Ethnofederalism in Post-2003 Iraq: Alternative Explanations of Political Instability

Jalal Hasan Mistaffa (109267632)

A dissertation submitted for the degree of Doctor of Philosophy

School of Geography, Politics and Sociology

Newcastle University

June 2016

Abstract

Political instability in post-2003 Iraq is easy to detect even by a non-specialist observer. Nevertheless, why Iraq has become politically unstable is a question that has received controversial and sometimes contradictory responses. Partial ethnofederalism is the adopted political system in post-2003 Iraq which several scholars believe causes political instability and threatens the integrity of states. Accordingly, the charge is that ethnofederalism formalizes antagonistic minority identities and empowers them with institutional capabilities. By extension, identity formalization and institutional empowerment make the minorities move towards secession. Thus, the question addressed in this dissertation is to what extent partial ethnofederalism really can be held responsible for political instability in post-2003 Iraq?

This dissertation defends partial ethnofederalism against its critics and argues that, far from being the root cause of political instability in Iraq, it has in fact ensured that instability has not turned into disintegration. Three defenses are paramount and constitute the bulk of my argument in support of ethnofederalism in Iraq. The first defense criticizes the critics' method of approaching ethnofederalism in which they consider it as an independent variable (causing the disintegration of states) rather than a dependent variable (the outcome of ethnic elite negotiations). Considered as a dependent variable in post-2003 Iraq, ethnofederalism was the only viable option. They second defense investigates the history of Iraq and argues that whenever the central governments adopted an ethnic form of autonomy, political stability prevailed and, conversely, whenever the central government rescinded such autonomy arrangements political instability followed. The third defense originates from the question of: if ethnofederalism is not responsible for instability, then what can explain its existence in Iraq? To answer this query, an alternative explanation is offered. I argue that two other factors majorly contributed to the existing political instability in Iraq that are not ethnofederal in nature, namely insufficient legitimacy of the processes that led to re-establishment of the state and deficiencies found in both the processes and structures of some state institutions.

Dedication

I still remember the moments when I was a child in primary school in Iraq hiding out of fear of bombs in what we called plane-protection-holes. Because of the Iraq-Iran and Iraq-Kurd wars I did not have a joyful childhood. Yet, my grandfather was telling me that his childhood was also lost in wars. I was wondering why people fight each other and whether there was a possibility of peace. I dedicate this work to every lost childhood moment and every peace promoter.

Acknowledgments

First and foremost, I would like to express my sincere gratitude to my main supervisor, Dr Ian O'Flynn, who has been constantly supportive and patient with me. I admire his genuine engagement with my dissertation. He taught me to think deeply but write simply and clearly. I wholeheartedly appreciate his wonderful supervision. Likewise, my second supervisor, Dr Alistair Clark, was of great assistance and guidance to me in many aspects, especially regarding the structure and design of the dissertation. I am really grateful to him for sharing his personal experience, including the ups and downs a PhD student usually passes through. Thank you both for your excellent supervision.

Special thanks to the Ministry of Higher Education and Scientific Research in Kurdistan Region for funding my studies through its Human Capacity Development Program. In this regard, special thanks go to Prof. Dlawer Ala'Aldeen who initiated the program. My home university (the University of Human Development) deserves a special thanks and appreciation for giving me leave to study abroad. I also would like to thank several people whom, in one way or another, helped refine my arguments and thus significantly contributed towards the accomplishment of this dissertation. I am thankful to all the staff of the Politics Department, especially the Annual Progress Review panelists in the last four years. I also would like to thank the staff of the HaSS (Humanities and Social Sciences) for the valuable research training they offered which was instrumental in conducting my research. Special thanks to my colleagues in the Politics Department who have been a source of inspiration. Furthermore, I would like to thank my long-time friend, Nahwi Saeed, for our daily communication that was a great source of experience and knowledge. Together we traveled the exciting path of a PhD. I would also like to thank my friends, Sarina Theys and Sarwar Abdullah, for their support and encouragement.

Conducting my fieldwork was an impossible task without the help of several people. My appreciation goes to all the MPs and politicians who agreed to be interviewed and dedicated their time to answering my questions. Among them, a greater appreciation goes to those who tried to persuade other politicians to participate in the research. However, the greatest appreciation goes to Najib Balataee, a Kurdish MP, with whom I stayed for a week in the Green Zone in Baghdad. If it was not for him, several of these interviews would not have been conducted. He arranged access to the Iraqi Parliament and alleviated all the complexities of such a process. I really appreciate his help and the fact that he convinced several MPs to be interviewed.

Furthermore, I am in debt to several others. My mother, Khadija, was my inspiration and the example of a hard working person. I am struggling to find words that can truly render my

feelings towards her. What I can say is 'I love you dearly, mom, and thanks for everything'. I am also sincerely thankful to my father, Hasan, who unceasingly included me in his prayers. Thank you my lovely parents for your unstopping support. My brother, Ghareeb, and my cousin, Hemn, deserve special thanks because of their frequent travel to Hawler where the Ministry of Higher Education is for removing the obstacles and easing the complexities of my scholarship. I should also extend my thanks to my sisters, Jwana and Ashti, and my mother-in-law, Khuncha, who also always included me in their prayers. Among all others, I must deeply thank my father-in-law, Salih, for his endless encouragement and support. He abundantly helped me without waiting for me to thank him. You are one of a kind, thanks.

Now it is time to thank the greatest of all, my wife Shilan. She poured her love on me and sacrificed a lot for me to finish my PhD. I am out of words that can rightly appreciate what she has done for me. All I can utter is that 'you were and are the blessing of my life and you have made my life happier, easier, and more enjoyable'. Last but not least, I would like to thank my children, Nvar, Leeya, Laawy, and Nali for the joy they gave me through the years of conducting my research. Without them, this dissertation would have had less happy moments. Thank you.

List of Abbreviations

ARC	Accreditation Review Committee
CDC	Constitutional Drafting Committee
CoR	Council of Representatives
CPA	Coalition Provisional Authority
CRC	Constitution Review Committee
DPPWG	Democratic Principles and Procedures Workshop Group
FC	Federal Council
FG	Federal Government
FOIP	Future of Iraq Project
FSC	Federal Supreme Court
GNOR	Governorates not Organized in a Region
HCIGC	The Higher Commission for Inter-Governorates Coordination
HoL	House of Lords
HoR	House of Representatives
HRW	Human Rights Watch
IDC	Iraqi De-Baathification Council
IGC	Iraqi Governing Council (commonly known as the Governing Council)
IHEC	Independent High Electoral Commission
IIG	Iraqi Interim Government
IIP	The Islamic Party in Iraq
ISIS	Islamic State in Iraq and Sham
ITG	Iraqi Transitional Government
KDP	Kurdistan Democratic Party
KIU	Kurdistan Islamic Union
KRG	Kurdistan Regional Government
MEVS	Middle Eastern Values Study
MP	Member of Parliament
NCAJ	National Commission for Accountability and Justice
PM	Prime Minister
PUK	Patriotic Union of Kurdistan
RAF	Royal Air Force
RCC	Revolution Command Council

SCIRI	Supreme Council for the Islamic Revolution in Iraq
TAL	Transitional Administrative Law
USAID	The United States Agency for International Development

Table of Contents

Lists of Tables and Figures

Introduction

Research Question

Ethnic groups have had hope that the post-invasion Iraq would be better in terms of political stability due to the collapse of the authoritarian Baath regime and the formal adoption of a democratic partial ethnofederal system. However, the following quote proves how politically unstable Iraq has become.

> *The future of Iraq as a nation state is in question as never before.* (The UK Foreign Affairs Committee, 2015: 3)

Accordingly, Iraq has never been that close to disintegration. The disintegration of the state was the major fear behind the previous governments' resort to the coercive assimilation of the ethnic groups and it was a key factor behind the adoption of the current ethnofederal system. Ethnofederalism exists when the boundaries of a federal region or more are drawn in a way that coincides with where an ethnic group is an overwhelming majority. However, the basic question is whether ethnofederalism (in its partial form) is a major cause behind such instance of instability and fears of the disintegration of Iraq after 2003?

Some academics state that political instability is expected in an Iraqi ethnofederation (Makiya, 2003: 9; Dawisha, 2004: 16; Byman, 2003: 58, Wimmer, 2003: 124, Younis, 2011: 8). It may be argued that Iraq, although politically unstable since 1921, has never experienced such high secessionist tendencies. Accordingly, the growth of these tendencies, in Iraq, was because of federalism, specifically in its ethnofederal form. Hence, ethnofederalism empowers minorities, such as Kurds, and equip them with the formal institutional means that make them capable of seceding.

Others may argue (Meiloud, 2015) that instability in Iraq has originated from the Sunni Arabs grievances. Accordingly, such grievances were partly caused by the adoption of a federal system in the referendum of October 2005. In fact, the majority of the Sunni Arabs voted against the constitution in that referendum and thus the results are perceived as a reflection of the negative attitude of Sunni Arabs towards federalism. Others argue that there were frequent instabilities in pre-2003 Iraq and the level of violence that the federal Iraq has witnessed is unprecedented. Previous conflicts and violence used to be between the governments and other rebellious groups, be they Kurds or Arabs, yet now, on top of that, they are between ethnic groups or intra-communal. Accordingly, federal Iraq, not only has been incapable of finding solutions to the government- ethnic groups' problems, but have added salt to the injury and produced intra-group problems. Such claims have led the author of this dissertation to question

whether partial ethnofederalism in post-2003 Iraq has to be majorly blamed for such a politically unstable Iraq. Despite the above arguments, the author of this dissertation defends partial ethnofederalism against these claims by suggesting that it, after its formal adoption in 2005, has relatively contributed to political stability. This has been done via empowering previously deprived and suppressed Kurds and through formally acknowledging the existence of Kurdistan Region.

To explain why instability exists in Iraq, this dissertation provides an alternative view and frees ethnofederalism from being majorly blamed as leading to political instability. The short and precise answer to this is that two major explanations better explain political instability. The first is the lack of sufficient legitimacy on which the new federal and democratic institutions have been built and the second is the deficiencies found in the structure and processes of rebuilding some of the vital institutions. This is not to deny that other reasons contributed to political instability in Iraq such as the pre-2003 relationships of the ethnic groups with the successive Iraqi governments. This relationship was not always peaceful. The different Iraqi governments resorted to forced assimilation through demographic and administrative changes, Arabization, forced expulsion, desiccation of the residential marshes in the south of Iraq, and, in some cases, and genocide. These and other acts made the Iraqis, especially the Kurds, skeptical of non-democratic rulers. Even the advent of democracy in Iraq could not wipe this skepticism away. On the contrary, the behavior of specific Shia Arab rulers maximized the level of skepticism, not only of the Kurds but the Sunni Arabs as well.

Content of Chapters

The chapters are classified with the aim of providing a cogent answer to the question of political instability, especially in relation to the adoption of a partial ethnofederal system in Iraq. Chapter one is the literature review of ethnofederalism. As ethnofederalism is one of the subtypes of federalism, the first section investigates this relationship. Federalism is defined in terms of its core components and benefits. Due to its 'many uses'[1], federalism has various arrangements. Yet, the focus of this dissertation is on ethnofederalism. However, even ethnofederations should be further categorized for academic and empirical purposes. In this categorization, three terms are widely used throughout the dissertation, namely *partial ethnofederation*, *full ethnofederation*, and *anti-ethnic federation*[2]. The literature on ethnofederalism is divided between two camps of opponents and proponents. Evidence from

---

[1] An expression belonging to Donald Horowitz in his 2007 article *The Many Uses of Federalism* published by *Drake Law Review.*
[2] These terms are no longer italicized in this dissertation.

both camps will be presented. Within the criticisms against ethnofederalism, there are some weaknesses, such as considering ethnofederalism as an independent variable (IV) only, rather than a dependent variable (DV). This chapter also entails the discussion of some additional factors that are claimed to have an influence on the failure or success of an ethnofederation, namely the origin of ethnofederations, symmetry and asymmetry between the powers of regions or governorates, and the presence of *ethnic core regions*. The final point of the chapter is the conceptualization of political instability as a fundamental part of the question of this dissertation.

Chapter two is contextual and assesses partial ethnofederation in Iraq. This chapter examines whether partial ethnofederation in Iraq is a recipe for failure of the state. Such an examination is carried out through the evaluation of the criticisms raised against ethnofederations in general yet applied in the context of Iraq. It deals with two criticisms. Firstly, whether, as the critics stated, ethnofederations institutionalize the grievances of antagonistic groups and, secondly, whether such institutionalization empowers and encourages them to secede. Moreover, other criticisms are also investigated such as considering ethnofederations as establishing a state within a state. Some critics of ethnofederalism suggested an alternative conflict management instrument to ethnofederalism, namely anti-ethnic federalism. Thus, anti-ethnic federalism should be assessed in terms of applicability in the case of Iraq. The focus here is specifically on four mechanisms, suggested by Philip Roeder (2009), to avoid the breakup of states. Anti-ethnic federalism is specifically evaluated due to a two reasons. Firstly, in this dissertation, any alternative to ethnofederalism has to be democratic in nature. In fact, anti-ethnic federalism is democratic. Therefore, for example, genocide is not considered an alternative due to being undemocratic. Secondly, anti-ethnic federalism is promoted by several scholars as a successful alternative to ethnofederalism.

Another important point to be examined in the case of Iraq is whether to consider partial ethnofederalism as an independent variable (IV) or as a dependent variable (DV). The implication for such categorization is that if, in Iraq, ethnofederalism is considered as a DV then firstly, it is most probably the only choice that can minimally satisfy the significant ethnic groups and each group's second best option. Secondly, when a DV, partial ethnofederalism should not be held responsible for any instability caused by other institutions. The reason is that when partial ethnofederalism is under negotiations and not yet adopted formally, it cannot be blamed for causing instability. Some scholars attribute instability in federal arrangements to additional factors rather than those mentioned above. Three additional factors are assessed in the Iraqi partial ethnofederation to see whether they have any bearings on its instability: namely its origin, symmetry and asymmetry in the powers of regions or governorates, and the presence

of an ethnic core region. The final section provides examples from the history of Iraq for evaluating whether ethnic autonomy arrangements contributed to political stability.

For ethnofederalism to be prescribed as a conflict management instrument for societies divided along ethnic lines, the nature and context of conflict should be scrutinized. In Iraq, partial ethnofederation is adopted. Thus, chapter three investigates ethnic conflict in modern Iraq to, firstly, understand the contribution of such a conflict in the adoption of partial ethnofederalism and, secondly, analyze the merits of partial ethnofederalism in addressing the grievances caused by such a history. For these purposes, the literature on ethnic conflict is shortly reviewed to help in providing an account of conflict in Iraq. In this regard, a combination of the theories and approaches to ethnic conflict can provide more in-depth analyses. The basic features of politics in pre-2003 Iraq are the centralization of the political system, the domination of a minority (Sunni Arabs), and an unfair representation and treatment of non-dominant ethnic groups. These features generated grievances for non-Sunni Arabs and were addressed by the adoption of partial ethnofederation in post-2003 in Iraq. An important question, then, to be answered is what could federalism offer and through what mechanisms in order for the grievances to disappear.

Throughout this dissertation, partial ethnofederalism is defended against criticisms that attribute a major role to it in leading to political instability, sometimes manifested in the breakup of the state. This chapter contributes to such an argument through two points. Firstly, partial ethnofederalism has had the potential to preserve the integrity of Iraq since its adoption in 2005. Secondly, the instability existing in Iraq now can be explained by an alternative explanation, rather than the adoption of partial ethnofederalism. The alternative explanation suggests that political instability is fundamentally caused by the lack of consent of the Sunni Arabs in the process of rebuilding the Iraq state and deficiencies found in such processes and in the structure of some institutions that are not ethnofederal in nature.

Chapter four is about a key explanation of why political instability exists in Iraq. The lack of a sufficient amount of legitimacy of the post-invasion rebuilding processes was behind the increasing political instability in Iraq. Legitimacy is conceptualized as having three elements, namely legality, justifiability, and consent. The empirical focus of this chapter is on the concept of consent. The two other notions of legality and justifiability are also studied, yet to a lesser extent than consent. There are two reasons behind such a focus. Firstly, the political system in Iraq was freshly established and required the consent of ethnic groups. Secondly, chapter five and chapter six provide details and examples of justifiability and legality problems. The Sunni Arabs were the only significant group that did not grant its consent to the political process, in the October 2005 referendum, and considered it as illegitimate. Such a Sunni Arab position was

generated mainly by three explanatory variables that are: the rule of occupiers, the negative impacts of de-Baathification on the genuine involvement of all significant ethnic groups in rebuilding Iraq, and the imposition of the political system in the viewpoints of Sunni Arabs. Each of these elements is analyzed using two methods, namely interviews and surveys (detailed later). The author carried out these interviews with of the Iraqi politicians, especially Members of Parliament (MPs).

Chapter five focuses on presenting process deficiencies as another major source of political instability. Although deficiencies can be found in both processes and structures of the state institutions, this chapter only examines the deficient processes that led to the establishment of institutions. These examined processes had a considerable impact on leading to political instability. These processes are classified according to four stages that are, first, the reign of the Coalition Provisional Authority (CPA) and the Iraqi Governing Council (IGC) and, secondly, the phase of the preparation and drafting of the Transitional Administrative Law (TAL). The third stage is the drafting of the Iraqi constitution. Finally, the fourth stage is the post-referendum period. These four stages are characterized mainly by the exclusion of the Sunni Arabs. This exclusion violates the fundamental components of 'partnership sense' that should exist for a federal arrangement to function. The sense of partnership, a term utilized by Elazar (1987: 67), is conceptualized as open bargaining and agreement on fundamentals. Partnership is considered as a condition that should accompany the negotiations of founding a partial ethnofederation. Although this might make the negotiations more time-consuming, achieving partnership is never impossible.

Chapter six concentrates on the major structural deficiencies found in vital institutions. It complements the discussion started in chapter five about the deficiencies found in the processes that led to the establishment of the studied institutions. Four major deficiencies are discussed. The first structural deficiency is in the Iraqi permanent constitution, which is the primary source of federal institutionalization. Two main deficiencies characterize the Iraqi constitution. Firstly, some articles are vaguely written and imperfectly structured. Secondly, the constitution is over-incremental nature, i.e., more than forty legislations were left for later enactment. Some of these left-for-later legislations have identity, territorial, and wealth dimensions. This has been a chief source of political instability between the Kurdistan Regional Government (KRG) and the Federal Government (FG) since 2007. The second major deficiency is the non-establishment of the Federal Council (FC). The FC should have been founded according to the Iraqi permanent constitution. The FC would have become the representative of the Governorates not Organized in a Region (GNOR) and the regions and would have exclusive competencies. Thus, the vitality of this institution lies in its capability to narrow the gap between the FG, the GNOR, and the

regions. The third structural deficiency is the unconstitutional centralized structure of the Iraqi state, except for the relationship between the FG and the KRG. The focus is on the structure of the relationship between the FG and the GNOR, which is so far highly centralized. Finally, structural deficiencies in the de-Baathification institution are argued to have had a major deteriorating influence on both the inter-ethnic level and intergovernmental relations. Accordingly, some sub-deficiencies are suggested as vital in the structure of the de-Baathification institution, namely dismantling the Iraqi army, the authority of exempting certain Baathists from de-Baathification, and the lack of a deadline for the conclusion of de-Baathification.

