have to be amended and fixed for the aforementioned reasons.

Electoral Method

The Constitution of Iraq makes no mention of the type of electoral method to be implemented in Iraq. The January 2005 elections were carried out under the proportional representation system established in the TAL. In this election, the entire country was treated as a single constituency and seats were allotted according to the party's share of the national vote (Brown 2007, 7). The only provision on elections currently in the Constitution of Iraq is a "Supreme Independent Commission for Elections". Since democracy is not advancing in Iraq (which is the reason for its decrease in the Freedom House score from a five to a six and a changed status of "free" to "not free"), little has been done about an electoral system, meaning that the only basis for the elections currently resides in the TAL.

Under the TAL, a closed list proportional representation electoral system was established. In this system, the entire country is treated as a single electoral district (UN Iraq Electoral Sheet, 2005). In the elections, political parties, associations and independent candidates that collect at least 500 signatures may run for election. Any groups associated with militias are not able to register. A natural threshold[16], determined by the number of votes cast, must be crossed in order for a candidate or party to gain entry into the National Assembly (Independent Electoral Commission of Iraq, 2004).

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[16] "The natural threshold is calculated by dividing the total number of valid votes by the number of seats on the council" (Seat Allocations, IECI Regulation 17/2005)
http://www.ieciraq.org/img/PDF/RulesAndRegulations_English/IECIReg%2017-05%20-%20Seat%20allocation%20-%20final.pdf

Of the available electoral methods Iraq could have chosen, PR would have been better alternative to semi-proportional and plurality-majority systems and vote-pooling. Plurality-majority systems promote a winner-take all situations, which would have alienated many of Iraq's factions because they could not gain a reasonable portion of the vote. Semi-proportional systems, which combine PR and majoritarianism of plurality-majority systems, require each elector to vote only once, but allow that voter to distribute the number of seats between different candidates. The candidates with the highest number of votes fill these seats (Reilly 2001, 15-17). Finally in PR, voters vote for a party rather than an individual candidate.

If the goal of the electoral method was to allow for as much representation and moderation as possible at the national level, Iraq could have chosen the alternate vote-pooling method. Vote pooling promotes moderation on ethnic issues because it requires parties to pool all votes in an electoral arena (Horowitz 1985, 396). Reilly agrees with Horowitz's notion of vote pooling on the grounds that it enables politicians to campaign for 'second choice' votes of electors which would go to a candidate from another ethnic group, while the first choice of the voter is to their respective ethnic group (Reilly 2001, 10). Reilly's electoral system of vote pooling is the 'preferential vote'. This system, by Reilly's definition, enables electors to rank candidates in the order of their choice on the ballot while providing parties and candidates in divided societies with an incentive to 'pool votes' (Reilly 2001, 21). Like Horowitz, Reilly's main goal is to promote

moderation at a local level, rather than expecting leaders to act accommodatingly after an election (Reilly 2001, 22).

Vote pooling as a whole is not a better alternative than PR for Iraq, but it does include elements that may be helpful to foster democracy that PR does not include. I reject vote pooling as an alternative electoral method for Iraq for the main reason that vote pooling requires moderate action by all parties. Given the level of violence that is being seen in Iraq, for parties to take a moderate approach seems unlikely. Instead, moderation may have to be forced, which is why I use only certain elements of vote pooling.

The element of vote pooling that is important here is the encouragement of moderate actions by parties. This would allow for better inner party cooperation and coalitions. Further in PR the only incentive to create a coalition is when no party obtains a majority of the seats. There is no moderating incentive to form a coalition. Vote pooling provides a solution to that problem by having electors rank order their candidates. This would mean that candidates would need to hold more moderate views in order to get elected, thus providing the incentive (Reilly 2006, 819-20).

In order to promote moderate politics among the parties, Reilly posits a threshold to be met. As discussed above, Iraq already has a natural threshold that must be met. The threshold is able to exclude geographically concentrated parties, as well as block the entry of extremist parties which may try to dictate policies in the parliament that would be unfavorable for the rest of the Iraq (Reilly 2006, 819). A threshold is at odds with a PR system, which can enable extremist groups

to gain entry into the Parliament. PR distributes seats according to the number of votes received. This proportional distribution of seats can lead to ethnic group security because the ethnic group in question can gain representation and play a significant role either as a coalition partner or in opposition to the government (Saideman et al. 2002, 111). Saidman et al. conducted a study which found that PR tends to have less ethnic conflict than any other system. Minority ethnic groups are more likely to have some representation in the parliament than in any other system, which will lead to the ethnic groups members being more satisfied that there concerns are being met (Saideman et al. 2002, 118).