The conclusion of this work reasserts the arguments postulated in defense of partial ethnofederalism as the leading cause of instability in Iraq. Accordingly, partial ethnofederalism has contributed to relative stability in Iraq in relation to Kurds. Furthermore, the merits of the current partial ethnofederalism are evaluated in terms of keeping the Iraqi state together. Thus, if the far end of political instability is the partition of the state, then ethnofederalism has so far kept this possibility away. If Iraq is partitioned, then the unsolved structural deficiencies and the behavior of the Iraqi rulers should be held responsible. Besides deficiencies in the processes that led to the establishment and maintenance of the deficient structures of some influential institutions, the lack of sufficient legitimacy in rebuilding Iraq under an alien power should also be held responsible. A section in the conclusion highlights the theoretical and empirical contributions of this dissertation followed by a section that addresses the problems in the current theories of political instability and ethnofederalism that need to be further researched.

Methodology

The question that this dissertation seeks to investigate is the extent to which ethnofederalism can be mainly blamed for the existing political instability in Iraq. The conclusion that it seeks to defend is that (i) insufficient legitimacy in rebuilding the political system and (ii) deficiencies in the institutional reestablishment processes and structures are major causes of political instability in post-occupation Iraq. To investigate the impact of each element of political instability, a number of methods are utilized. In general, three different methods, sometimes in triangulation (as explained below), were used to provide the most appropriate and convincing picture of how each specific element has contributed to producing a politically unstable environment in Iraq. These methods are interviews conducted by the author of this dissertation with politicians of the three major ethnic groups in Iraq from 2013 to 2015 (qualitative semi-structured interviews), two surveys carried out by Middle Eastern

Values Study (MEVS) in Iraq in 2004 in 2006 and analyzed using SPSS, and the analysis of governmental and archival documents. The selection criteria and benefits of each of the methods are detailed below.

These three methods are sometimes used together to study political instability. This can be considered as triangulation. Defined by scholars (Jick, 1979: 602; Bryman, 1988: 130; Flick, 2006: 305, Wood and Bloor, 2006: 170), triangulation is the use of more than a single method to examine a research question. The aim of triangulation is to increase the reliability of the studies. In this dissertation, two sorts of triangulations are used, namely theoretical and methodological. Theoretical triangulation is the use of different *theories* in the same study in investigating the research question and methodological triangulation is the use of different *methods* in the same study in the examination of the research question (Lewis-Beck et al., 2003: 1142; Wood and Bloor, 2006: 170). Different theories of political instability, legitimacy, institutionalism, transitional justice, and ethnofederalism are used in this dissertation to support the argument that defends ethnofederalism against its critics who consider it the prominent cause behind the disintegration of states.

One of the methods used in addressing the research problem in this dissertation is semi-structured elite interviews, conducted between 2013 and 2015. In semi-structured interviews, the researcher has a specific set of questions, yet flexible to any replies from the interviewee (Bryman et al., 2009: 161). Furthermore, the researcher is interested in the viewpoints of the interviewees and seeks rich and detailed answers from them (Bryman, 2012: 470). Interviews, as Seidman (2006: 10) observes, provide access to the people's behavior and through them a researcher tries understand that behavior. Indeed, the opinions of political elites matter in understanding political instability and the major causes behind it. Through interviewing elites, the extent to which ethnofederalism or the alternative explanations contribute to instability can be investigated.

To fully investigate the question of this dissertation and attain textual depth and empirical strength, elite interviews proved to be useful as I gained specific insights from politicians that were otherwise improbable to attain. Answers to the questions related to ethnofederalism, instability, imposition of the political system, and de-Baathification needed to be investigated through interviews because the elites belonging to ethnic groups usually have different, and sometimes contradictory, opinions about them. As Gillham (2000: 11) states, interviews are an appropriate means of data collection when the depth of meaning is focal and the research aims at acquiring insights from others. Lilleker (2003: 208) states that conducting interviews are necessary when textual depth and empirical strength are required for the research.

I conducted 36 interviews with politicians in Iraq. The interviewees were MPs from various ethnic groups, members of the Constitutional Committee of 2005, an ex-governor of Kirkuk, the ex-governor of Mosul, current and ex-Ministers, the current and an ex-President of the Iraqi Council of Representatives, the current spokesperson of the Iraqi President, and the vice-president of Kirkuk municipality. These sorts of interviews are called 'elite interviews' because the interviewees contributed and may still contribute to formal decision-making in their respective institutions.

I conducted the interviews between August 2013 and May 2015 (see Appendix 1). Here, I have to mention that two of these interviews were conducted with the same politician, Ayad al-Samaraie, one in 2013 and one in 2015[3]. Both interviews had different sets of questions that were critical to ask and thus they were not duplications. Politicians from the significant ethnic groups (Shia Arabs, Sunni Arabs, and Kurds) were interviewed. The Kurdish interviewees were nineteen if we include Munthir al-Fadhl, who is an Arab but was a representative of Masoud Barzani, the current Kurdistan Region President, in the negotiations over the Iraqi permanent constitution in 2005. The Sunni Arab interviewees numbered ten (twice with Ayad al-Samaraee) and the Shia Arabs were seven. Thirty interviews were carried out between August and October 2013. The other six were carried out in 2015 and were basically about specific questions related to laws and processes that the interviewees were involved in their making. The interviews were conducted either face-to-face (twenty), by email (ten), through the distribution of sheets (three) with questions on them, via Skype (two) or telephone (one). A certain set of questions were asked to the majority of the interviewees, yet specific questions were prepared to some political elites who used to work in a particular position, such as the Constitutional Committee in 2005, and could provide accurate details for some of the questions.

Nineteen of the interviewees were Kurdish, yet this was not meant to give more weight to the Kurds. In addressing the question of this research, the quality of the interviews should be given more weight than the number of the interviews. The reason is that elite interviews are meant to be textually deep and exclusively insightful. However, this does not mean that it is not good to interview as many Shia and Sunni Arabs as the Kurds. In fact, I attempted in any possible way to create an ethnic balance in the interviews. I contacted almost each and every MP and other politicians, via email especially, in the second round (2010 to 2014) of the Iraqi parliament. I also contacted them, whenever available, via telephone, snowballing, and social

---

[3] The interview in 2015 was about a claim made against Ayad al-Samaraie that he accepted the amendments made to the constitution in 2009 when he was the speaker of the CoR. Accordingly, he did not schedule these amendments for a debate in the parliament because he was quite convinced with the original constitution.

media (such as Facebook and Twitter). With all the efforts to create an ethnic balance in the interviews, the outcome was the current 36 interviews.

The following factors explain why attaining a balance was almost impossible. First, due to the risks that would be inflicted upon the interviewer because of the lack of security in vast areas in Iraq, I was only allowed by the University Regulations and Ethical Approval to carry out the interviews in areas under the authority of KRG and the Green Zone in Baghdad. This placed a restriction on the mobility of the interviewer and resulted in an increase in the number of Kurdish politicians' interviews compared to the Shia and Sunni Arabs. Secondly, to compensate for the restrictions of the first point, the author attempted every other possible way to contact the Shia and Sunni Arab politicians. As mentioned, these politicians were contacted through several methods. Nevertheless, some of them either did not respond at all, responded but apologized, or responded and promised to do the interview but they never did. Thirdly, some difficulties made attaining ethnic balance more complicated. I had to travel to several places for conducting the interviews. Most difficult among these travels was going to the Green Zone in Baghdad. Because the Green Zone is the residence of the most of the government officials, such as the President of Iraq, the Ministers, and the MPs, the security is remarkably tight. No one is allowed to enter unless with a particular entrance badge and accompanied by an official, such as MPs. Thus, I had arranged to stay for about one week with one of the Kurdish MPs who issued the specific badge. Nonetheless, entering the Council of Representatives (CoR) building for conducting interviews was more difficult. Entrance to this building not only had to be with an official permit from an official in the CoR who was responsible for this but also had to be accompanied by an MP. Even then, there was the difficulty of how to approach the MPs to ask them for an interview as each parliamentary bloc had their space to which entrance was restricted to certain people. These three reasons were behind the lack of ethnic balance in conducting the interviews.

Yet, to adjust for this implausibility in creating an ethnic balance, I would like to add that number of the interviewees according to their ethnic background was not of great importance. In other words, to have more Shia Arab interviewees, because the Shia Arabs are considered majority in Iraq, than having Kurd or Sunni Arab interviewees does not make a considerable difference to the outcomes of this mostly qualitative research. What was needed from these interviewees was their positions on specific issues as Kurds, Shia or Sunni Arabs, such as the de-Baathification institution's role in political instability. Therefore, the interest of this dissertation was not to know how many Sunni Arab politicians thought that de-Baathification led to instability but the interest was to know if they thought so.

Mikecz (2012) states that elite interview has its difficulties especially regarding access, establishing trust, and rapport. Furthermore, he believes that 'gaining access to elites is hard enough; gaining their trust and building rapport with them 'is even more difficult' (Mikecz, 2012: 482). William Harvey's article (2011) specifically addresses the problem of gaining the trust of the elites who are to be interviewed. In fact, the problem of gaining the trust of the elites was sometimes quite hard for me. In general, the politicians in Iraq are skeptical about conducting interviews. The skepticism originates from their experiences with the journalists who treat the content of interviews unethically. Ali Bapir Watman, an ex-Kurdish MP, related one story of such mistreatment by a journalist who interviewed him but then misquoted him. Consequently, he had to issue a formal declaration later to prove that he was misquoted (Bapir, 2013). In Iraq, the non-professionalism of the interviewers (usually journalists) results in imposing their meanings on the statements of the politicians and highlighting these imposed meanings as if quoted from the interviewee. This sort of ill-treatment of the content can place politicians in a difficult situation and makes them abstain from interviews unless sure of the professionalism of the interviewer. Thus, gaining the trust of such skeptic politicians needs much effort. As Harvey suggested building trust should start before the interview, when contacting the politicians, and continue far beyond the end of the interview (Harvey, 2011: 433).

Before contacting the politicians via email, telephone, and social media, I prepared a written request, as advised by Lilleker (2003: 209), in which I explained that I was a PhD student who was permitted by Newcastle University in the UK to conduct a field study in Iraq. Then, I informed them about the topic I was studying in about 100 words and provided them with a framework of the questions I intended to ask. Later, I stated who my supervisors were and attached their profile to the written request. The final part of the written request was about my contact details (telephone numbers, emails, addresses in UK and Iraq) and a final note in which I showed my flexibility in conducting the interview in any possible ways they preferred. With that written request, I attached a consent form (see Appendix 2) in which all the possible ethical issues were stated such as anonymity and withdrawing from the interview at any time. When the politicians agreed to be interviewed, I was keen to attend in the specified interview place and time before the politicians arrived. This was a sign of honesty, seriousness, and keenness and helped to establish more trust and rapport with the politicians.

Before the start of the conversation, I took them through the content of the consent form and reaffirmed their right of anonymity, confidentiality, and withdrawal. Some of them wanted to sign the consent form before the interview started, yet I asked them to sign it when they finish. This was to provide them with more assurance that even after the interview finished they

were still in control. Another point that I mentioned to each politician was to offer them more control by letting them decide which part of the interview should be kept confidential and not to be recorded. For the purpose of recording interviews, I used a tape recorder because it improves the reliability of the collected data (Wood and Bloor, 2006: 17). In this regard, I did what Peabody et al. (1990: 454) suggested, and asked the interviewee if it was fine to record them. Almost all the face-to-face interviewees had no problems with recording. After the interview ended, I provided the interviewees with the consent form to sign and reassured them that even in the future if they thought any part of the interviews should become confidential, they just had to inform me and I would make these specific parts confidential.

For these face-to-face interviews, as mentioned, a consent form was provided for the interviewees to fill in and sign. In fact, only one interviewer preferred anonymity. The same consent form was attached to each interviewee that was carried out via emailing and sheet distribution. Some of these interviewers returned the consent form filled and signed. However, several of them did not fill them in but did not show any sign of disapproval for mentioning them by name in the dissertation. Therefore, I will mention all of them by name in this dissertation. However, I focus on keeping confidentiality and removing any piece of information that may hurt them in any way. For the Skype and the telephone interviews, the interviewees were asked whether they liked to be anonymized and they were all fine with mentioning them by name in this dissertation.

Another method utilized in this work is document analysis. A document is defined by (Corbetta, 2003: 287) as 'any material that provides information on a given social phenomenon and which exists independently of the researcher's actions'. The documents analyzed in this dissertation fall into two main types, namely archival and legislative. First, some of the archival documents belong to the UK National Archives[4]. These documents are about events recorded by British officials located in Mesopotamia (now Iraq) and were dispatched the British government, Monarchy, or House of Commons. These documents recorded some key events related to the politics of the Kingdom of Iraq and the British understanding of the situation. From 1920 until 1933, Iraq was under the formal mandate of the British and thus the documents are quite useful to gain a better understanding of the political history of Iraq, especially regarding political exclusion.

The second set of documents, used extensively in chapters five and six of this dissertation, are official legislations. They include firstly the Iraqi constitutions such as the constitutions of 1925, 1958, 1963, 1968, 1970, TAL in 2004, and 2005. Some articles of these constitutions are

---

[4] Access to the National Archives was available through my university account. Documents could be downloaded from this website http://www.nationalarchives.gov.uk .

selected and analyzed to answer some aspects of the research question. Among these aspects, I refer to the issue of self-rule and the way the minorities are treated in relation to self-rule. Secondly, some laws and legislations by the Iraqi legislature were beneficial in dealing with some of the subthemes of this dissertation such as de-Baathification and the still centralized structure of the Iraqi state[5]. Thirdly, another set of documents is related to the demographic and internal boundary changes that aimed at Arabizing the Kurds. These sorts of documents are either issued by the Iraqi government in the *Iraqi Official Gazette* or were issued confidentially by the local and national Baath Party offices. The documents in the *Iraqi Official Gazette* can be found in the Iraqi Legal Database[6], yet the other Baath confidential documents are available on the website of the Committee of Implementation of Article 140 of the Constitution of the Republic of Iraq[7]. Another type of document was about the Iraqi opposition conferences attained from the Future of Iraq Project (FOIP) funded by the US State Department. The FOIP included a series of workshops attended by the Iraqi politicians belonging to ethnic groups in which various topics regarding the future of the Iraqi political system were extensively discussed and documented[8].

Although according to the classification provided by Walliman (2006: 85), the documents mentioned above are secondary resources because the researcher was not involved in their making (Bryman, 2012: 312), my treatment of them is original. Neuman (2007: 316) refers to two problems facing the researcher in dealing with documents, namely 'external' and 'internal' criticisms. Tackling the external criticism, researchers should ask about the origin (place and time) of the documents and their ownership and how they survived. For the documents I used, I referred clearly to the origin and ownership of these documents. Some official documents such as laws and constitutions are in no need of further investigation as long as they are found in the official gazettes. Other documents, such the ones belonging to the National Archives, are also well preserved in electronic forms with clear references on them. For other documents, such as those FOIP and the Article 140 Committee, I clearly cited their origin, ownership, and survival in the footnotes. The documents should also pass 'internal criticism' through questioning whether the document was written by an eyewitness or it was second-hand

---

[5] A list of all the documents consulted can be found in the bibliography.

[6] Iraqi Legal Database http://www.iraqld.iq/AboutEn.aspx

[7] This is an official website run by that Committee which is a formal Committee directly linked with the Iraqi Prime Minister's Office. The Committee has a website in which a larger number of documents are preserved electronically and can be downloaded. These documents were all confiscated from the Baath Party headquarters in the uprising of 1991 in Kurdistan Region and the events that led to the collapse of Baath regime in 2003. Some of the documents are translated into English alongside the original text. The website is in Arabic www.com140.com

[8] These documents were once confidential but released now and available on the website of the National Security Archive http://nsarchive.gwu.edu/NSAEBB/NSAEBB198/ (Accessed: 31 July 2015).

information. This test is rarely applicable to the documents in this dissertation because I used officially recorded documents.

Quantitative surveys are a further source of data utilized in this dissertation. MEVS team conducted the two surveys[9] used in this dissertation in Iraq in 2004 and 2006. The 2004 survey was conducted in November and December and the survey data was collected from structured face-to-face interviews, telephone interviews, and self-administered surveys. While Iraq is made up of 18[10] governorates, security problems meant that the Kurdish governorate of Duhok and the mixed governorate of Mosul were excluded in this survey. To compensate for this, the interview proportion of Duhok was allocated to two other Kurdish governorates of Sulaimaniyah and Erbil and the proportion of Mosul was assigned to Salahaddin, Diyala, and Baghdad. The sample of the survey was 2325[11] respondents distributed according to the population size of each governorate[12].

The 2006 survey was conducted via structured face-to-face interviews, telephone interviews, and self-administered surveys. Furthermore, the sample included 2701 participants from all the Iraqi governorates. The participants were sampled in accordance with the size of the governorate's population. For example, Bagdad, the capital of Iraq had the largest number of participants because it has the largest population in Iraq. Both surveys were deployed and conducted in urban and rural areas according to the Iraqi administration system below the governorate, i.e., districts, sub-districts, and villages[13].

Both survey data were used, basically in chapter four, in this work in a comparable way to measure the response of the participants to the same questions asked[14]. This comparison was used in two different ways. Firstly, a comparison was made between the respondents of the various ethnic groups in analysis of frequencies from each survey. Secondly, a comparison was drawn between the perceptions of the same ethnic groups according to the results of both surveys. Using these comparisons, this quantitative analysis can explain the perceptions of the

---

[9] Surveys Data for SPSS for all countries in both years including Iraq can be found on http://www.mevs.org/files/data/CVSIC_FinalDataCollection_Dataset.sav (Accessed: 31 July 2015).

[10] With the addition of Halabja, recently became a governorate within the jurisdiction of KRG, the number of governorates reached 19.

[11] In both surveys of 2004 and 2006, I only analyzed the responses of those participants who clearly identified themselves as Kurds, Sunni Arab, or Shia Arabs. This has resulted in a decrease in the sample of the population I studied. Yet, the studied sample is still large enough to be considered as reliable. For example, in 2004 survey, 389 respondents identified themselves as Kurdish, 591 as Shia Arabs, and 130 as Sunni Arabs. In 2006 survey, 384 respondents identified themselves as Kurdish, 746 as Shia Arabs, and 124 as Sunni Arabs.

[12] This information can be found in the Data Documentation Survey (2004: 32-33) which is available on http://www.mevs.org/files/data/CVSIC_IraqQuestionnaire_English_2004and2006.pdf (Accessed 04.11.2015).

[13] This information can be found in the Data Documentation Survey (2006: 35-36) which is available on http://www.mevs.org/files/data/CVSIC_IraqQuestionnaire_English_2004and2006.pdf (Accessed 04.11.2015).

[14] Surveys' questions asked in Iraq in English in both surveys are available at:
http://www.mevs.org/files/data/CVSIC_IraqQuestionnaire_English_2004and2006.pdf

Iraqi grassroots in regards to the questions asked[15]. Several questions were beneficial in terms of investigating the primary argument of this work, especially in studying the way the ethnic groups in Iraq perceive the legitimacy of certain institutions such as the presence of the occupier forces in Iraq, the reason behind the US invasion of Iraq, and whether de-Baathification damaged the political condition of the country.

For the purpose of this comparison, frequency distributions were used. Frequency distribution is a simple univariate analysis tool in SPSS that provides the number of respondents and their percentage when they responded to a question (Babbie et al., 2010: 54; Neuman, 2007: 251). Through these frequency tables, the percentage of change in the perception of the Iraqis towards the political processes during the two years from 2004 to 2006 could be unraveled. Although, univariate frequency distributions are simple analysis tools in quantitative surveys, they seemed sufficient for the purpose of comparing the percentages of Iraqis' perception changes during these two years. In fact, in this dissertation, these quantitative analyzes were added only as a supplement and support for the qualitative research, such as interviews and documents. Thus, there is no claim to causality (Bryman, 2012: 337) made when quantitative data was used in this dissertation.

On a side note of methodology, I end this section by stating a few words about specific terms used throughout this dissertation. Most important of these terms is using Shia Arabs and Sunni Arabs instead of the common way of just referring to them simply as Shia and Sunni. These terms are utilized for accuracy in describing the identity of the significant ethnic groups in Iraq. The main conflict in Iraq is between these three ethnic groups and if they were mentioned as Kurds, Shia, and Sunni, then these descriptions are considered inaccurate. The inaccuracy results from the fact that only referring to Shia and Sunni without modifying them with the terms 'Arabs' is problematic because the majority of the Kurds are religiously Sunnis and there is a minority of Kurds who are Shia. Thus, the term 'Sunni' is inclusive and covers Arab and Kurd Sunnis, and the same goes for the term 'Shia'. To have an exclusive terminology[16], the terms 'Shia Arabs' and 'Sunni Arabs' have to be used.

---

[15] Here, it has to be mentioned that Mansoor Moaddel, Ronald Inglehart, and Mark Tessler (together) ran frequencies, for the 2004 survey, for a few of the questions that I ran frequencies for, yet they did not analyze the results. Their document as titled '*The Worldviews of the Iraqi Public toward Religion, Politics, Gender, and Coalition Forces: Findings of Values Survey, November-December, 2004*' available at: http://www.psc.isr.umich.edu/research/tmp/moaddel_iraq-nsf-jan05.pdf (Accessed on 30.07.2015). Mansoor Moaddel wrote an executive summary for the surveys of MEVS conducted in Iraq since 2004 titled *'Is Iraq Falling Apart? Findings from Values Surveys'* in which he briefly analyzed one of the questions related to identity of the respondents. This executive summary is available at: http://mevs.org/files/tmp/IsIraqFallingApart_June2014.pdf (Accessed on 30.07.2015).

[16] Some terms, such as 'Shia', 'Sunni', and 'de-Baathification' have alternative writing styles among academics. Phonetically, Shia is pronounced as /ʃiːə/ and Sunni as /sʊni/. Instead, some writers use these terms: Shiite, Shi'a, Sunnite, or de-Baathification. The apostrophes in the above terms represent the Arabic letter ع that is approximately /ayn/ in English. Yet, as the English language does not have the exact phoneme for ع then it is

Conclusion

This dissertation contributes theoretically and empirically in the literature of both federalism and political stability. The way both these concepts are utilized in this dissertation is fairly unique regarding linking partial ethnofederalism, not only with the breakup of a state or its disintegration but with a broader sense of political instability defined as the widening gap between the formal and informal roles and structures. The chapters, altogether, contribute to answering the question of this dissertation and serve to convey the notion that partial ethnofederalism is not to be blamed majorly in the presence of political instability in Iraq.

However, individually, each chapter constitutes a defense of such a claim. Chapter one attempts to approach this issue theoretically by suggesting that ethnofederalism has success stories besides failures and finds weaknesses in the methodology of the critics of ethnofederalism. The second chapter is contextual and deals with partial ethnofederalism in Iraq. It provides clues that partial ethnofederalism contributed more to political stability. Chapter three investigates ethnic conflicts in Iraq. It arrives at the conclusion that partial ethnofederalism was adopted to address the grievances of the Kurds and Shia Arabs produced due to the centralized and exclusionary political system in Iraq since the 1920s. The last three chapters provide an alternative explanation to political instability to support the claim that partial ethnofederalism does not majorly cause political instability in post-2003 Iraq.

In fact, what caused political instability in Iraq was the offered alternative explanations rather than partial ethnofederalism. In fact, partial ethnofederalism has contributed to political stability by decreasing the gap between the formal and informal roles and structures. It has done so through addressing the past grievances of the Kurds and Shia Arabs by including them in local and central decision-making and by its formal acknowledgment of the Kurdistan Region.

---

replaced by an apostrophe. The author of this dissertation prefers to remove these apostrophes in order not to look jargonistic for the readers that do not have any basic information about them. The two terms 'Shiite' and 'Sunnite' do not come close to represent these terms as in the Arabic language. These two terms are supposedly meant to refer to شيعة and سنة, yet the closest English terms to them in the academic literature on Iraq are respectively 'Shia' and 'Sunni'.

Chapter 1. Ethnofederalism and Political Instability

Introduction

This chapter is an important building block of this dissertation as it theoretically investigates ethnofederalism. The central question of this dissertation is whether partial ethnofederalism has a significant role in political instability in post-2003 Iraq. Ethnofederalism is a conflict-management instrument for divided societies, such as Iraq. In an ethnofederal state, one or more territorially concentrated minorities enjoy territorial self-rule. Political instability is defined as the widening gap between formal and informal roles and structures. When considered as a continuum, the far end of political instability is state-breakup. The aim of this chapter is to assess the arguments that blame ethnofederalism as the essential factor in the breakup of some states and to see whether that applies to Iraq. For achieving that aim, this chapter examines the consequences of adopting ethnofederalism, and additional factors such as ethnofederal origin, on state breakup.

Ethnofederalism is a subtype of federalism. Therefore, before reviewing ethnofederalism, federalism is defined. There are two opposing views on ethnofederalism. It is debated by critics as a vital factor in leading to secession through institutionalizing identity and grievances of previously antagonized minorities. Accordingly, it formally empowers minorities in such a way as to encourage them to move towards secession. However, it has its proponents who argue that ethnofederalism accommodates antagonized minorities and keeps them, at least, minimally satisfied. Consequently, by giving minorities both self-rule (for example self-administered region) and shared-rule (for example being included in federal government's decision-making), ethnofederalism influentially contributes to the preservation of the state's integrity. These two arguments are presented, later in detail, in this chapter followed by an evaluation of some methodological problems that contra-ethnofederalism arguments suffer from.

Then, other ethnofederal-related notions are studied such as the origin of federations, symmetry and asymmetry, and the issue of *core ethnic regions*. These concepts are exogenous to ethnofederalism in the sense that they are not direct outcomes created because of its formal adoption. The main reason for examining these concepts is that they are thought to be contributing to the success or failure of ethnofederations. Failure of federations is measured either by the disintegration of the state or its recentralization. Finally, as it is a fundamental element of the research question, this section conceptualizes political instability. As political instability is approached in different ways, this section justifies why an approach is adopted that is based on examining the gap between the formal and informal roles and structures.

Federalism and Ethnofederalism: An Overview

Ethnofederalism is a subtype of federalism. Scholars agree that a federation, the application of federalism[17], is made up of, at least, two tiers of governments that are bound together by a constitution (Elazar, 1980: 5) that cannot be unilaterally altered or amended. According to Riker, a state qualifies as federal when two levels of government ruling over the same land and people; each level with at least one area of action in which it is autonomous; and constitutionally guarantees the autonomy of each government (Riker, 1964:11). Thus, even though it satisfies the first two elements, the devolution in the UK is not considered federal because the central government can, at least in theory, unilaterally alter the competencies of the devolved governments. Watts (1997) adds two other requirements. The first is an umpire to resort to in solving the controversies between the tiers of government, such as a Federal Supreme Court (FSC). Secondly, a set of institutions should exist that can facilitate intergovernmental cooperation in areas where responsibilities overlap, such as the second chamber (Watts, 1999: 7). Representation of federal units should be based on territory, be they states, cantons, provinces, regions, or governorates (Smith, 1995: 7). Territorial representation is guaranteed constitutionally and the sub-national units are included in decision-making at the national (federal) level. This is one application of self-rule and shared rule in which the subunits (for example, Kurdistan Region in Iraq) practice sovereignty via ruling over a territory and enjoys the benefits (economic, security, and so forth) of being part of a larger state.

Comparative federalism has been advanced in two aspects, i.e. institutionally and normatively (Adeney, 2007: 7-9; Gagnon, 2010: 1). The former is concerned with the actual division of power between the different levels of government, i.e. federal and regional, and aims at finding unity in diversity. This diversity may include nations, ethnicities, religions, religious sects, languages, and cultures. Out of these diverse groups, federalism endeavors to create unity of people and preserve the integrity of the state. The normative approach studies the impacts of federalism in promoting peace and managing conflicts. It seeks to answer the question of how federalism should be institutionalized as opposed to how it is institutionalized. Consequently, federalism becomes increasingly instrumental in managing ethnic conflicts as in Iraq after the 2003-invasion. Although the major focus of this dissertation is on the empirical

---

[17] The distinction between federalism and federation, as Preston King perceives it, is that whereas the former is about a political philosophy that endeavors to promote unity out of diversity, a federation is to 'designate a more descriptive, institutional arrangement of fact, without particular regard to it is being supported or opposed' (King, 1982: 21). Thus, if federalism is about ideology or philosophy, federations are the institutional application of the mechanisms of shared-rule and self-rule. This distinction was advantageous because it has enabled researchers to focus 'upon the essentially dynamic, changing relationship between federalism as a multidimensional driving force and federation as its institutional structural and systemic counterpart' (Burgess, 2006: 47). The same distinction applies on *ethnofederalism* and *ethnofederation*.

institutional approach, it is not devoid of normative content. For example, this chapter presents ethnofederalism in its normative aspects when the pro and contra ethnofederal arguments are reviewed.

Originally, federalism, as in the US, was about producing unity among several existing states through sharing sovereignty and preserving self-rule. With this unity, several goals (Stepan, 1999: 20) were achieved such as maximizing the security of all subunits, minimizing internal threats of partition, and creating a wider space for labor mobility. Currently, federalism is also advanced as promoting the rights of minorities (Blumstein, 1994: 1253), curbing the tyranny of the majority, and proposed as an institutional solution to post-conflict societies (Lake and Rothchild, 1996: 61). For example, federalism in Iraq was designed to address the grievances of the ethnic groups who suffered from the centralized and authoritarian Baath rule. Federalism is capable of achieving this through the division and sharing of authority among the federal, regional, and governorate governments.

Federations[18] are sometimes created to accommodate ethnic groups. If the levels of government (regions or provinces) are set up to coincide with the boundaries of these groups, then this sort of federalism is called multinational (Gagnon, 2010; Burgess and Pinder, 2007; Requejo, 2005), pluri-national (O'Leary and McGarry, 2009), ethnic (Selassie, 2003; Mehretu, 2012) or ethnofederalism (Roeder, 2009). Canada, India, Ethiopia, Belgium, Iraq, and Bosnia and Herzegovina are examples of this category. On the other side, when the boundaries are drawn to cut across these ethnic groups or boundaries in a way that no region is purely the home of a minority, then this federalism is either called non-territorial (Gagnon, 2010), mono-national (Burgess and Gagnon, 2010; Dardanelli, 2011) simple (Roeder, 2009), or anti-ethnic (Anderson, 2015c). Examples of this category are the US, Germany, Austria, and Australia. In these cases, the territorial divisions of the state do not coincide with ethnic lines.

Instead of all these terms, throughout this dissertation, two terms are adopted and used, namely partial ethnofederation and full ethnofederation. In fact, two reasons are behind using these two terms. Firstly, partial ethnofederalism proves to be accurate in describing the federal arrangement in Iraq. Iraq is a partial ethnofederation based on granting the Kurdistan Region constitutional acknowledgment. Kurdistan Region is where the overwhelming majority of the population are Kurds (an ethnic group primarily divided among Turkey, Iran, Iraq, and Syria). Iraq would be considered a full ethnofederation when all the significant ethnic groups (the Sunni Arabs, The Shia Arabs, and the Kurds) have allocated ethnically-based regions.

---

[18] Stefan Wolff (2013) uses the term 'federation' as part of his concept of TSG (Territorial Self-governance), however, he makes no specific distinction between its ethnofederal or non-ethnofederal forms.

Secondly, for the sake of consistency in using terminology, these two are adopted. The following paragraphs investigate why these two terms are adopted.

Ethnic approaches to federalism can be classified according to their goal, either denial or accommodation of ethnic identities (Anderson, 2013: 6). Based on denial, there are two federal categories, namely anti-ethnic and territorial federations. Firstly, anti-ethnic federations are those in which the internal boundaries are intentionally drawn to cut across a territorially concentrated group to prevent it from becoming a majority in a subunit. Secondly, a territorial federation in which ethnicity is not taken into consideration in drawing the boundaries and its mechanism is to fragment large ethnic groups into smaller subunits. Based on accommodation, there are full ethnofederations (or ethnic federations) in which ethnicity is the defining feature of the political system and the major groups have their assigned homelands and federacies in which an otherwise unitary state provides a minority group with an ethnically defined unit. Anderson adds a final category, which is partial ethnofederation (ethnoterritorial federation) (Anderson, 2014: 173). In this last category, 'one or more territorially concentrated ethnic groups are accommodated via the provision of a subunit homeland, but the numerically dominant ethnic group is carved up among multiple subunits' (Anderson, 2013: 7). Iraq, Canada, India, and Spain are examples of partial ethnofederations. In Iraq, the Kurds have a constitutionally acknowledged homeland, yet the rest is divided among fifteen governorates inhabited by other ethnic groups such as the Shia Arabs and the Sunni Arabs. These two latter terms of partial and full ethnofederation are widely utilized in this dissertation. Furthermore, the term anti-ethnic federalism (defined above) will also be frequently used to describe the mechanisms that some scholars propose as an alternative to ethnofederations. Furthermore, it will be discussed in relation to Iraq in chapter three. Nonetheless, anti-ethnic federalism is investigated below through a discussion of the Nigerian case.

The Nigerian federation is considered anti-ethnic. In Nigeria, the boundaries are intentionally drawn with the specific intention of mixing up the populations or rendering them heterogeneous. This mechanism seeks to lessen the impacts of outstanding ethnic identities through carving out the territories in such a way that minorities are not privileged with a territory of their own. Anti-ethnic federalism depends on acknowledging the total equality of individuals whatever their religion, culture, language and background. Moreover, for some scholars (such as Roeder, 2009) anti-ethnic federalism is a promising mechanism to manage ethnic conflicts. Nigeria is one of the prominent examples given on the success of this mechanism.

It is worth noting that Nigeria is an example of a relatively successful implementation of anti-ethnic federalism. The Nigerian federal system before 1966 was based on dividing the

country into three territorial units, each dominated by a different ethnic party. The Northern Region was dominated by Hausa-Fulani who comprised more than half of Nigeria's population, the Western Region by Yoruba, and the Eastern Region by Ibo. The number of regions gradually increased to 12 and then to 19 between 1966 -1983, and to 36 until 1999 (Suberu, 2010: 461). Removing the ethnic feature from Nigeria's federation has been received by ethnofederalism's critics as the triumph of an anti-ethnic model of federalism over a formerly ethnic-based federalism. Suberu states that the source of the relative political stability in Nigeria is the current non-ethnic based federalism that 'helped to cross-cut major ethnic identities, foster inter-regional integration, promote inter-group equilibrium and cauterize potentially destabilizing centrifugal challenges to Nigeria's continuity and survival as a single political community' (2009: 67).

In conclusion, federalism has various arrangements because of its definition as shared-rule and self-rule (Watts, 1997: 6). Among such arrangements, three are frequently mentioned in this dissertation, namely partial ethnofederations, full ethnofederations, and anti-ethnic federalism. Iraq is considered as a partial ethnofederation after the 2005-referendum in which the constitution was voted for by the majority of Iraqis.

Arguments against and for Ethnofederations

Several scholars have criticized ethnofederalism in terms of its role in leading to political instability, manifested mainly in secession, such as Rogers Brubaker (1996), Valerie Bunce and Stepan Watts (2005), Svante E. Cornell (2002), Philip Roeder (1991, 2009), Carol Leff (1999), Valerie Bunce (1998, 2004), Meadwell (2009), and Henry Hale (2004a). The focus of these criticisms against ethnofederalism is based, in general, on investigating the breakups of USSR and Yugoslavia, and to lesser extent Czechoslovakia and Ethiopia. These contra-arguments crystallize in two basic points. Firstly, ethnofederalism institutionalizes grievances and identities of antagonistic minorities and consequently generates profound emotions for independence among minorities. Secondly, ethnofederalism constitutionally empowers territorially concentrated minorities to have the institutions required for independent statehood. These two points, accordingly, lead to the break-up of the state. Before providing the details of these arguments, it is necessary to study how the critics define ethnofederalism.

Ethnofederalism is distinguished from simple federalism, using Roeder (2009)'s terms, by taking ethnicity as the main ground for institutionalization. Bunce and Watts (2005: 135) believe that ethnofederations enjoy the same features of any federal system such as territorially defined subunits, dual sovereignty of the center and subunits, and constitutional allocation of

competences. Nonetheless, in an ethnofederal state 'at least some, if not all, the constituent units of the federation are homelands controlled by their respective ethnic groups' (Roeder, 2009: 204). Hale (2004a: 167) defines ethnofederations as 'a federal state in which at least one constituent territorial governance unit is intentionally associated with a specific ethnic category'. According to all these definitions, Iraq is an ethnofederation because of the existence of the Kurdistan Region. This region is the homeland of the Kurds who constitute around 95% of its population. This political entity, Kurdistan Region, is formally recognized by the Iraqi constitution. The second chapter will present a discussion of the implications of ethnofederalism in Iraq, but for now, contra-ethnofederalism arguments will be presented.

Brubaker (1996: 47) believes that institutionalizing the notions of nations and nationalities in the Soviet Union not only played a major role in its disintegration but have also continued to shape the politics and the structure of the national question in the successor states. This institutionalization was carried out through the 'codification of ethnic heterogeneity as national heterogeneity' not at a state-wide level, but rather at a sub-state level (Brubaker, 1996: 50). Bunce and Watts studied thirteen post-communist states in three aspects comparatively: in the design of state, whether ethnofederal or unitary, majority-minority relations, and the introduction of democratic politics (2005: 133). They suggested that 'the presence of ethnofederalism at the point of departure for democracy and statehood generates a number of costs'. The costs occur because ethnofederalism builds strong national identities based on territorial, political, cultural, and economic resources. Therefore, ethnofederalism builds microstates within states. The ethnofederal successor states, of the Soviet Union and Yugoslavia, were weak, in contrast with the unitary ones, as their democracy was fragile and their national constituents were in conflict (Bunce and Watts, 2005: 157). Elsewhere, Bunce suggests that ethnofederalism may lead to secession if introduced in a multinational state in transition to democracy. The reason is that the memories of dictatorship and suppression are still fresh in the minds of the ethnic groups and as they have decision powers in negotiations over the political system, their first choice would be secession. Secession, according to the antagonized ethnic groups, prevents the recurrence of such grievances. This problem may be overcome if a unitary system would be introduced first followed by ethnofederalism as in the cases of India and Spain (Bunce, 2004: 190). Her suggestion touches the heart of the Iraqi ethnofederation and needs to be evaluated (this will be done in the third chapter).