The goal of the government in Iraq should be to create a moderate form of government. PR, as explained by Saideman above, does not perform this duty solely on its own. Since PR allows for any ethnic group, regardless of how extreme it may be, to gain entry and play a significant role in decision making, PR may in fact make the current ethnic violence in Iraq worse because of this. The extremist groups might wish to force their agenda on the rest of the Parliament when they cannot find a coalition partner. When their demands are not met, they may still resort to violence. The threshold may have a similar effect, yet it can keep extremist groups, which may hinder moderating policies, out of the government. Instead what might occur, and perhaps be more favorable for moderating policies, is that extremist groups might be able to be incorporated into a larger party. In the Parliament a larger party may not wish to form a coalition with the extremist group, but outside of the Parliament the larger party may be more willing to cooperate with the extremist group. For example a moderate and

extremist Sunni group may find some common ground outside of the Parliament and the moderate Sunni group may be keen to incorporate some of the extremist Sunni group's interest into its party agenda. This might allow for a more moderate approach that Reilly posits, and that Iraq might need. Thus, despite excluding the extremist groups from the Parliament, the threshold may have an adverse effect of creating one or two more moderate parties in the government. In addition to these moderate parties, other larger parties that cross the established threshold will also be present in the Parliament.

Combined with the elements discussed above, PR currently creates the best electoral system for Iraq and also allows for minority rights to be secured. By being inclusive, it allows for representation of all groups in the country. Further it allows for fairer representation of women and minorities in the governing chamber. And finally, as stated earlier, because PR systems encourage alliances, this means that groups will may be persuaded to take a more moderate approach to gain votes from different constituencies.

The alternative to the PR system under consideration was the multi-member majority system that Iraq traditionally used. In this system, several members are elected from one district. However it is pointed out that this would not have been possible currently, since it would have required the redefinition of electoral boundaries into smaller districts (UN: Iraqi Electoral Fact Sheet, 2005). However once ethnic tensions subside, it may be possible to adopt this system several years from now.

In Iraq the PR system is specifically designed to incorporate minorities into the government. The TAL requires that at least 25 percent of representation be women and that there be a fair representation of minorities within the parliament (TAL, Article 30, section C). Since it encourages groups to form coalitions, PR provides for power sharing. However, Iraq's PR system may still require incentives as laid out by Reilly, since the Shi'a will dominate the Council of Representatives. This will mean that in order to create a firm opposition, the Kurds and Sunni will need an incentive to cooperate with one another. The Sunni and Kurds would need to gain allies in the Council of Representatives Chamber to offset the majority Shi'a, and this may encourage the two groups to take a more moderate position. The Sunni and the Kurds could not form a majority against the Shi'a, but together may form a successful opposition. Likewise, the Shi'a may try to sway the Sunni into an alliance with them to create an Arab majority. What the outcome will be remains to be seen, but in any case incentives will be needed to prevent permanent dominance of the Parliament by the Shi'a.

Presidential versus Parliamentary Government

In article 1 of the Iraqi Constitution, the structure of the Iraqi state is laid out as a single federal state with a republican, representative, parliamentary, democratic government. This is further explained in Section 3 of the Constitution, in which the federal powers are divided among four branches: the legislative, executive, judicial and independent associations. The legislative branch is composed of the Council of Representatives (the lower house of Parliament),

whose members are chosen at a ratio of 1 per 100,000 Iraqi persons, and the Federation Council (Iraqi Constitution, Article 48). The Federation Council (the upper house of Parliament) is established as a legislative council that includes representatives from all regions and the governorates not organized in a region (Iraqi Constitution Article 65).

Article 78 establishes the Prime Minister as the "direct executive authority responsible for the general policy of the state and the commander-in-chief of the armed forces" (Iraqi Constitution, Article 78). The executive branch consists of the symbolic role of the President of the Republic and the Prime Minister and their cabinet. The true governing power in the state is the Prime Minister and their Council of Ministers, which is the Parliamentary Cabinet (Iraqi Constitution 2005, Article 69). Despite the role the President plays in choosing the Prime Minister (with Parliamentary approval) the presidency is still established as a nothing more than a representative of the unity and sovereignty of the state of Iraq. *He* (emphasis added) guarantees that the Constitution will be followed and preserves Iraq's 'independence and sovereignty' (Iraqi Constitution, Article 66-67). Finally Article 70 establishes that the President is chosen by a two-thirds majority of the Council of Representatives.