Cornell (2002) investigated the Abkhaz and the South Ossetian autonomous arrangements within Georgia in which minority demands were territorially institutionalized. Such arrangements had the potential to instigate conflict between the minorities and the central governments. According to Cornell, secessionism, in the Caucus region, tended to be higher in

autonomy arrangements based on ethnicity because they increased the minorities' willingness and capacity to revolt. Consequently, 'whenever the ethnicization of territory can be avoided, it should be avoided' (2002: 275-276). Bunce (1998) studied the factors behind the dismemberment of the Soviet Union, Yugoslavia, and Czechoslovakia. She found out that the existence of ethnofederalism[19] explains why these three socialist states broke up, whereas the neighborhood unitary states did not. In these ethnofederal states, the political systems were based on the institutionalization of the national and territorial distinctions. Consequently, this federal political system produces proto-nations and proto-states at the state level[20] (1998: 330).

Leff, like Bunce, wrote about the breakup of Yugoslavia, the Soviet Union, and Czechoslovakia when they were exposed to democracy, comparing them to the survival of unitary states such as Bulgaria and Romania. These former three states were ethnofederations, i.e., territorial boundaries roughly coincided with the major national groups. For Leff, ethnofederalism is problematic for state-wide democratization because the central elites lose the initiative, unlike local elites, who become increasingly powerful. Ethnofederation, accordingly, is said to build a state within a state and hence provides for an alternative, and opposed, institutional power bases (Leff, 1999: 216). After this review regarding ethnofederalism and its role in leading to political instability, the factors through which it results in secession are examined below.

According to the critiques, ethnofederalism provides the perfect environment for an increasing secessionism. Bunce summarizes her arguments against ethnofederalism in three points. Firstly, it limits interaction and cooperation among ethnic groups due to the lack of common identities and collective political-economic projects. Secondly, intergroup distrust and group isolation prevail and elites endeavor to build their political career on the regional level and mobilize for regional causes. Finally, elites would engage in ethnic outbidding that results in the existence of a weak center (Bunce, 2004: 180).

Affirming the last point made by Bunce, Meadwell believes that in ethnofederal states, two opposite tendencies work against the interests of each other, namely state agents and secessionists. The danger in their relationship lies in the fact that its success depends on concessions achieved in the short term from both sides. Secessionists usually accept these concessions, whatever they are, as stepping stones in the direction of their ultimate goal, which is independence (Meadwell, 2009: 225). For Cornell (2002) ethnofederalism is conducive to increased secessionism, ethnic mobilization, and armed conflict. Ethnofederalism produces

---

[19] Or national-federalism as she calls it

[20] She defines 'proto' as each of these national-territorial entities having their 'particular cultural, economic, political, and social profiles and elites' (1998: 330).

such outcomes because the regional elites would follow centrifugal policies that can result in protests from other non-ethnically based subunits. For example, due to some policies followed by the Kurdistan Region Government that enhance the visibility of the region within the international community, some Arab politicians accuse the Kurdish politicians of following the path of secession. According to Cornell, secession may take place because the center has to share sovereignty with the ethnic subunits. Ethnofederalism does this through increasing the ethnic groups' cohesion and capacity to act, clearly defining the ethnic regions' borders, promoting the groups' separate identities, providing them with state-like institutions, control of the mass media in their ethnic subunits, and empowering leaders to build on ethnic mobilization (Cornell, 2002: 250-255).

According to Erin K. Jenne (2009), *de facto* ethnic partition (full ethnofederation), not *de jure* partition (independent statehood for individual ethnic groups), helps sharpen ethnic tensions through weakening the state in three ways. Firstly, the state is attenuated through depriving it of the total power of decision-making through 'promoting legislative deadlock and reducing the government's ability to respond strategically to changing social and economic conditions' (2009: 275). Secondly, it provides the secessionists with resources for collective action and 'segregationist institutions thus serve as potent resources for future independence movements once opportunity structures emerge' (2009: 276). Thirdly, it produces an electoral system that encourages the politicians to seek the votes of a single ethnic group and 'this dynamic leads to cycles of 'ethnic outbidding' and electoral victories for ethnic extremists who refuse to co-operate across ethnic lines' (2009: 276).

Roeder summarizes the arguments for ethnofederalism and then charges them as suffering from fatal weaknesses. Accordingly, ethnofederalism is supposedly envisioned as a fair deal on the issue of statehood. This fair deal is acceptable to both sides of the conflict. On one hand, it satisfies the needs and demands of the secessionists by granting them a form of independence in decision-making over their territory, and on the other, it keeps the leaders of the central state satisfied by leaving the integrity of the state intact. Thus, with the satisfaction of both, developments would be attained on all levels. Regarding capabilities, ethnofederalism is assumed to be 'the best means of balancing power so as to protect the rights of the secessionist community from predatory policies of the central government' (Roeder 2009: 207-208).

Such arguments, for Roeder, bear five serious weaknesses. Firstly, ethnofederal solutions concentrate on short-term problem solving by satisfying the demands of the conflicting parties. However, it less considers the future and leaves the next generation to deal with insufficiencies and difficulties inherited from the past. Secondly, institution designers endeavor to satisfy the greed and grievances of both sides, less aware of the dangers of institutionalizing such greed

and grievances. Thirdly, not only greed and grievances are institutionalized but also identities and capabilities that consequently result in future conflict escalation. Fourthly, these arguments tend to focus only upon the predations of the central government with little consideration to the predations of powerful homeland governments. Finally, ethnofederal arrangements trap politics between the Scylla of over-centralization and the Charybdis of over-devolution, with no easily attained equilibrium, and 'once ethnofederalism ... is institutionalized, typically the only reforms on the bargaining table entail steering directly toward one peril in order to avoid the other' (Roeder, 2009: 207-208).

Yet, if ethnofederalism is such a non-workable conflict-management instrument, then what alternative could manage ethnic conflict in a divided society? Before investigating this question, the term 'divided society' should be defined. Generally, societies have cleavages that distinguish a group of people from others. The cleavages may be of caste, class, religion, religious sect, ethnicity, language, race and so forth (Guelke, 2012: 13-22). As long as these cleavages do not cause political polarization, then they are a normal feature of all societies (Guelke, 2012: vi). In other words, a society becomes deeply divided when one or a combination of these cleavages becomes the source of political polarization, or when social cleavages map onto, or coincide with, political cleavages. Accordingly, Iraq is a deeply divided society in which ethnic (Mainly Arabs, Kurds, and Turkomans), religious (Muslim, Christians, Yazidi, and others) sectarian (basically Shia and Sunni) cleavages have become politically salient.

A democratic alternative to ethnofederalism is anti-ethnic federalism. Accordingly, in designing the political system of a deeply divided state, ethnicity should be avoided as a source of institutionalization. In other words, the boundaries of the federal subunits should be intentionally drawn in a way that prevents the creation of regions that contain the whole or the overwhelming majority of a minority group. Hence, internal boundaries should crosscut the politically salient ethnic cleavages. The major aims are to firstly divide the concentrated minorities among several subunits and consequently divide their voice for exit. The second aim is to create a weakened sense of group identity, whereby the loyalty to the state identity may be strengthened. This is perceived as a major step through which states can avoid the fate of the Soviet Union, Yugoslavia, and Czechoslovakia. In this regard, Roeder has four mechanisms. Firstly, the homeland's decision rights should be constitutionally curbed. Secondly, the processes of identity isolation carried out by homeland leaders should be disrupted. Thirdly, ethnic communities that have not yet developed their distinct identity should be empowered on the expense of those who have. Finally, utilizing asymmetrical federalism may, in some ways, strengthen the common-state and in turn weaken the homeland nation projects (Roeder, 2009:

215-216). In the second chapter of this dissertation, the applicability of Roader's mechanisms will be discussed in greater detail in relation to Iraq.

Now, after reviewing these arguments against ethnofederalism and before presenting counter arguments, a basic point about measuring the failure of ethnofederations should be kept in mind. From the above arguments, it can be concluded that the failure of an ethnofederal state is measured by the breakup of the state, i.e., through secession. However, Roeder (2009, 207) adds recentralization of an ethnofederation as a second measurement for failure. In this dissertation, the failure of ethnofederalism is linked to political instability which is defined as the widening gap between the formal and informal roles and structures (Margolis, 2010: 332).[21] With secession, this gap widens to an extent where there are more than one independent formal and informal role and structure. There will be two separate independent states each with a different formal and informal roles and structures. However, the gap is not always widened to that extent. It may expand to an extent that can be narrowed down with institutional engineering or re-engineering, such partial ethnofederalism.

Several scholars (Bermeo, 2002; Anderson 2015c, 2014, 2013; McGarry and O'Leary, 2005, 2009; McGarry, 2005; Grigoryan, 2012) consider the criticisms made against ethnofederalism to suffer from content-weaknesses and to be methodologically deficient. McGarry and O'Leary (2005) argue that these criticisms have to be qualified in five ways. Firstly, the failed ethnofederations of the Soviet Union, Yugoslavia, and Czechoslovakia were sham or pseudo-federations in the sense that the rule of law was absent and they were not authentic representative systems. Accordingly, there was no genuine dialogue among the constituent units. Secondly, some ethnofederations were impositions of the colonial powers and the decision to federate was not made by the local elites, as in the cases of Cameroon federation and pre-1967 three-unit Nigerian federation. Nancy Bermeo makes a similar argument about the failure of imposed federations (Bermeo, 2002: 107). Thirdly, both communist and post-colonial federations were in a burdened economic situation where citizens could not be provided with a reasonable standard of living. Fourthly, the critics need to prove that in these failed multinational federations, alternatives would have worked better if they were adopted. Finally, the records of accomplishment of ethnofederal alternatives, such as the French civic nationalism and the American federalism, have not been as successful (McGarry and O'Leary, 2005: 275-278, see also McGarry and O'Leary, 2009).

McGarry and O'Leary (2005, 2009) and O'Leary (2001) propose some favorable conditions that facilitate the success of ethnofederations. These conditions are firstly, the

---

[21] What is meant by formal and informal roles and structures are detailed later in this chapter when political stability is conceptualised.

existence of a *staatsvolk* defined as '*national or ethnic people, who are demographically and electorally dominant* - though not necessarily an absolute majority of the population - and who will normally be the co-founders of the federation' (O'Leary, 2001: 285, Italics in original). A *staatsvolk*, accordingly, feels secure with the concessions made to the minorities in an ethnofederation and it can resist secession due to its demographic strength (McGarry and O'Leary, 2009: 15; McGarry, 2005: 16). Secondly, in an ethnofederation, a consociational government[22] should exist at the center for the inclusion of minorities in national-wide decision-making and for encouraging the central government to promote the interests of minorities (McGarry, 2005: 16). For Stefan Wolff (2010a: 25-28; 2009: 38-39), such power sharing arrangements contribute to political stability and comes in two forms, namely local (on the level of a territorial unit) and central (on the level of the federal government). Accordingly, some ethnofederations may have only one of the two power sharing arrangements and others may have both depending on the heterogeneity of the territorial unit, such as Kurdistan Region, and the significance[23] of that territorial unit to the rest of the state (Wolff, 2009: 27). Finally, these federations, to be more durable, should be democratic, voluntary, and with agreed resource management regimes (McGarry and O'Leary, 2009: 18; McGarry, 2005: 15). I will discuss the application of these conditions in the second chapter in discussing the Iraqi ethnofederation features.

Three other important contributions in defending ethnofederalism against its critics are Nancy Bermeo (2002) József Juhász (2005) and Arman Grigoryan (2012). Juhász believes that these three multinational federations (Soviet Union, Yugoslavia, and Czechoslovakia) only theoretically enjoyed the powers of self-determination and secession. However, in practice, their political systems were centralized, one-party system, and their major aim was 'the implementation of legitimizing and propagandistic aims' (Juhász, 2005: 253). Nancy Bermeo maintains that successful secessionist movements are remarkably rare in federations when genuine autonomy is granted to regions. When so, central leaders are usually rewarded with peace rather than instability, contrary to the claims made by opponents of ethnofederalism

---

[22] In his 2004 article *Constitutional Design for Divided Societies*, Arend Lijphart refers to two key elements of consociational democracy, namely power sharing and group autonomy. For him, 'power sharing denotes the participation of representatives of all significant communal groups in political decision-making, especially at the executive level; group autonomy means that these groups have authority to run their own internal affairs, especially in the areas of education and culture' (Liphart, 2004: 97). In his earlier visions, Lijphart included two other elements in his consociation theory, namely proportionality in political representation and civil service appointments and minority veto (1996: 258).

[23] Significance (Wolff, 2010a: 18) in this context refers to the territorial unit's (region, province, or so forth) possession of natural resources, the production of goods or values, tax revenues, and so on.

(Bermeo, 2002: 105). Other non-ethnofederal factors contributed to the breakup of these states, such as the disappearance of dominant nations' *common interests*, economic and socio-cultural problems, and the risks of *insufficient* ethnofederalism (Juhász, 2005: 255, italics in original).

Affirming the last point made by Juhász, Nancy Bermeo writes 'separatist movements are more often the stepchildren of threats rather than concessions… it is the refusal to federalize, rather than federalism itself, that stimulates secession' (2002: 105). Arman Grigoryan criticized those who create a causal link between ethnofederalism and secession without considering ethnofederalism as an outcome of nationalist bargains and that other intervening variables may have led to the disintegration of such states. He also observes that the criticisms against ethnofederalism suffer from considerable weaknesses. Among these weaknesses are firstly 'the dogs that do not bark' as only the failed ethnofederations have been investigated. Secondly, some criticisms are based on studying the 'dogs that are not even dogs' (Grigoryan, 2012: 11-12). After presenting these counterarguments against those who founded a causal link between ethnofederalism and state disintegration, the following section evaluates the anti-ethnofederal arguments in terms of methodological deficiencies.

To conclude this section, ethnofederalism has opponents and proponents. In their criticism of ethnofederalism, the opponents believe that ethnofederalism leads to the breakup of the state, the far end of political instability. Ethnofederalism is capable of producing such an end because it institutionalizes the grievances of an ethnic minority that is territorially concentrated. Instead of diluting such grievances, such institutionalization solidifies them. Such grievances enhanced and institutionally capable; the ethnic minority moves towards seceding from the state. In contradiction with that, the proponents state that the antagonized minorities become satisfied with self-rule and territorial control. This is a great chance to address their grievances and antagonism. Furthermore, these minorities also contribute to decision-making on a national wide level. All in all, such arrangement leads to the satisfaction of the ethnic groups rather than seceding.

Methodological Weaknesses in the Critics' Arguments

The following paragraphs assess the methodological problems found in the criticisms against ethnofederalism as a key factor behind political instability, manifested in state breakup. It critically evaluates the criticisms' methodological problems and the problematic alternatives to ethnofederalism. It is fundamental to mention two points in relation to the debate on ethnofederalism as a conflict management instrument. Firstly, ethnofederalism is suggested as a conflict management tool for states where a minority or minorities are territorially

concentrated (for example Kurds in Iraq are a territorially concentrated minority, about one-fifth of the population). Secondly, for a suggested alternative to be viable, it should be democratic. Undemocratic and coercive alternatives such as assimilation and genocide are not considered under this evaluation.

In terms of methodology, this assessment, in the subsequent paragraphs, discusses the following points. Firstly, ethnofederalism should be considered as a DV and not only as an IV. Secondly, there is a need to redesign the question of ethnofederalism in relation to state disintegration. So the question should not be why ethnofederations fail, but why some ethnofederations fail but others succeed? Thirdly, other intervening variables should be inserted for fully understanding the failure or success of ethnofederalism. Fourthly, where partial ethnofederalism was the only democratic available choice, then blaming it as the cause of state disintegration is problematic.

Grigoryan (2012) advances the debates on ethnofederalism by stating that both proponents and opponents may have asked the wrong question by finding a causal link between ethnofederalism and secession. The reason both camps have sought a causal link is that they thought of ethnofederalism as exogenous to secessionism, i.e., as an IV. For him, ethnofederalism should be understood as the outcome of bargaining, as a DV, and, when it does, the only meaningful question becomes what makes these ethnofederal bargains stable or unstable? (Grigoryan, 2012: 14). The critics considered ethnofederalism as an IV on which the fate of the state depends on.

To consider ethnofederalism as a DV is to search for the existence of the pre-institutional requirements and bargains through which ethnofederalism was adopted. Liam Anderson states that in an ethnically divided society where the groups are territorially concentrated, it is quite plausible that the only democratic solution and conflict management instrument, resulting from the elite bargains, is ethnofederation (Anderson, 2013: 8). So for him, when an ethnofederation, the only viable choice that minimally satisfied ethnic groups, suffers from secession, blaming ethnofederalism is not valid (Anderson, 2014: 166).

This dissertation approaches the issue of considering ethnofederalism in the case of Iraq in the following way. Ethnofederalism is considered as a DV when it was under negotiations of the ethnic groups' elites because it was not yet formally adopted as the political system of Iraq. As it was not yet constitutionally approved, no claim can be made that it had any impact on political instability in Iraq. The consequence of considering ethnofederalism as a DV is that if political instability existed (as it did in Iraq), then it was because of factors exogenous to ethnofederalism (such as de-Baathification). Therefore, partial ethnofederalism has no bearing on that instability. After its adoption, in October 2005 referendum, partial ethnofederalism

becomes an IV that may affect political instability. The question then becomes to what extent ethnofederalism contributes in either worsening or lessening the already existing political instability. Even after its formal adoption, ethnofederalism in Iraq should be partly considered as a DV because there are several articles in the Iraqi constitution related to the competencies (Article 110 and 111 about the distribution of natural resources) of the regions and the FG that are still to be negotiated. The implications of such a DV and IV issues on political instability in Iraq are discussed in the next chapter.

Another point is that it is required to redesign the question of why ethnofederations lead to state breakup into why some ethnofederations fail while others succeed? According to Hale's (2004a) definition of ethnofederalism, Switzerland, Canada, and India are ethnofederations just as the Soviet Union, Yugoslavia, and Czechoslovakia were. From there, it can be construed that there are as many enduring and successful ethnofederations (the former cases) as there are failing ethnofederations (the latter cases). The critics of ethnofederalism measure success by either the disintegration of the state or recentralization. Accordingly, as long as there are failures and successes, then ethnofederalism should not be treated as inherently the 'devil', as Roeder did (2009: 207). Henry Hale (2008a) has used the expression of a 'double edge sword' to describe ethnofederalism that may prevent secession or cause it. For Erk and Anderson (2009: 191), ethnofederalism is a paradox and a puzzle to be solved. The puzzle is whether ethnofederalism is secession-preventing or secession-inducing. Both scholars could not conclude that ethnofederalism is necessarily leading to secession but they could not free it from blame in the breakup of a state.

In an attempt to solve the puzzle, Erk and Anderson believe that, in federal failures or successes, three factors should be studied: the political will and the institutional capacity of the subunits, the constitutional federal form, and other uncodified factors such as socio-economic factors (2009: 196). Yet, both scholars seem undecided whether ethnofederalism increases the will and capacity of the subunits to grow the minorities' secessionist tendencies. For them, the institutional design of internal boundaries, judiciary and electoral system, and power sharing at the center may be incentives to either secessionism or preserving the integrity of the state. Furthermore, secessionism grows where there are economic disparities, overlapping social cleavages, and kin-groups existing in the neighborhood states. Accordingly, these are the constitutionally uncodified factors. In fact, these uncodified factors prove to be crucial intervening variables in ethnofederal failure.

For David Cameron (2009), these uncodified factors are of primary importance and the federal structure of the state has a secondary impact on leading to secession. The federal structures may be linked to secession only when other significant factors are present 'such as a

territorially concentrated minority's protracted experience of discrimination and exclusion' (2009: 310). Therefore, for Cameron, the intervening variable of political justice is central in associating ethnofederalism to state disintegration. Furthermore, there is a pre-institutional challenge (2009: 309). To explain this, Cameron thinks that if the federal Iraq fails, the blame should not be put on federalism, but alternatively on 'its sad history and toxic political culture' (2009: 316). Finally, he concludes by stating that secessionism proves to be more about 'how people are treated than on whether or not they are federally governed' (2009: 319).

In divided societies that undergo transitions from dictatorship to democracy and in which ethnic groups have their territorial enclaves, there are only a few options to follow in rebuilding a democratic political system. It is worth reminding ourselves that, in this dissertation, undemocratic alternatives such as forced assimilation, ethnic cleansing, and genocide are not considered as alternatives due to their undemocratic nature. Liam Anderson (2014, 2015a, 2015c) stated that in divided societies, any reference to alternatives to ethnofederalism requires considering two points. Firstly, the mentioned alternatives should have a realistic chance, to gain the minimal agreement of all significant groups, to be adopted. Secondly, the chosen alternative should conceivably perform superior to ethnofederalism (Anderson, 2014: 167; Anderson, 2015a: 8; Anderson, 2015c: 1). In such divided societies, the groups rarely agree to adopt a democratic unitary system. There are several reasons for this. Firstly, democratic unitary systems are usually majoritarian and thus do not always fit a divided society in which the minorities suffered a legacy of being unfairly treated. Secondly, as in the case of Iraq, a unitary system of government was tried and failed even though it was undemocratic. The failure of dictatorial unitary systems encourages minorities to stand against any proposals that call for the adoption of unitary systems[24].

The adoption of a unitary political system was not even discussed in the negotiations of political elites in post-2003 Iraq because it was not perceived as feasible. The present federal system came out of the bargains of the political elites representing the significant cleavages. This issue of why and how federalism in its current form was adopted will be discussed in detail in the second chapter. However, the current form of federalism, it can reasonably be claimed, was the only viable and realistic choice that could attain the satisfaction of the majority of Iraqis. Federalism in its current formula was adopted, as Cameron puts it, 'because there appears to be no other better alternative' (2009: 315). Of course, this should not mean that other

---

[24] On top of all these, in terms of Quality of Governance (QoG), Nicholas Charron (2009) conducted a large N study (94 federal and unitary multi-ethnic states) and concluded that 'in countries that have higher degrees of ethno-linguistic fractionalization, the ethno-federal sample shows significantly higher QoG scores than diverse states that have adopted a unitary/integrationist model of power-sharing' (2009: 587). QoG is measured through the impartiality of rule of law, elites' non-engagement with corruption, and the quality of bureaucratic services to citizens.

different federal alternatives were not proposed in Iraq. Some proposed a Nigerian federal style for Iraq (Smith, 2005) and others proposed territorial federalism based on previous governorate boundaries (Wimmer, 2003; Dawisha, 2004). Subsequently, these were all abandoned due to reasons related to legacies of the past and the relative power enjoyed by the Kurds in the pre-2003 period (along with some other reasons detailed in the third chapter).

To conclude, the arguments of the critics of ethnofederalism suffer from some methodological weaknesses. The critics consider ethnofederalism as an IV rather than a DV. Therefore, usually ethnofederalism is blamed for the disintegration of a state. In fact, ethnofederalism is the outcome of elite negotiations during which it is considered a DV. This indicates that it was the best choice for ethnic groups, altogether. It became the choice where other alternatives were never picked as the choice. Therefore, it succeeded where other alternatives failed to be adopted. Furthermore, ethnofederalism has success stories beside failure stories. Therefore, rather than ethnofederalism, other intervening factors may better explain the failure of a federal state.

Additional Factors Explaining the Failure of Ethnofederalism

Failure of ethnofederalism is measured by state breakup or recentralization. This measurement is compatible with the approach adopted in this dissertation that considers the state breakup as the far end of political instability. Accordingly, several ethnofederations have failed and several others succeeded. Anderson believes that the same political system, for example ethnofederalism, may lead to different outcomes (2013: 6). Hence, even if researchers assume that the rate of ethnofederalism failure compared to its success is one (success) to three (failures), this does not mean much in terms of prescribing ethnofederalism in a particular context (Anderson, 2015a: 2). The question should be why some of them succeeded whereas other did not. Scholars propose several explanations to the failure or success of federations such as the origin of a federation, symmetry and asymmetry, and the existence of core ethnic regions. Any effects that such concepts may have on federalism are also replicable on ethnofederations.. The following paragraphs investigate these concepts to see (in chapter two) if they can explain the prospects of success or failure of the Iraq's partial ethnofederation.

The way any federation, ethnic-based or not, is created may explain why some succeed whereas others fail (Anderson, 2010: 136). In this section, for the purpose of not distorting the original arguments of the authors, the terms 'federalism or federation' are used instead of ethnofederations. Otherwise, the arguments apply to ethnofederations as well as federations. Not all federations originate in the same way and for the same purposes. Riker considers

federalism a constitutional bargain between the politicians who offer it for the sake of territorial expansion and the politicians who accept it for the sake of not being overthrown by external threats (Riker, 1964: 13). Alfred Stepan termed this way of federal origin as 'coming-together', yet he criticized Riker for considering this the only way in the creation of federations (Stepan, 1999: 20). According to Stepan, two other categories should be added, namely 'holding-together', which aims at preserving the integrity of the state, and 'putting-together'. Among the examples of coming-together federations are the United States and Australia and the models of holding-together federation are India and Belgium. The USSR is a case of a putting-together federation defined by Stepan as 'a heavily coercive effort by a nondemocratic centralizing power to put together a multinational state, some of the components of which had previously been independent states' (Stepan, 1999: 22). Bermeo adds 'forced-together' federations to the above categories. She defines it as a slightly different concept from the putting-together category by asserting the role of outside powers (Bermeo, 2002: 110). For forcing-together federations, she provided examples such as Ethiopia 1952-1962, Pakistan 1947-1971, and Libya 1951-1963. She observed that all these federations failed because they were imposed by outside actors such as the UN in Libya and Ethiopia, and Britain in Pakistan (Bermeo, 2002: 106).

Anderson (2010) believes that coming-together federations are more prone to break-up than holding-together federations. Accordingly, coming-together federations have several ingredients that make it vulnerable to secession because they are built from previously sovereign units that decided to become united (Anderson, 2010: 138). Henceforth, due to their past sovereignty and independence, these units may be more easily persuaded to secede than in holding-together federations. Nevertheless, such debates depend on how a researcher classifies certain federations. Although, for example, Anderson classifies Iraq as coming-together, evidence exists that makes Iraq more of a put-together or a forced-together federation. In chapter three, Iraqi ethnofederation is discussed in terms of origination.

Another general factor that is thought to contribute to the success or failure of ethnofederations is symmetry and asymmetry. Charles Tarlton was the first to discuss symmetry and asymmetry in federations (McGarry, 2007: 105). Tarlton (1965: 861) defined symmetry as 'the extent to which component states share in the conditions and thereby the concerns more or less common to the federal system as a whole' and defined asymmetry 'the extent to which component states do not share in these common features'. Accordingly, the conditions shared by federal units in an ideal symmetry are 'equal territory and population, similar economic features, climate conditions, cultural patterns, social groupings, and political institutions'

(Tarlton, 1965: 868). As stated by Tarlton, this ideal symmetry is almost impossible to achieve in any federation. A level of asymmetry is unavoidable in all successful federal states.

The notions of symmetry and asymmetry have developed significantly since Tarlton. Tarlton's notion of asymmetry is known now in the literature as '*de facto*' (Zuber, 2010: 2) or '*political*' (Watts, 1999: 56). *De facto* asymmetry is important with respect to the influence that the constituent units may have on decision-making within the federal government (Watts, 1999: 59). For instance, the larger a province in terms of population compared to the rest of the country, it would have more members in the parliament. However, this sort of asymmetry has not produced academic debate as much as '*de jure*' or '*constitutional*' asymmetry has. Watts defines *de jure* asymmetry as 'differences in the status or legislative and executive powers assigned by the constitution to the different regional units' (Watts, 1999: 60). *De jure* asymmetry is studied in relation to the powers and competencies a region or a province may have that other provinces or regions may not have. Therefore, for Iraq, asymmetry is meant to deal with the powers and competencies of a region vis-à-vis other regions or a governorate vis-à-vis other governorates.

De jure asymmetry has generated debates about its potential in leading to the break-up of the federal state. Federal governments grant regions asymmetrical powers due to the increasing secession tendencies of the ethnic groups (Hechter, 2007: 125). Nevertheless, the extent to which asymmetry may help reducing these tendencies depends on whether demands for autonomy can be altered by giving the regions greater voice and welfare. According to Hechter, national self-determination desires can be greatly influenced by state policies. For him, 'nationalist sentiment can be bought off' (Hechter, 2007: 126). Investigating the case of Spain, Conversi (2007: 121) arrives at the conclusion that granting asymmetric powers, to Catalonian and the Basque region, proved to be 'accommodative, durable and practical, more flexible and effective in preventing ethnic conflict'. Moreover, for Katharine Adeney, asymmetrical arrangements often exist in heterogeneous federations. However, for these arrangements to be effective in calming secessionist minorities, asymmetrical arrangements should be accompanied by the mechanisms of consociation and guaranteed representation in the federal government (Adeney, 2007: 117). This, according to Adeney, provides minorities with incentives to remain engaged in the polity.

Providing asymmetry to ethnically based regions might come with the cost of disturbing other territorial non-ethnic regions. Anderson observes that even if asymmetrical arrangements satisfy the national minorities, they may lead to the dissatisfaction of the majority national groups (Anderson, 2010: 136). Furthermore, asymmetry is thought to be leading to the secession of the minority nation because it provides them with extra institutional capabilities

and minimizes contact between federal authorities (McGarry, 2007: 112). Zuber states that providing asymmetry to ethnic regions ensures cooperation between them and the federal governments, yet it creates a third player, namely the regions not gaining advantages form such arrangements. Accordingly, 'asymmetrical rules turn out to be inherently unstable from a perspective that takes all actors in all arenas into account' (Zuber, 2011:1). Accordingly, symmetry and asymmetry in ethnofederations are thought of as factors leading to political instability. The core of this argument is that providing the Kurds in Kurdistan Region disturbs other regions that are not benefiting from such asymmetry. The validity of such claims, in relation to Iraq, is debated in chapter two.

Another intervening variable in the success or failure of federations is the existence of 'core ethnic regions'. Hale defines 'core ethnic region' as a single ethnic region that 'contains either an outright majority of the population or makes up at least 20 percent more of the whole country's population than does the second largest region' (2004a: 169). An ethnic core region is likely to lead to state breakup because it creates dual-power situations (2004a: 173). On the one hand, it constrains the central government from making concessions to minorities. On the other hand, the minority groups' fear of the majority's domination increases significantly (Hale, 2008a: 255). A question is that when a group of neighboring provinces, dominated by the same ethnic group, may qualify as a 'core ethnic region' when they act according to one political tune and altogether make up the majority of the population or 20 percent larger than the other largest groups? This is precisely the case of the Shia Arabs in Iraq. For Anderson, even though the English Canadian provinces do not technically meet Hale's definition of core ethnic regions, in reality, they are a core region because they act in concert with each other (Anderson, 2010: 132). In the third chapter, the role of the Shia Arab provinces acting as a core ethnic region is discussed in terms of leading to political instability in Iraq.

To sum up this section, three additional factors are thought to be contributing to the failure or success of ethnofederations that are the way they were created, symmetry and asymmetry in the division of powers, and the presence of ethnic core region. The problem of these concepts is in their application on a specific case. For example, if one can consider the partial ethnofederation in Iraq, concerning origin, as coming-together, holding-together, or forced-together federation, then there will be no clear logic behind considering them as factors leading to the failure or success of a partial ethnofederation.

Conceptualization of Political Instability

One of the fundamental components of the research question of this dissertation is political in/stability; therefore, it has to be conceptualized. There are several approaches to political instability. Leon Hurwitz's (1973) summarizes the major approaches and discusses their merits and demerits. The reviewed approaches perceive political stability from different angles such as the lack of violence, governmental duration, the existence of a legitimate constitutional regime, and the absence of structural change (Hurwitz, 1973: 449). In the following section, a brief account of each approach is provided and the principal shortcomings are detected. Finally, the adopted approach is examined.

One of the most outstanding issues in Iraqi politics is violence manifested in car bombs, suicide attacks, kidnaps, and assassinations. Therefore, it is tempting to consider these as instances of political instability. Stability is equal to the absence of civil conflict and violent behavior. Accordingly, a peaceful state is one in which decision-making and politico-societal changes result from institutionalized procedures, and not from anomic processes that resort to conflict and aggression (Hurwitz, 1973: 449). However, this approach is criticized in some aspects. Firstly, the concept of stability is more complex than being confined and thoroughly explained by a mono-measurement such as violence (Margolis 2010, 326). With respect to the case of Iraq, violence alone may not convincingly explain political instability. Other issues, such as ethnic tensions and exclusions, contribute substantially in the existing political instability. Secondly, political instability in this approach is related to the state; therefore, it is solely the instability of the state. However, other external forces and internal informal structures contribute to political instability. In Iraq, not only the state structure and roles create potential for political instability but also the informal society-powered roles such as tribal loyalty and local elites.

Another approach perceives political stability as governmental longevity. Accordingly, the longer a government or a cabinet remains in office, the more stable the polity is. One merit of this approach is that it makes it easy to quantify political stability; however, it suffers from equating stability to the duration of an administration staying in office (Hurwitz, 1973: 449). This approach does not differentiate between various changes happening in the government such as coups, the withdrawal of a significant segment from the cabinet, and the resignation of the officials. Applied to Iraq, this approach might provide a partial explanation to the unstable politics, for example, caused by the resignation of some ministers; however, it does not sufficiently account for the bunch of other reasons that have contributed to producing political instability in Iraq, such as the existence of al-Qaida or ISIS.

The legitimacy of the polity and its constitutional order are the bases of another approach to political stability. In this approach, legitimacy helps to define the concept political stability. However, the concept of legitimacy proves to be vague (Hurwitz, 1973: 449). This vagueness in defining the concept of legitimacy leads to confusion in measuring political stability. For Needler (1968: 891) stability is about the years a polity was ruled constitutionally in which the 'government on the whole respected constitutional procedures and individual civil liberties, and in which no extra-constitutional changes of government took place'. Criticizing Needler, Hurwitz (1973: 456) evaluates this approach to be merely about measuring the degree of democratic attainment rather than political stability. This approach can contribute partially to explaining why political instability exists in Iraq, as the legitimacy of the state has been at stake due to the several incidents such as the Sunni Arab's exclusion from constitution drafting. 'Legitimacy is based upon consent' (Cormartie, 2003: 98). Therefore, any exclusion of the significant segments undermines the concept of consent. The reason why this approach is not adopted is that it can only partially explain why there is political instability in Iraq. Although the concept of 'consent' can illuminate the legitimacy problem (chapter four) in Iraq, it cannot cover the process and institutional fallacies (chapters five and six) that have majorly led to instability so far.

Another approach considers political stability as the absence of structural change. Claude Ake defines political stability as 'the regularity of the flow of political exchanges' (Ake, 1975: 273). Ake's hypothesis is that the more regular are these political exchanges, the more politically stable is the polity. Defined by Ake, political exchanges are the political roles that function in 'controlling the transactions and communications among political actors' (Ake, 1975: 272). Then, the question is how regularities and irregularities in the flow of political exchanges are determined, in order for a polity to be politically un/stable. In reply to this query, Ake replies that the standard for determining the regularities (non-violation of the system) and irregularities (violation of the system) of the role expectations are laws and customs of a specific polity (Ake, 1975: 273). Ake chooses laws (formal) and customs (informal) as the arbiters of role expectations because both are sanction-systems that grant any political structure (the network of political role expectations) its particularity and both have binding arbitration for the society. Laws, particularly, are the core of political structure and are more authoritative than customs (Ake, 1975: 273). Among the criticisms directed against this approach is that it isolates society from any role in political in/stability and locates stability to an event related to the state and not to the society (Margolis, 2010: 328).

Margolis considered Ake's approach to political stability as 'the most promising' (Margolis, 2010: 330). Ake defined political stability as the regularity in the flow of political

exchanges. The more regular these political exchanges, there will be more political stability. Political exchanges are the network of political roles. These political roles are the standardized political behavior of the political actors that are in interaction in a context of shared expectations about what can be done in a given situation. Consequently, the political actors behave politically in a context where their behavior is predicted and they are in interaction in an organized society. This is not to say that, according to Ake, in such an organized society every political behavior can be precisely predicted because the role expectations have a variability of political roles to play (Ake, 1975: 273).

Although admitting that his approach is descendant from Ake, Margolis's criticism of Ake became the basis for his own definition to political stability. His criticism is that Ake created an artificial separation between formal and informal roles and treated them as distinct from each other. Margolis (2010: 332) states that Ake's approach 'sees how acts might violate each, but not how one might violate the other; how people might break laws or customs, but not how law might challenge custom or custom challenge law'. Based on investigating this issue, Margolis offers a new definition for political stability as 'the degree to which the formal and informal coincide' (Margolis, 2012: 16). He refers to laws as formal roles that are 'defined by authority, codified into standards, and enforced by officers' and customs as informal roles that are looser than the formal roles and are 'constructed, defined, and enforced by social interaction' (Margolis, 2010: 331). He arrives at the following hypothesis:

> *'The closer the correspondence between formal and informal within a political object, the greater its regularity and fewer its disruptions. Perfect stability is total correlation; perfect instability, the total absence of correlation (Margolis, 2010: 332).*

This approach is useful in dealing with political instability in Iraq. The key question of this dissertation is to defend partial ethnofederalism against criticisms that consider it a chief element of state disintegration, the far end of political instability. This approach investigates the potential for political instability in a polity, rather than investigating specific events. It is concerned with the question of why there is political instability rather how political instability is manifested. For this approach, it does not matter if there is violence or protest, but what matters is what potential they have to induce political instability (Margolis, 2010: 332). This approach goes beyond mono-measures to a more all-encompassing way by operationalizing political stability into varied paths of coercion, reform, consent, and replacement. In addition, this approach adds opportunity, detailed below, alongside the four paths to account for

conditions that favor political instability. This multiplicity of paths in operationalizing political stability leads to more open-handedness of researchers.

It is a necessity to explain what the formal and informal roles and structures mean in Iraq. The formal roles and structures as mentioned are the formally codified and enforced authority and the informal is looser constructed roles enforced by social interactions (Margolis, 2010: 331). Thus, in Iraq, formal roles are those that are constitutional and formally enforceable such as the cabinet, prime minister, the parliament, political parties and other authorities. Formal structure is the constitutional political system maintained and enforced by formal roles, for example ethnofederalism and decentralization. Informal roles are socially constructed but have a sort of authority that may effectively encounter the formal roles and structures. Examples of informal roles are the local elites, tribal loyalties, ethnic groups, and *Marja'ya* for the Shia Arabs. These roles are usually practiced via informal structures such as tribal, ethnic and religious institutions. In a deeply divided society, such as Iraq, ethnic political parties may work against the formal structures and strive to satisfy the informal. When each formal structure tries to satisfy a different informal then the possibility of a widening gap increases.