Iraq is clearly a parliamentary style government. In a parliamentary style government, the executive and legislative authority is fused into one cabinet. The cabinet leader, the Prime Minister, will then need the support from the parliament in order to stay in power. In contrast a presidential system has separate legislative and executive branches, with the executive (president) elected for a fixed term.

The president has the authority to oversee and manage the administration, as opposed to a parliamentary government in which all officials are responsible to the cabinet headed by the Prime Minister (Riggs 1997, 257). It is assumed that the bureaucracy can be better administered in a parliamentary system because it is not dispersed amongst several leaders as in a presidential system, and the leaders of Parliament can be more powerful since they are better controlled by the fused power of the regime. Finally, parliamentary government can allow for coalition governments that can facilitate power-sharing (Lijphart 2002, 49).

The system in place in Iraq was one of a few choices that were available in the aftermath of Saddam Hussein's removal from power. The first choice was a collective presidency, as originally outlined in the TAL (the others being a restoration of the monarchy, and a weak unified presidency). The collective presidency outlined by the TAL in Chapter 5 included a President of the state and two deputies. Chosen by a two-thirds majority, the 'Presidency Council' represented the sovereignty of Iraq and oversaw all higher affairs of the country (Article 36). As the executive branch, the Presidency Council could veto any legislation of the National Assembly (the Council of Representatives under the TAL) within fifteen days of passage (Article 37). Finally, the Prime Minister's function under the TAL was merely to manage the day-to-day functions of the National Assembly. The Presidency Council could dismiss the Prime Minister (Article 41).

While the system in place under the TAL may have met the power sharing element of my framework, there were other problems inherent in it. The main

example is given in a situation which occurred in Bosnia's shared presidency. In Bosnia the shared presidency, adopted under the Dayton accords, allots a seat for each ethnic community to have a seat in the presidential council. However the system in place in Bosnia meant that each candidate in the shared presidency was elected only by their ethnic community, and was therefore not beholden to any other ethnic groups (Dawisha and Dawisha 2003). The problem with the Bosnian situation is that it has been unable to build the state, and is beset with many problems. There is no incentive to cooperate among the leaders, and the result is that the ethnic leaders in the presidency only feel responsible to their respective communities (Dawisha and Dawisha 2003). A similar situation was likely to occur in Iraq if the collected presidency continued, with each presidential member likely to side with their ethnic group. The Shi'a may form ties with Iran, while the Kurds will look to other Kurdish populations in Turkey, Syria and Iran (Dawisha and Dawisha 2003).

Although Iraq has a parliamentary government in place, I would like to examine briefly arguments for and against a presidential system in divided societies. It is argued that since presidential systems are majoritarian in nature, a zero-sum game is introduced into politics (Lijphart 2002, 49). This means that minority parties and representatives are naturally excluded. Further, because presidential systems have a head of state in a fixed term, they cannot be discharged by a no-confidence vote (Riggs 1997, 257). It is also possible that gridlock between competing executive and legislative branches can hamper the ability of

the government to govern (Riggs 1997, 257). This latter point is particularly important in a state like Iraq where the goal is to manage conflict.

Other authors such as Frye (2002) and Cheibub (2002) have argued that presidential systems are better at managing conflict because they *can* prevent deadlock, despite what authors such as Riggs would say. As Cheibub argues, presidential governments are more accountable to their constituents and therefore will wish to avoid deadlocks (Cheibub 2002, 127-128). However, in the attempt to avoid deadlocks, some severe compromising may take place resulting in the loss of certain demands made by groups. This is not necessarily a problem. However my critique of Frye and Cheibub's arguments, as they apply to a society that is as divided as Iraq is, is that both authors assume that in a divided society moderate pluralism will occur. Given the amount of ethnic violence in Iraq, moderate pluralism is unlikely to occur in the near future. Finally there is an argument that parliamentarism can be threatening to a minority group if they do not gain significant representation. In a presidential system however, the ethnic groups may be safer since there are more ways to block unfavorable actions (Saideman et al. 2002 110-11). Due to the division of powers between the president and legislature, this allows one branch to check the other, even if one branch dominates the other (Saideman et al. 2002 110). While these points are valid, one major point still remains: in a presidential system it is possible for one party to gain a permanent majority, thereby shutting out a minority completely. The one dominant party could always ensure that there demands are met and ignore the demands of the minority. This fact, combined with the fact that presidential systems in general

concentrate power at the center and rely on majoritarian principles, make it unlikely to work in Iraq, where the exclusion of a single ethnic group can lead to further violence.

The parliamentary government in Iraq is a better choice than a presidential system because it is better able to meet the criteria for democracy in divided societies. Since parliamentary governments allow political groups to form coalitions to gain majorities (or in Iraq's case to gain a sizeable voice to oppose the Shi'a majority) power sharing amongst the different ethnic groups would occur. This is the particular strength of a parliamentary government in Iraq as opposed to a presidential government. In a presidential-majoritarian government it would be likely that a Shi'a candidate would always be president due to the overwhelming majority of the Shi'a.

A parliamentary system meets my proportionality principle and minority rights criteria because it can allow for the Sunni and Kurdish minority groups to gain a fairer allotment of seats in the legislative chamber. This is done through proportional representation which was discussed in the earlier section. Further, because many parliamentary governments require coalitions in order to form a majority, this allows for minorities to become part of the government. The prime minister is elected from a majority in parliament, which requires them to compromise and negotiate with minority parties, thus including them in the government (Riggs 1997, 270-71). Thus a parliamentary system is better at meeting the criteria in my framework than a presidential system. Despite meeting most of the criteria of my framework, Iraq's lack of a second chamber is a

drawback. While some fair representation of groups is found in a parliamentary system, the Shi'a majority necessitate a second house so that the Kurds and Sunni will have a voice in government.

CHAPTER V

CONCLUSION

It is no small feat that in a matter of two years Iraq went from a dictatorship to an electoral democracy. Within this time, a constitution was drawn and an election held. This is nothing short of remarkable. However, because of the haste of the American forces to show that democracy had been brought to Iraq, many considerations were overlooked. The amount of ethnic violence we are now seeing was underestimated. It appears from the way in which the government was established that a simple overview of Iraq's history was not performed and lessons from literature on democracy in divided society were not heeded. The result is a country that is now in a chaotic state.

This paper has focused on the institutional flaws of Iraq's government, such as the lack of an electoral system or the lack of a separate chamber in which Iraq's minority groups such as the Sunni and Kurds can be properly represented. However, it is further disturbing that so little consideration was given to Iraq's past democratic tendencies. The informal institutions that are so important to the maintenance of democracy were undone after May 2003. Further research into these informal institutions and into Iraq's long standing patronage system are beyond the scope of this paper but may be necessary to determine there impact on the formal institutions discussed in this paper.

My institutional framework discusses how governmental agencies can work to bring about stability and democracy to Iraq if properly worked, but as demonstrated above, even these are not performing their tasks properly. Autonomy has been granted, but it does not go far enough. Power sharing can be performed in Iraq, but the means are not there. Minority rights are established in Chapter 2 of the Iraqi Constitution, but not represented at the central level of government. Finally, despite holding parliamentary elections, no permanent electoral system has been established in the Constitution, and no means of equal representation among the ethnic groups and factions in Iraq are available.

Iraq has a colorful history of rebellion and violence. But it has also had a history of a proud people that wished to break free of Turkish, Western or a dictator's dominance. There is a strong desire for freedom and democracy among the people of Iraq as the high numbers of voter turnout indicate. Appropriate institutions are necessary as this thesis has shown, however they alone are not sufficient for democracy. The heart of this issue lies within institutional design and ultimately nation building. In Iraq's case there was no natural transition to democracy, but rather the prior dictatorship of Saddam Hussein was removed and the US felt the people of Iraq would accept democracy and the system would work. As this paper has shown, the construction of the institutions was poorly thought out. Having no prior experience with formal democracy has led to setbacks that are now being seen, such as a lack of cooperation among the ethnic and religious groups at the federal level. When this paper was written in early 2008 institutional design was not appearing to work. However, this is not to say that

some manipulation and reworking of Iraq's governmental institutions would not lead to a working democracy. This manipulation and reworking of governmental institutions would certainly evoke nation building, which I feel would not be welcomed by the Iraqi people, who have consistently opposed outside intervention into their country as demonstrated in the history section. It remains to be seen what the future will bring for democracy in Iraq, but based on my observations and recommendations Iraq's formal governing institutions will need to be thoroughly reworked to create a lasting and stable democracy.

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