However, such an approach to political instability requires operationalization for enabling the researchers to find the indicators of political in/stability. Operationalizing political in/stability through the ways in which the gap would be widened or closed, Margolis offers some paths, namely: authority, resilience, legitimacy, and replacement (2010: 333-338). Authority means that those in power try to bridge the gap between the formal structure and the society's informal structures through coercion and thus attempt to change the way things are to the way things should be. For example, when the informal roles (the Sunni Arabs) became upset of the formal structures in Salahaddin and other Sunni Arab governorates, they gathered in large numbers in certain areas for months trying to impose their demands on the government. However, the response of the government was at the end to impose its authority on them by using its force.

Reform by those in power is another path explaining the gap between formal and informal. For Margolis, reform is to replace a coercively determined change with adaptation (2010: 334). The capacity of the formal roles and structures to adapt to the changes taking place, either gradual or sudden, is fundamental to political stability. For example, in Iraq, the government could not actively counterattack al-Qaida attacks in the Sunni areas. Therefore, it sought the help of the *Sahawat* (Awakening) forces, non-formal armed people originated in the Sunni governance of Anbar in 2006. The Maliki government formally acknowledged the influence of such a force and gave them salaries in return for fighting terrorism. The Iraqi government, after being convinced that the informal (people) would not cooperate in the Sunni Arab areas in

fighting terrorist groups, decided to recruit them in semi-formal forces to overcome terrorism. In this way, the government adapted to the new circumstances.

The third element is legitimacy, operationalized as the consent of the citizens. Consent exists when the formal adopts new changes and thus creates a gap, the informal accepts and adapts to them (Margolis, 2010: 335). Therefore, the gap narrows out of the willingness of the informal, rather than coercion. Consent provides an opportunity for the informal to match the formal in accepting the new changes. For example, the Sunni Arabs voted against the constitution in the referendum of 2005. As the constitution was adopted, this created a gap between the formal (the government) and the informal (the Sunni Arabs). Yet, after a few years, the informal gradually accepted the articles of the constitution and considered them as building blocks of the new Iraq. Thus, the gap created from adopting the constitution narrowed after three to four years.

'Replacement' is the last path. Accordingly, when adopting new formal roles and structure produces a gap, the people may want to hold tight to the informal roles and structures and try to replace the authorities the formal roles or structures (Margolis, 2010: 336). Replacement can be carried out in many ways such as elections, revolutions, or secession. Therefore, any object, including states, will be stable if the gap between formal and informal roles and structures narrows through any of the paths. In fact, for the critics of ethnofederalism, secession indicates its failure.

Margolis adds a fifth element, which is 'opportunity', defined as the conditions that favor political instability. Opportunity, accordingly, falls into three categories: social, economic, and environmental (Margolis, 2010: 337). Some social conditions provide an opportunity for disruption such as the existence of a more convincing alternative discourse. Some economic conditions such as corruption and external funds for internal organizations maximize the potential for instability. Some environmental conditions may lead to political instability such as low access terrain and neighboring state instabilities. This approach can be claimed that it has opened a wider door for researchers of political stability by going beyond mono-measures and providing a clear causality.

Margolis (2010: 332) believes that this understanding of political stability is original due to some points: first, it never specifies events as indications of political instability. Thus, for him, coups, riots, and protests, for example, should not be always considered as instances of political instability. For him, protests in the US are no more political instability, whereas the lack of protests in North Korea does not indicate political stability. Second, stability is a condition of potential and not of realization. It focuses on the aptitude of political instability in a polity because it is about the extent to which a gap exists between the formal and informal

roles and structures. For him, political instability is about the extent to which there is potential for political instability by investigating the ways through which a gap narrows between a formal in informal roles and structures. Usually, if the gap was treated through consent then there is less potential for political instability than addressing the gap through authority, which generates a higher potential for instability. Third, this approach goes beyond the scope of the state by including informal interaction in its definition and, therefore, ascending the debate from state stability to political stability. Accordingly, when either the formal or informal changes the other should adapt or attempt to close the gap. The more the gap is narrowed the more political stability (Margolis, 2010: 333).

In conclusion, the adopted approach is useful in investigating the question of whether political instability has resulted from adopting partial ethnofederalism in post-2003 Iraq. First, it can help in studying the factors that created the potential for political instability through examining the extent to which the authorities in post-2003 Iraq have been capable of closing the gap between the new formal structures and roles and the informal social interactions. The Iraqi Shia Arab politicians dominated the cabinets so far. Therefore, it is fair to ask to what extent the authorities have been willing to close the gap. How did political instability arise in Iraq? Secondly, to what extent, in agreement with the paths mentioned above, one can claim that partial ethnofederalism has further widened the already existing gap between formal and informal roles and structures in pre-2003 Iraq. The existing political instability may convincingly be considered as extensions of past clashes between the formal and informal roles and structures. The formal-informal gap did exist since the invention of the Iraqi state in the 1920s. Chapter three will provide evidence from the history of Iraq on how the gap widened due to coercive and assimilating attempts by the Iraqi state authorities against the Kurds.

Conclusion

The critics of ethnofederalism mainly depended on analyzing individual cases, such as the Soviet Union and Yugoslavia, to prove that it is a key factor in leading to the breakup of states. The breakup of a state is the far end of political instability which is defined as the widening gap between the formal and informal roles and structures. However, the defenders of ethnofederalism state that these cases were mostly pseudo-federations and lacked genuine democratic principles. Furthermore, they had socio-economic problems and were mostly imposed ethnofederations. However, as long as ethnofederalism has success stories beside failures, then other intervening variables should be taken into consideration. Furthermore, in divided societies, ethnofederalism should be understood primarily as the outcome of

negotiations of the political leaders of the significant segments. In other words, ethnofederalism should be considered first as an IV (before its formal adoption) and then secondly as a DV (after its formal adoption, for example in the October 2005 referendum in Iraq). The vitality of this distinction is that, when understood as the outcome of bargains between political elites, ethnofederalism was the only choice that could minimally satisfy the ethnic politicians. This means that ethnofederalism was adopted as the only minimally acceptable democratic solution and other alternatives were simply unacceptable to the political leaders collectively. This is exactly what took place in the negotiations about the political system in post-invasion Iraq as will be detailed in the second chapter. Ethnofederalism in Iraq is the focus of the next chapter in which the validity of the critics' arguments, presented in this chapter, are debated.

Chapter 2. The Iraqi Partial Ethnofederation

Introduction

This chapter is the second defense of ethnofederalism against arguments that consider it as the leading cause of political instability in its extreme form, the disintegration of the state. The first defense was mainly theoretical presented in chapter one. However, this chapter discusses the implementation of such theoretical framework on Iraq. The chapter is organized into several sections. The first section tries to investigate whether partial ethnofederation in Iraq is a recipe for political instability and a major leading factor of the state's disintegration. For this, it goes through the arguments of the critics of ethnofederation with an eye on the Iraqi ethnofederation. The second considers whether the anti-ethnic federalism, one of ethnofederalism's alternative, was a viable choice for Iraq. It discusses the alternative via debating the four mechanisms offered by Roeder (2010a).

Another important defense of partial ethnofederations is to consider them as DVs rather than IVs to the point that they are formally and constitutionally adopted. The third section provides details on how and when could ethnofederation in Iraq be considered as a DV by providing a history of partial ethnofederation in Iraq. The aim of this section is to show that ethnofederalism cannot be held responsible for instability as long as it is a DV. What is evident throughout the negotiations on federalism for Iraq was a rejection of full ethnofederations and the support for Iraq's partial ethnofederation. The fourth section discusses the impacts that additional factors may have on the failure of partial ethnofederation. The factors are the origin of ethnofederation in Iraq, symmetry and asymmetry, and the presence of core ethnic regions. The final section provides clues from the history of Iraq that whenever ethnic-based autonomy was granted, political stability prevailed and whenever such autonomies were rescinded instability prevailed. To this end, firstly, the section provides examples of ethnic autonomy arrangements for the Kurds before the establishment of the Iraqi state and from the modern Iraq history. Secondly, it develops an argument that the Kurds in the history of modern Iraq demanded ethnic autonomy in return for political stability and they resorted to armed-resistance whenever the governments rejected such demands.

Partial Ethnofederalism in Iraq: A Recipe for Disintegration?

In this section, the core of the arguments against ethnofederalism as leading to political instability are presented and implemented on Iraq. These arguments boil down to two points: firstly, in ethnofederations, grievances and identities of antagonistic minorities are

institutionalized. This institutionalization, accordingly, encourages these minorities to insist on the partition of the state. However, what were these grievances in Iraq are detailed in chapter three. Some examples of the grievances are used below in this chapter to address the validity of the theoretical criticisms, in relation to Iraq, raised in chapter one. Secondly, these minorities are usually territorially concentrated. Therefore, when equipped with formal constitutional powers and institutions, they move more towards secession. Now, these two arguments are contemplated below.

According to the first above point, the grievances and identities of the ethnic groups are now institutionalized in Iraq. Each of the ethnic groups in Iraq has its grievances, especially two significant groups of Shia Arabs and Kurds. Furthermore, each ethnic group attempted to institutionalize its grievances. The following quote from the Iraqi constitution preamble eloquently elaborates this point:

> *[The Iraqis] marched for the first time in our history towards the ballot boxes ... inspired by the tragedies of Iraq's martyrs, Shiite and Sunni, Arabs and Kurds and Turkmen and from all other components of the people, and recollecting the darkness of the ravage of the holy cities and the South in the Sha'abaniyya uprising and burnt by the flames of grief of the mass graves, the marshes, Al-Dujail and others and articulating the sufferings of racial oppression in the massacres of Halabcha, Barzan, Anfal and the Fayli Kurds and inspired by the ordeals of the Turkmen in Bashir and the sufferings of the people of the western region, as is the case in the remaining areas of Iraq where the people suffered from the liquidation of their leaders, symbols, and Sheiks and from the displacement of their skilled individuals*

Atrocities, such as Anfal and Halabja, inflicted upon the Kurds are commemorated annually and for this purpose, a specific monument was founded in Halabja. Although, this formal symbolization of atrocities reminds the Kurds of the unfairness of the previous Iraqi governments, this does not necessarily entail that Kurds would have the same negative attitude towards a genuinely inclusive and federal Iraq. The Kurds had their *de facto* independence (Gunter, 1993) since 1991, yet in 1992, the Kurdistan parliament unilaterally and unanimously voted for the adoption of federalism in Iraq. In addition, the KRG continued working for convincing the Iraqi opposition groups about the merits of federalism in the opposition conferences throughout the 1990s until 2003. In 1992, the KRG adopted federalism when grievances, such as the Anfal and Halabja, were only four years old and fresh in the memory of

most of the Kurds. Therefore, the institutionalization of grievances should not necessarily be interpreted as leading to the disintegration of the state.

The point that partial ethnofederalism equips the antagonistic minorities with institutional capabilities to move towards secession is also not necessarily so. It is almost a fact that the Kurds in Iraq are now more organized than any other time in their modern history because they enjoy formal jurisdiction over most of the areas in which they are a majority. The Kurds have an ethnofederal region in which they are territorially concentrated and they have their Peshmerga forces. Nevertheless, this does not have to be interpreted as a step towards the partition of the state. Several points support this claim. Firstly, the Kurds were satisfied with the ethnofederal arrangements and voted overwhelmingly for the Iraqi permanent constitution in October 2005 (BBC News, 2005). Secondly, the Kurds repeatedly asked not for secession but ethnic autonomy. They wholeheartedly welcomed the autonomy arrangement in 1970 and celebrated across the Kurdish cities praising the Baath and Kurdish elites who struck that deal[25]. Thirdly, since 2003, the Kurdish elites did not publicly declare their support for an independent Kurdistan, until they witnessed problems of credible commitment from the Shia Arab ruling parties, especially the behavior of the ex-Prime Minster (PM) of Iraq, Nuri al-Maliki. Al-Maliki insisted on pushing Iraq towards recentralization and majority rule and never concealed such tendencies (Ryan and Abbas, 2009). I interviewed Burhan Faraj (2013), a Kurdish MP, who stated that

> *The Kurds have voted for coexistence before but if we are not feeling secured*
> *from the institutional and political elites' behavior, so it is our right to strive*
> *for independence, even according to the charter of the Human Rights of the*
> *UN.*

Finally, the Kurdish aspiration has been high for independence from Iraq even when they were politically in a weak position. The Kurds have always rationally thought about the declaration of their state. They have counted for the costs and benefits of staying in Iraq and they accounted for the perceptions of the neighboring states and the international community on this matter. Therefore, for the Kurds, secession is not about the possession of formal capabilities as much as it is about the economic and political costs and benefits of staying in Iraq.

Besides these two major criticisms discussed so far, there are others. Firstly, ethnofederal arrangements are the establishment of a state inside another state. Secondly, in

---

[25] In one of these celebrations in 1970, my mother was a participant and she related that the people in Sulaimaniyah were shouting 'who made himself so sweet; he was Ahmed Hasan al-Bakir'. In fact, al-Bakir was an Arab and the highest rank Baath member and the president of Iraq from 1968 to 1979.

ethnofederations, the local elites become powerful and the predations of the regions become apparent. Finally, for Bunce (2004: 190), ethnofederalism is utterly challenging for states transitioning from authoritarianism to democracy. Accordingly, the establishment of a unitary system should precede any ethnofederal arrangement. Some of these points are addressed in the above discussions, yet others deserve closer attention.

Ethnofederalism should not be considered as establishing a state within a state, but as a mechanism that provides the antagonistic and historically excluded minorities, such as Kurds in Iraq, with institutions that may help to lessen their worries about the recurrence of past grievances. For societies deeply divided along ethnic lines with a history of political exclusion, any other conflict management instrument may not be as effective as ethnofederalism in keeping them satisfied. In fact, preserving the dignity of minorities by equipping them with formal institutions is far more effective in leading to political stability than the blind sacrosanctity of the concept of undivided sovereignty. Claiming the undividedness of a state's sovereignty is meaningless when minorities resort to armed-resistance because they are politically excluded and deprived from self-rule.

According to Bunce (2004: 190), the integrity of Iraqi soil is at stake because it has been in transition from authoritarianism to democracy and the adopted political system was ethnofederalism. Consequently, for Iraq to become stable, a unitary political system should have been appointed first and then followed by ethnofederalism. The reason of such an argument is that a unitary government is capable of stretching its control in every corner of the state. Through this, it can extend its hegemony all over the state and then start to devolve power gradually. The aim behind such a strategy is to deviate from empowering the minorities as accordingly they opt for partition. This suggestion may look fanciful at first glance but it is quite impractical on the ground. In fact, it depends on the capability of the central government in transition, usually a weak government, to overcome the resistance of minorities for such hegemony via persuasion. This is quite unlikely to succeed in deeply divided societies in which an authoritarian regime usually disfavored a minority and extended its domination by the power of the stick. Moreover, if a state could peacefully and democratically manage the minorities through a unitary system, it is not clear why it would originally think of resorting to ethnofederalism.

In this section, the criticisms against ethnofederalism, with Iraq as the case, were discussed. Although, through partial ethnofederalism, the grievances and antagonism of the Kurds are institutionalized, this does not necessarily lead to the secession of Kurdistan Region from Iraq. The Kurds were satisfied with partial ethnofederalism in 1992 while the memories of Anfal and Halabja were only four years old. Therefore, if the institutionalization of grievances and

antagonism leads to the secession of an ethnic group, it is less likely in the case of the Kurds in the Kurdistan Region. From 2003, they willingly re-joined the efforts of establishing a political system in Iraq based on partial ethnofederation. Indeed, partial ethnofederalism has equipped the Kurds with formal capabilities and institutions, yet this should not be necessarily leading to secession.

Anti-ethnic Federalism: An Alternative to Partial Ethnofederalism

Those scholars who argue against ethnofederalism for societies divided along ethnic lines, usually with an antagonistic history, should have an alternative that is both feasible (some realistic chance of being adopted), performing superior to ethnofederalism (Anderson, 2015a: 2; Anderson, 2014: 167), and democratic. Thus, any solution should avoid undemocratic instruments such political exclusion, forced assimilation, genocide, and ethnic cleansing. Any such mechanisms should also perform better in terms of accommodating or integrating societal segments with a history of being treated by undemocratic means. It is worth remembering that Iraq was a country where a minority dominated politics and was an authoritarian state until 2003.

As mentioned in chapter one, the most widely mentioned ethnofederal alternative is anti-ethnic federalism. Philip Roeder (2010a: 25-26) proposed that four mechanisms could save a state from a break-up caused by ethnofederal arrangements. I restate each point and then discuss their empirical validity in the case of Iraq. His first mechanism is that the constitutional designers should curb the homeland's decision rights within the common state institutions in a way that can limit any threats of deadlock. The aim is to constrain the opportunities for regional free riders and to imbalance power in favor of the central government. Nonetheless, he admits that with this proposal recentralization increases. Recentralization indicates the failure of an ethnofederation.

Roeder based his first mechanism on constitutional designers without asking who they are in a society divided along ethnic lines. Constitutional designers in such societies are representatives of ethnic groups that usually have a history full of forced assimilation. Moreover, he did not ponder the various visions of the state's political system in the minds of these constitutional designers. He treated the constitutional designers as if they are all thinking the same, having the aim of curbing the region's powers in mind. In Iraq, these constitutional designers were mainly representatives of three ethnic groups of Shia Arabs, Sunni Arabs, and Kurds. The Kurds and Shia Arabs, who together constitute about four-fifths of the population, still had the stories of atrocities inflicted upon them by the Iraqi state. With fear in mind from

the Sunni Arabs' re-control of the state, it proved irrational to curb the powers of the future regions and to strengthen the central government (Hamoudi, 2014: 63). Furthermore, he also neglects to consider that his proposals should result from the elites' negotiations. These elites represented antagonistic ethnic groups who suffered from political exclusion and marginalization. Thus, each group had its visions for political system, some of which were quite opposite to each other. For example, the Kurds had an ethnofederal vision of the state in which their region had enormous powers and empowered to an extent that might not let them suffer discrimination and elimination again. The Sunni Arabs had a central government in mind that could stretch its powers all over Iraq without any specific ethnofederal arrangements. The majority of the Shia Arabs shared the Kurdish vision, yet a minority of them supported the Sunni Arab view (Hamoudi, 2014: 65). Empirically, it was clearly impossible to envision any middle ground rather than the current ethnofederal arrangement. As he admitted, curbing the decision rights of the homeland government increases recentralization. Then, how Roeder could expect that the ethnic groups, who suffered exclusion and forced assimilation, would allow the implementation of such arrangements.

Roeder's second mechanism is that the common state governments have to change constantly the jurisdiction of homeland governments in order to inhibit regional leaders from manipulating co-ethnics. Accordingly, regional leaders become stronger through co-ethnic manipulation. With jurisdiction change, the way will be paved for the appearance of not-yet-strong leaders and probably the disappearance of previously strong leaders. Consequently, this makes homeland governments relatively weaker than common state governments. In turn, this leads back to recentralization of the state. Here, he admits that, if homeland leaders are 'powerful enough to defend the interests of their communities against common-state predation, they are likely to resist the threat to their power from further division' (Roeder, 2009: 215).

Implemented in Iraq, this mechanism means that the current jurisdiction of Kurdistan Region must be changed. This change may be done through dividing this region into several other sub-territories, such as Erbil, Sulaimaniyah, and Duhok. Then, these sub-territories may be added to other territories that may contain a Sunni Arab majority, such as Mosul. The major aim is to produce crosscutting cleavages that could lead to the emergence of a class of political elites whom should depend on voters from other ethnic groups. Accordingly, this prevents ethnic elites from having secessionist tendencies. Such a proposal, if applied on Kurdistan Region in Iraq, would be pointless. The Kurds, throughout their history in modern Iraq, have continuously struggled for establishing a constitutionally acknowledged region that covers the areas in which they form a majority. To achieve this, the Kurds resorted to several peaceful means, such as petitioning and non-violent protests. However, when the governments neglected

the Kurdish demands for such an autonomous region, the Kurds resorted to armed-resistance. Partitioning the Kurdistan Region into its three governorates is not on the agenda of any Kurdish political parties. The Kurds, not only disallowed such a partition but also they have continued asking for the reversal of the boundary changes that were carried out by the Baath regime since 1968 that aimed at the Arabization of Kurds. Where these boundary changes took place is called 'disputed territories'. For annexing the disputed territories, especially Kirkuk, to their region the Kurds would make the ultimate sacrifice as they do now against ISIS.

Thirdly, communities that have not yet developed their distinct identity should be empowered at the expense of those communities and groups who have. Again, he concedes 'this strategy may only work for a while before the new ethnofederal jurisdictions become the source of secessionism'. Roeder (2009: 215) provides the example of India in which linguistic identity was empowered at the expense of an already developed religious identity. Accordingly, this strategy counted for the integrity of India. If supposedly such a proposal is applied to Kurdistan Region in Iraq, then the question is what other distinct undeveloped identities could be developed that could replace the already developed linguistic and cultural identities? Another less focused-on and less developed identity among the Kurds is being Sunni Muslims. Then, the only possibility becomes formally highlighting this religious identity and making it the base for drawing the new boundaries. Such a proposal is only imaginary and can hardly be implemented on the ground because, in the history of modern Iraq, being Sunni Muslims was not the reason for the persecution of the Kurds. They were suppressed basically because of being Kurds who speak a different language than Arabic and have a different culture. Consequently, this made the Kurdish identity become highlighted to a degree that it is almost impossible to replace it.

Yet, for the sake of argument, if such a proposal were successfully implemented, then Iraq would be divided into two basic groups, the Sunni (then Kurds and Sunni Arabs that may make up 40-45% of the population in Iraq) and the Shia. This might be forwarded as a recipe for peace, yet it has a bigger chance as a formula for religious clashes between the two sects due to their historical enmity. The question here is what chances, if any, are there that the Kurds would accept such a proposal? As far as I see it, as a Kurd and an insider, there is no chance that the Kurds would ever agree to such a proposition. Throughout their history in Iraq, the Kurds were excluded, unprotected from forced assimilation, marginalized, and exposed to genocide due to their linguistic and ethnic identity. Then, for the Kurds, to be a Kurd is equivalent to their history and dignity. Furthermore, all their political negotiations and deals with all the Iraqi governments, under the monarchy and the republic, were based on highlighting Kurdishness rather than Sunniness.

Roeder's final mechanism calls for utilizing various forms of asymmetrical federalism that may strengthen the common state. He provides the example of the Russian Federation that could survive breakup because of dividing the core nationality (Russians) into several units and granting the non-Russian minorities with more access to self-government rights. He states that 'asymmetry does not appear to be a guarantee against secession… even if asymmetrical ethnofederations do not break up; pieces of asymmetrical ethnofederations often break away'. In fact, asymmetry should be between units that have the same administrative statues, i.e., between regions. In Iraq, as will be detailed below, there is only one region and thus the issue of asymmetry, at least for now, is irrelevant.

In this section, the mechanisms offered by Philip Roeder were discussed and applied to Iraq. However, none of these mechanisms could have a real chance of applicability and adoption. For curbing the decision-making powers of homeland governments, he depends on constitutional designers. The question of who are these constitutional designers leads us to doubt whether such a mechanism has any chance of success. In addition to that, changing the jurisdiction of the Kurdistan Region, the second mechanism, is also not applicable due to the context of ethnic conflict in Iraq. Highlighting another identity for the Kurds, Sunni identity, instead of their current ethnic identity does not also of have a chance of application. Finally, his final mechanism of adopting asymmetrical arrangements will be discussed later in this chapter.

Ethnofederalism as a DV and an IV

One of the deficiencies in the contra-ethnofederalism arguments is that they consider it as an IV (or an explaining variable) (Grigoryan, 2012: 14; Anderson, 2014: 166). Then, they think of ethnofederalism as a cause, sometimes the only cause, behind the partition of some states. However, what they ignore is to consider ethnofederalism as the outcome of ethnic elite negotiations. Perceiving ethnofederalism as the ethnic groups' second best choice in Iraq is taking it as a DV. When considered as the outcome of negotiations, then blaming it for an existing political instability is irrelevant. It is irrelevant because it succeeded, even if temporarily, when anti-ethnic federalism and centralization failed even to be adopted. These alternatives failed to be the choice of ethnic elites, yet partial ethnofederalism was the only genuine choice that could make ethnic groups, at least, minimally satisfied.

Nonetheless, having stated so, and for answering the issue of temporality, this dissertation deals with partial ethnofederalism as a DV when it was under the negotiations of ethnic elites until its formal adoption in October 2005 referendum and a combination of IV and DV after its

adoption. The implication of such a position is that any instances of instability caused by other factors when partial ethnofederalism was in the making, it is not to be blamed for it. Political instability existed in Iraq then because of the American occupation, de-Baathification, and other factors. After the adoption of the partial ethnofederation, the question becomes to what extent ethnofederalism is qualified at addressing and lessening an already existing instability and how capable is it to prevent the state from an eventual disintegration. This is the question that this dissertation tries to provide an answer to.

After its formal adoption in October 2005 referendum, ethnofederalism could be considered as an IV and its capability in leading to political stability could be assessed. Although partial ethnofederalism could convince the Kurds to re-join the Iraqi state and willingly take part in rebuilding its political system, several factors obstructed the realisation of its full potential. Firstly, the factors that contributed in political instability before the adoption of partial ethnofederalism continued to have impact and the grievances produced from these non-ethnofederal sources could not be addressed. The incapability to address such grievances stemmed from the incomplete implementation of ethnofederalism tenets (as detailed in the second point below) and the behavior of ethnic group elites, rather than from partial ethnofederalism itself. Therefore, the outcome was that ethnofederalism was perceived by the Sunni Arabs as incapable of leading to stability.

Secondly, in addition to the first point, the nascent partial ethnofederalism faced the problem of incomplete implementation. This incomplete implementation originated from the fact that, to fulfil its aims, the ethnic political elites should have the political will to abide by the frameworks put in the constitution. Yet, in Iraq, the political elites, especially the ruling Shia Arabs, lacked sufficient political will to make partial ethnofederalism result in stability. Issues such as the non-implementation of the article 140 in regard to the future of the disputed territories and the opposing interpretations of the ethnic elites of the articles related to the distribution of natural resources have been constant sources of discord between the Iraqi government and the Kurdistan Region government since 2008. The reason why the Shia Arab rulers may have had less desire to federalise Iraq based on power-sharing at the centre may partly be because they realise the benefits of majority rule and the centralisation. Another factor behind the problem of incomplete implementation is several structural deficiencies. These deficiencies are discussed in detail in chapter six. Structural deficiencies can be found in several institutions in Iraq, most importantly the constitution and the still centralised political system.

Henceforth, two important concepts should be clearly distinguished from each other, namely partial ethnofederalism and its partial implementation. Partial ethnofederalism can be perceived in two ways. Firstly, it can be considered as a category of federalism that

accommodates ethnic groups, i.e., an asymmetrical federal system that is based on granting an ethnic group (Kurds in Iraq) territorial self-rule. Secondly, in Iraq, partial ethnofederalism can be realised as the federalisation of a part of the state (Kurdistan Region), whereas the rest is on the ground, not constitutionally, centralised. In the following chapters (especially chapter six) this problem is addressed either as 'incomplete federalisation' or 'the yet centralised system in Iraq'.

Partial implementation results from the reactions of the ethnic elites towards some aspects of a federal constitution after its formal adoption. To clearly distinguish between the two concepts, partial ethnofederalism is a structural issue, whereas the partial implementation of ethnofederalism is an ethnic-elite issue. As will be explained in the later chapters, what caused instability in post-2003 Iraq are the non-federalisation of the whole state and the partial/incomplete implementation of ethnofederalism. Therefore, the stress of the following chapters (four, five, and six) is on these two as major causes behind political instability in Iraq.

After ethnic elite negotiations about the political system in Iraq, partial ethnofederalism was the only choice that could minimally satisfy the Shia Arabs, Kurds, and Sunni Arabs, the following paragraphs tells the adoption story in detail. The following section aims at making clear why ethnofederalism was adopted. Some historical precedents, along with Iraq's history of conflict (mentioned in chapter three), made it almost impossible for the negotiators and constitutional designers to arrive at any other solution rather than partial ethnofederalism. In this section, only key events about the history of ethnofederalism are mentioned. They explain why the Kurdistan Region adopted ethnofederalism when it had *de facto* independence and how it was perceived by the Arab political parties in the Iraqi opposition conferences since 1991 until 2003. Then, its adoption in the TAL and the Iraqi permanent constitution is discussed. Another important point that made ethnofederalism the only solution was that the Kurds had a formal ethnic autonomy arrangement in 1970 (detailed in chapter three). Nonetheless, any other solution would have failed simply because either they already failed, such as a unitary and centralized state (Anderson, 2015b: 2), or it would have decreased the authorities that the Kurds already had.

In March 1991, the Kurds rose against Baath regime with the help of the international community and enjoyed safety under the no-fly zone. The Kurdish parliament was established after the local elections in May 1992 (Yildiz, 2007: 34-39). The 2nd of October 1992 marks the day in which the Kurdistan Region's parliament unanimously and unilaterally voted for adopting partial ethnofederation for Iraq. The following excerpt is a translation of part of the document 'the Kurdistan National Council…unanimously decided on self-determination and specifying the legal relationship with the central authority, in this stage of history, to be based

on federalism within a democratic parliamentarian Iraq that provides political party pluralism and respects the human rights that are stated in the international treaties and agreements'[26] (Kurdistan Parliament, 2015)

The Iraqi opposition parties had held several conferences on the future of the political system in Iraq before the fall of the Baath regime in 2003. Although, the parties in these conferences agreed that federalism would be the future political system in Iraq, they can be critiqued for rarely providing any details about it. The first conference was the Joint Action Committee (JAC) that had weeks of discussions and attended by 17 opposition groups. The JAC meetings ended with a communiqué in 27/12/1990 that stated any future government should be inclusive of all groups in Iraq (Al-Shamrani, 2001: 193). Later, in London Exploratory Conference held in July 1991, several committees were established; among them was the Kurdish Question Committee (Al-Shamrani, 2001: 212).

Another conference, known as the Vienna Conference, took place in 16-19/6/ 1992 and can be considered as the first occasion in which the Kurds convinced the non-Kurdish opposition parties to adopt federalism, in its partial ethnofederation form. One of the speakers was Hasan Chalabi who asked the attendees to overcome the psychological barrier of not granting the Kurds the right of self-determination and federalism (Al-Shamrani, 2001: 239). The final communiqué of the conference included statements that stressed the right of self-determination for Kurds within a united Iraq, acknowledging the sufferings that the Shia Arabs population had on the hands of Baath, and admit the rights of Turkomans and Assyrians.

In about four months from the Vienna Conference, the first opposition conference was held on Iraqi soil in Salahaddin, a district in Erbil. In the Salahaddin Conference, 234 delegates participated (Al-Ahram Newspaper, 1993). In the final communiqué, federalism was reasserted for the future Iraq. After seven years, in November 1999, the Iraqi opposition groups held a conference in New York. The final statement reasserted the Kurdish demands for federalism 'The INC [Iraqi National Congress] recognizes the legitimate national rights of the people of Iraqi Kurdistan on the basis of federalism and the national, historic, and geographic facts within the framework of a parliamentary, pluralistic, and democratic Iraq and will act to guarantee this constitutionally' (ME Forum, 1999). The national, historic, and geographic facts mean that the participants acknowledged the existence of the Kurdistan Region that was established in 1992 in the three governorates of Duhok, Erbil, Sulaimaniyah, and parts of other governorates.

In December 2002, the London Conference was held attended by most Iraqi opposition parties such as Patriotic Union of Kurdistan (PUK), Kurdistan Democratic Party (KDP), and

---

[26] The translation of this document was made by the author of this dissertation.

the Supreme Council for the Islamic Revolution in Iraq (SCIRI). The London Conference resulted in offering a project for the transitional period and a final communiqué. The second point of the transitional period project stated that the future Iraqi institutions should be built on federal, plural, and democratic bases. Furthermore, it asserted that Iraq was constituted of two nationalities, Kurds, and Arabs. The final communiqué had twenty-five points. Number two confirms the federal, plural, and democratic nature of the future Iraqi government and number five states the inclusion of all the Iraqi components in the decision-making. Point ten reaffirms resolving the Kurdish question via federalism and states 'The conference debated the experiences of federal systems and concluded that it is an appropriate system of government for Iraq, which must be taken cognizance of as a basis for the resolution of the Kurdish problem within the framework of Iraqi constitutional institutions' (Al-Jazeera Net, 2002). This also meant acknowledging partial ethnofederalism for Iraq by admitting the existence of the Kurdistan Region.

The US administration had its plan for post-Saddam Iraq. The Department of State initiated the Future of Iraq Project (FOIP). The FOIP had seventeen working groups from which only fourteen could convene. Those who attended these workshops were those Iraqi political forces that attended the other above-mentioned conferences. The meetings and discussions started from July 2002 until April 2003. Although most of the discussions were related in one way or another to federalism, the Democratic Principles and Procedures Workshop Group (DPPWG) was about the future political system. The attendees were Iraqi opposition representatives and international experts. For the first time, federalism was discussed in detail. This discussion was based on the results of the other conferences held before that approved partial ethnofederation for Iraq by admitting the existence of the Kurdistan Region. Some of the points raised in these work groups later became the basis of the TAL and the Iraqi Constitution.

In section eight of the DPPWG final report in 2002, a short introduction was written about the history of federalism in Iraq. The section referred to the Kurdish Parliament's voting for federalism in 1992, the Conference of Salahaddin in 1992 in which the INC adopted federalism, and reaffirmation of the recommendation made by these two conferences in New York Conference in 1999. The report defined federalism as 'the permanent and constitutionally prescribed allocation of certain powers to the provinces ... These powers cannot be taken away or diminished once they have been constitutionally established … No future state in Iraq will be democratic if it is not at the same time federal in structure' (DPPWG Report, 2002: 91).

The report mentioned the problem of establishing federalism based on national groups. National groups refer to Arabs and Kurds. This denotes the refusal of the idea of a full ethnofederation based on each ethnicity having its own region. Accordingly, smaller national

groups perceive federalism as discriminatory in favor of big groups and thus it is inherently undemocratic. The report discusses federalism based on geographic regions where ethnic groups are concentrated. However, not all the Iraqi communities are regionally concentrated as one might find Kurds in Baghdad, Arabs in Sulaimaniyah, and Turkomans and Assyrians everywhere in Iraq. Again, this is a refusal of a full ethnofederation where all ethnic groups should be concentrated in geographic territories and equally granting each of them a region. As the reality of Iraq informs us that not all minorities are territorially concentrated then for them a full ethnofederation was improbable and unjust to minorities not concentrated.

Alternatively, the report suggested an anti-ethnic federalism in which each region attains its share of national resources according to its population size. 'A federal arrangement on a territorial or administrative basis actively seeks in the drawing up of boundaries a mixture of national, ethnicities and religions in each region, not their separation one from the other... Any other basis would severely undermine intra-regional competition and the economic development of the country as a whole' (DPPWG Report, 2002: 94). The aim behind such arrangements was dilute the national feelings of Kurdishness in Kurds and Arabness in Arabs and to establish crosscutting cleavages. Yet, as the later discussions of the TAL prove, it was practically impossible to divide up an already existing region, which had a history of autonomy since 1991, into its three governorates by proposing an anti-ethnic federalism. What is missing from the report is mentioning partial ethnofederation in Iraq as a probable solution to the ethnic problems.

After the invasion of Iraq in 2003, Paul Bremer, who headed the CPA, became the American administrator of Iraq and had 'supreme executive, legislative, and judicial powers' (Dobbins et al., 2009, 14). The CPA's principal task was to establish a transitional government based on the TAL. However, any system in Iraq would not attain legitimacy if not shaped by the Iraqis. For legitimation purposes, Bremer decreed regulation number 6 (CPA, 2003e) according to which the IGC was established in July 2003. According to section 2/1 of regulation 6, 'the Governing Council and the CPA shall consult and coordinate on all matters involving the temporary governance of Iraq, including the authorities of the Governing Council' (CPA, 2003e).

The IGC was made up of twenty-five members representing a broad spectrum of the Iraqi society. The seats of the IGC were allocated in the following manner: Shia Arabs 13, Kurds 5, Sunnis 5, Turkomans 1, and Assyrians 1 (Global Security Website, 2006; Otterman, 2004). The IGC and CPA were responsible for drafting the TAL. According to TAL (Article 2/B1), the transitional period had two phases. Firstly, an Iraqi Interim Government (IIG) would be established based on agreement between the CPA and IGC. Therefore, the IIG would be an

appointed cabinet that was to replace the CPA and IGC. The second phase would start with an Iraqi Transitional Government (ITG), which replaces the IIG and would be elected by Iraqis. The primary task of the ITG was to draft a permanent constitution that would supersede the TAL.

Although the TAL was a temporary document for the transitional period, it was important because it became the primary source for the permanent Iraqi constitution. An important aspect of the TAL is that it detailed the federation formula and provided a framework under which the structure of the Iraqi state was established. Article 4 defines the Iraqi state as federal, pluralistic and democratic. Though it does not say much about the meanings of democracy and pluralism, the TAL defines federalism as shared powers between the government layers, i.e. federal and regional governments, governorates, municipalities, and local authorities. Accordingly, the federal system should be based on '*geographic and historical realities* and the separation of powers' (Italics added). By geographic and historical realities, the TAL refers to the political entities (Kurdistan Region and the governorates) existed before 2003. Therefore, article 53/A states, 'the Kurdistan Regional Government is recognized as the official government of the territories that were administered by that government on 19 March 2003'. The governorates were also recognized as in article 53/B. Thus, the TAL adopted a partial ethnofederation for Iraq when it formally acknowledged the existence of the Kurdistan Region, which was a *geographic and historical* reality.

According to article 4, the federal system should not be established based on 'origin, race, ethnicity, nationality, or confession'. Any claim for a federal region based on ethnicity (Kurd and Arab) and faith (Sunni and Shia) was disallowed. This was an attempt to escape any chances for a full ethnofederation based on the ethnic identity of the groups, yet for the TAL designers, Kurdistan Region was a *geographic and historical* reality rather than an ethnic-based region. Alternatively, federal regions should be based on the pre 2003 existing boundaries. Accordingly, article 53/C confirms 'Any group of no more than three governorates outside the Kurdistan Region, with the exception of Baghdad and Kirkuk, shall have the right to form regions from amongst themselves'. However, for the minorities who did not have any special status under the pre-2003 historical and geographical realities, article 53/D states that the TAL 'shall guarantee the administrative, cultural, and political rights of the Turkomans, Chaldo-Assyrians, and all other citizens'.

Articles 54, 55, 56 provide details about the competencies of the Kurdistan Region and other governorates, and article 56/C states that 'the federal government shall take measures to devolve additional functions to local, governorate, and regional administrations, in a methodical way'. The TAL considered the federal system in Iraq to be capable of reversing the past

oppressions. Article 52 stated, 'the design of the federal system in Iraq shall be established in such a way as to prevent the concentration of power in the federal government that allowed the continuation of decades of tyranny and oppression under the previous regime. This system shall encourage the exercise of local authority by local officials in every region and governorate, thereby creating a united Iraq in which every citizen actively participates in governmental affairs, secure in his rights and free of domination'.

Some researchers (Makiya, 2003; Dawisha and Dawisha, 2003: 5) hinted at the benefits of a partial ethnofederation for Iraq. Iraq is an ethnofederal state because Kurdistan Region is linked to an ethnic group, the Kurds. The proposal for anti-ethnic federalism demanded that the existing eighteen governorates should be the basis of the federal system. However, such a proposal clashed with the existence of Kurdistan Region that had already been an ethnic autonomous region since 1991 and had absolute decision-making powers over its jurisdiction. The complex issue was that partitioning the Kurdistan Region into the previous three governorates was entirely unacceptable to the Kurds. From 2003, the Kurds entered negotiations over the federal political system with a few red lines in mind. Most important among them was that any formal documents, such as the constitution, should formally acknowledge the existence of Kurdistan Region. The Kurds achieved that goal in the TAL and the Iraqi constitution.

However, federalism was one of the constitutional issues that the Sunni Arabs had most fear about. This fear was from the adoption a full ethnofederation rather than a partial one. This was obvious from the following quote from an interview with Alaa Makki (2013), a Sunni Arab MP from 2006-2014, who stated that

> *The real fear was not from federalism itself; it was the fear from a federalism*
> *that might divide Iraq.*

Thus, the Sunni Arabs had their vision for federalism, which was to admit formally the *de facto* existence of Kurdistan Region, yet they rejected a full ethnofederation that may divide Iraq into three regions according to the geographic concentration of the ethnic groups. For the Sunni Arabs, full ethnofederalism, as Biden-Gelb suggested, leads to the disintegration of Iraq. Joseph Biden and Lasely Gelb suggested three-regions solution to the management of ethnic conflict in Iraq (Biden and Gelb, 2006; Biden, 2006). In the constitutional negotiations, the Sunni Arabs continuously endeavored to prevent more than three governorates form becoming a region. This had two meanings. Firstly, they admitted the *de facto* region of the Kurds which is an indication of a clear support for partial ethnofederation. Secondly, they had concerns about the creation of a Shia Arab region made of the nine governorates that contain a majority of the Shia Arabs.

This Shia Arab mega-region makes Iraq an almost full ethnofederation with the rest of remaining governorates inhabited by the Sunni Arabs.

For the Kurds, partial ethnofederation referred to a system in which they could enjoy extensive constitutional powers and formal acknowledgment. For the Shia Arabs, federalism, via division of power between the federal and regional governments, could guarantee their protection from the predations of the centralized governments as they still had doubts from the return of Baath to power[27]. For a Shia Arab MP, Abdul Abbas Al-Shya', partial ethnofederalism was the only choice. According to him,

> *Federalism was the only choice left for the Iraqis because of the de-facto*
> *political situation of the Kurds [referring to the existence of Kurdistan*
> *Region].*

In support of the statement made by al-Shya' and of the argument that posits that partial ethnofederation was the only viable choice left for Iraqis, Kazim Al-Shibli (2013), another Shia Arab MP, believes that

> *The nature of the ethnic divisions in the Iraqi society imposed federalism on*
> *Iraq.*

Some reasons stand behind the success of the Kurds in attaining constitutional acknowledgment for their region. Firstly, the Kurds had an almost independent region more than a decade before the invasion of Iraq. Some of the opposition forces that negotiated the political system of Iraq with the Kurds had their headquarters in that region before the fall of Baath. Indeed, this was a tacit acknowledgment of the region's political status. Secondly, these forces held several conferences in Kurdistan and outside Iraq in which they adopted federalism and acknowledged the right of self-determination to the Kurds within a united Iraq. Thirdly, the Iraqi government and the Kurds agreed on ethnic autonomy in 1970 in March Manifesto. This was a precedent that helped ease any tensions from the Sunni Arabs towards formally acknowledging the existence of Kurdistan Region. Even when the Baath government withdrew its offices from the region in 1991, it did it only in the jurisdiction that was formally considered autonomous according to March Manifesto. This indicated an implicit acknowledgment from the Baath regime to the Kurdish ethnic autonomy.

Iraq has officially become a partial ethnofederation after the referendum of 2005 in which the majority of Iraqis voted for the adoption of a permanent constitution. From that period,

---

[27] For accurate details of the various federal visions of Sunni Arab, Shia Arab, and Kurds the following book is useful. Hamoudi, H. A. (2013) *Negotiating in civil conflict: constitutional construction and imperfect bargaining in Iraq*. Chicago, United Stat: University of Chicago Press, pp., 62-82

ethnofederalism can be considered as an IV. Due to the existence of certain articles (for example Article 110 and 111 about the distribution of natural resources) related the nature of the ethnofederation that are to be enacted in laws; ethnofederalism is still to be partially considered as a DV.

Constitutionally, Iraq is a federal state (Article 1). This federation has four levels of governance (Article 116), namely, the capital Baghdad, regions (only one exists now, Kurdistan Region), decentralized governorates, and local administrations (none existing now). In practice, Iraq has now one region, Kurdistan, which is made up of the governorates of Sulaimaniyah, Erbil, Duhok, Kirkuk[28], and parts of Mosul, Salahaddin, and Diyala. Additionally, Iraq has another fifteen decentralized governorates[29] (excluding the three that make up Kurdistan). The existence of Kurdistan Region is conceded in Article 117 of the Iraqi constitution as a 'federal region' that has its constitution, government, and parliament (Article 120). It also has a proportional share on per capita bases from the revenues of Iraq (Article 121/3), and has representatives in Iraqi embassies and consulates (Article 121/4) and finally has its own 'region guards' (Article 121/5). The FG cannot unilaterally abolish these constitutional competencies of Kurdistan Region (Article 126/4). The FG and Kurdistan Region have exclusive and shared competencies. The exclusive competencies of the FG are detailed in Articles 109 and 110. The shared competencies are detailed in Articles 112 and 114. However, the residual competencies belong to the regions (Article 115). The FSC umpires constitutional controversies between the federal, regional, and local levels (Article 93/4).

In conclusion, partial ethnofederation was in the making (DV) since 1992 when the Kurdistan Region's parliament unanimously and unilaterally voted for its adoption. This was followed by a series of opposition conferences, both inside and outside Iraq, in which partial ethnofederalism, acknowledging the existence of Kurdistan Region, was stated to be the future political system for Iraq. In the TAL, partial ethnofederalism was reaffirmed and Kurdistan Region, as a *geographic* and *historical* reality, was formally acknowledged as a federal region. The key concern of the Sunni Arab about federalism aimed at avoiding the establishment of a full ethnofederation. They voted against the constitution because there is a potential for full ethnofederalism in it as it does not limit the number of the governorates that may merge to become a region into three, as it was the case in the TAL. After its adoption in the referendum of October 2005, Iraq became a partial ethnofederation formally.

---

[28] Kirkuk is now almost completely under the *de facto* jurisdiction of Kurdistan Region, except for Hawija and some Arabic villages, after it was taken back from ISIS in 2015.
[29] Constitutionally, these governorates are known as Governorates not Organized in a Region (GNOR).

Additional Factors Explaining the Failure of Partial Ethnofederalism

This section investigates the nature of the Iraqi ethnofederation regarding its origin (how did it come about), power relations (symmetry or asymmetry) among the levels of government (federal, regional, and provincial), and the existence of core ethnic regions. These, as discussed in chapter one, are thought of as influencing the success and failure federations. Failure is measured by either the breakup of the federal state or its recentralization.

Iraq is a partial ethnofederation, because of the formal constitutional acknowledgment of the existence of Kurdistan Region inhabited overwhelmingly by the Kurds. Furthermore, Kurdistan attained such a status due to the insistence of the Kurdish negotiators in 2005. According to the presented literature, there are four ways through which federal states emerge, namely 'coming-together', 'holding-together', 'putting-together', and 'forcing-together'. Anderson (2010: 138) considered Iraq as a coming-together federation. The reason is that Kurdistan Region had enjoyed extensive autonomy before the establishment of a federal Iraq. Though powerful, it decided to join the federation. For Anderson, coming-together federations are more prone towards disintegration as they might invoke to a past sovereignty (Anderson, 2010: 138).

In terms of origin, Iraqi partial ethnofederation may also be categorized as holding-together and forcing-together. Indeed, Iraq had a strong unitary and centralized political system. Nevertheless, the political elites, even before the 2003 invasion, had decided that Iraq could only stay united if it became a federal state. Accordingly, Iraq is arguably more of a holding-together federation. However, if we consider the influential role the US played in pushing for federalism and that federalism was the second best choice for the political parties, then it can be convincingly argued that Iraq is a forced together federation. Thenceforth, if Iraq can be categorized under several federal origins, then it is not persuasively logical to resort to the arguments of 'origin' to predict the failure or success of the Iraqi ethnofederation.

Another concern in regard to federal states is the issue of power relations within and between the levels of governance. As mentioned in chapter one, the scholars refer to two types of power relations, namely symmetry and asymmetry. Almost all federations have asymmetric *de facto* or political characteristics such as the parity in the size and population of the regions. However, several scholars referred to *de jure* or constitutional asymmetry as having an impact on the integration or disintegration of federations as detailed in chapter one. For O'Leary (2011: 184), both symmetrical and asymmetrical arrangements 'can be used to help pluralist or consociational medicine go down. However, it is the medicine that matters, and the patient's willingness to complete the course prescribed. Whether the sugar crystals that coat the medicine

are symmetrical or asymmetrical is irrelevant'. However, for Conversi, who studied the Catalan and Basque regions in Spain, asymmetry has contributed instrumentally to preventing conflict (Conversi, 2007: 121). Thus, accordingly if one can prove that Iraqi ethnofederation is asymmetric, then this should help in preventing conflict. Anderson states that asymmetrical arrangements may satisfy the national minorities; yet often dissatisfy the majority national groups (Anderson, 2010: 136). Consequently, the Iraqi Arabs (Sunni and Shia) should become dissatisfied if Kurdistan Region, for example, has more power than its counterparts. To investigate the applicability of such arguments, the following paragraph answer the question is what sort power relations exist within and between the levels of governance in Iraq?

To understand this issue in Iraq, researchers should firstly become familiar with the levels of governance in Iraq. In reality, there are only three operating levels of governance that are the FG, Kurdistan Region, and the GNOR. According to Article 119 of the Iraqi constitution, each governorate may become a region on its own or with other governorates, except for Baghdad. According to Article 124/3, the capital cannot join another region. As there is only one region now, it is irrelevant to speak of asymmetry between regions. Furthermore, as the constitution defined the competencies of regions, including Kurdistan Region, then there will be symmetry between the regions. The same symmetry goes for the power relations between governorates because they enjoy the same constitutional powers of wide financial and administrative competencies (Article 122/2), and the potential of becoming a region on their own or with others (Article 119). Therefore, if symmetry is, in any way, a cause of political stability, then in Iraq there is perfect symmetry in between the regions and between the governorates. Finally, it is irrelevant to compare the power relations between the regions and governorates because they are two different and independent levels of governance.

Thus, in Iraq, there is only one existing region currently (Kurdistan Region). The existence of only one region indicates the inapplicability of utilizing the concept of asymmetry in explaining the prospect of failure of the Iraqi partial ethnofederation. Furthermore, in case any new regions are founded, then they will have equal powers to Kurdistan Region and as a result the Iraqi ethnofederation will by symmetric. In relation to the provinces, they are all treated the same in the constitution have symmetric powers except for the capital (Baghdad) that cannot merge with any other governorate to become a region. All the governorates have the same constitutional competencies.

The last point to discuss in this section in regard to additional factors that may affect the failure of federations is the existence of core ethnic regions. As mentioned in chapter one, for Hale (2004a: 169; 2005: 56), a region that contains the majority of the state's population or has a population that is 20 percent larger than the second largest ethnic group is a 'core ethnic

region'. Such a region is likely to cause the breakup of the state because it may constrain the majority from making concessions to minorities to keep them in the state. If Hale's definition is applied literally, then such a region does not exist in Iraq. In Iraq, it is only the Kurds who have a region and they only constitute around one-fifth of the population. The Shia Arabs, if they had a region, might have become a core ethnic region, as they constitute the majority and are 30 percent larger than the second largest group. The Iraqi constitution allows for the creation of a Shia Arab region that includes all the nine governorates in which they form a majority. However, as Anderson stated, the English Canadian provinces do not meet the literal application of Hale's definition. Nonetheless, because they act in concert with each other, then they are considered as a core ethnic region (Anderson, 2010: 132). The same logic may be applied to the nine Shia Arab provinces, especially when the role of Marja'ya (the religious reference point of Shia Arabs in Iraq) is considered. The Marja'ya has the religious authority over the Shia Arabs and on several occasions this authority is used politically (Kadhim, 2011: 74; Arato, 2009: 99-134; Bobrow, 2008: 25; Dobbins et al., 2009: 287) to unify all the Shia Arabs. However, so far, such a unified attitude from the Shia Arab governorates has not been witnessed and consequently the issue of 'core ethnic region' does not have any bearing on the failure of the Iraqi partial ethnofederation.

To conclude, neither of the additional factors in the success or failure of partial ethnofederalism in Iraq prove to be greatly influential in this regard. The problem with the debate on federal origins is that the Iraqi federalism can be categorized under almost all of them when specific interpretations are taken into consideration. Therefore, with this ambiguity, the logic of origin loses its potential. Asymmetry should be between the powers of the regions, yet the problem is that there is only one region in Iraq and, therefore, asymmetry is irrelative. In regard to the existence of 'core ethnic region', according to Hale's definition, it does not exist in Iraq and therefore also irrelevant. Overall, when partial ethnofederalism in Iraq is not influenced by the negative effects of such additional factors, then it has a bigger chance of success.

Ethnic Autonomy Arrangement as a Recipe for Stability: A History

This section defends ethnofederalism by providing examples from the history of Iraq that whenever an ethnic-based autonomy was granted to the Kurds, stability prevailed. By contrast, whenever the demands of ethnic-based autonomy were rejected, political instability prevailed. By having this debate, I would not claim that the there was another instance of formal partial ethnofederalism in Iraq before 2005. The rationale behind it is that both ethnofederation and

ethnic-based autonomy arrangements address the grievances of territorially concentrated ethnic groups through providing self-rule.

Çaldiran (or Chaldiran) was the battle that resulted in the defeat of Safavids by the joined forces of Ottomans and Kurdish tribes in 1514 (Özoğlu, 2004: 48). The Kurdish areas, known by historians as Kurdistan (Yildiz, 2007: 7), were for long under the rule of the Safavids up until then. The after-war policies of the Ottomans were crystallized in rewarding these Kurdish tribes by granting them autonomous governments (Gunter, 2011: 64). In 1527, the Ottomans allowed the establishment of the province of Kurdistan (Imber, 2002: 179). However, this administrative division of Kurdistan did not last long due to new conquests made by the Ottomans south of Kurdistan. For the purpose of establishing new autonomy arrangements, negotiations started between the Kurds and the Ottomans (McDowall, 2004: 27).

The Kurds were extensively involved in negotiations over designing the form of autonomy. Furthermore, the Ottomans were quite open politically to accepting and respecting any terms and conditions from the Kurds as long as they acknowledged 'nominal Ottoman suzerainty' (Gunter, 2011: 64) such as using its coinage system, calling the Sultan's name on symbolic occasions like Friday prayer (Tripp, 2007: 9). Commenting on the political situations and the procedures of negotiations, McDowall (2004: 27) states that although the Ottoman Empire usually had an inclination toward centralization, it proved to be quite pragmatic with the Kurds[30]. For establishing these regions (known publically as *emirates*), historians mention a general deal ratified with the Kurdish *mirs* (tribal leaders) that included the following provisions (Karim, 2008: 53). Firstly, the independence of these principalities in managing their internal affairs was acknowledged. Secondly, the Sultan of the Ottoman Empire recognized the hereditary system in the Kurdish principalities, which was usually not allowed for the other regions (McDowall, 2004: 40). Thirdly, the Kurdish principalities contributed to providing the Ottomans with soldiers. In return, the Ottomans should help and protect them from outside forces. Finally, the Kurdish principalities would pay their due taxes to the Ottoman Sultan (Gunter, 2011: 64).

The result of these negotiations was the establishment of sixteen *emirates* that covered about one-third of Kurdistan and the remaining Kurdish areas were divided into twenty *Sinjaqs* (provinces) 'some under hereditary Kurdish rulers and others directly administered by centrally appointed officials' (Gunter, 2011: 64). Assessing the overall political process of in this period,

---

[30] According to McDowall (2004: 27), the Ottomans provided *Idris Bitlisi*, the ultimate Ottoman negotiator and a diplomat, with blank *firmans* (orders sealed by the Sultan himself) to agree on any terms and conditions from the Kurds.

McDowall (2004: 30) comments 'the system of semi-independent principalities lasted well into the nineteenth century; it is tempting to consider it a successful political arrangement.'

However, in the mid of the nineteenth century, the Ottoman Empire underwent fundamental administrative changes due to the political and economic pressures and the nationalist secessionist aspirations of Greece, Egypt, and other parts of the Ottoman territory (McDowall, 2005: 11; Özoğlu, 2004: 69). In addition, it seemed impractical to the Ottoman officials to grant considerable autonomy to these principalities without real supervision of them (Çetinsaya, 2006: 6). The last of these Kurdish principalities was Botan that surrendered to the Ottomans in 1847 (Gunter, 2008: 3). Thus, the Ottomans started a process of centralization since the beginnings of 19th century. This centralization process reached its peak in 1864 when the 'Vilayet Law' was enacted in which the administration of the Ottoman territories became quite centralized.

The administrative levels of the Vilayet Law of 1864, with its adjustment in 1871, served the Sultan's centralization tendencies. The administrative hierarchy became as follows (Yazbak, 1998: 50, Çetinsaya, 2006: 8): Vilayet (run by a *Vali*), *Liva* or *Sinjaq*/province (run by a *Mutasarrif*), *Kaza*/District (run by a *Kaymkam*), *Nahiya*/Sub-district (run by a *Müdür*), and village council (run by a *Muhtar*). The way these administrative positions were filled indicates how centralized this hierarchy was. The *Vali* had to be appointed by the Sultan and had power only in the space allowed by the Sultan; the *Mutasarrif* had to be nominated by the Sultan under the supervision of the *Vali*. The *Kaymkam* had to be also appointed by the Sultan (Davison, 1964: 147) under the supervision of the Ministry of Interior. In addition, the lowest position in the hierarchy was *Muhtar* who, after being selected by the *Kaymkam* and confirmed by the village council elders, became an employee of the government. Through the *Muhtar,* the government was informed about what was happening in the village (Yazbak, 1998: 50). In this manner, the centralization process extended to even to the villages and 'it represented, as a whole, a more integrated hierarchy than had hitherto existed, stretching from the sultan down to the rural community' (Davison, 1963: 147).

Replacing these autonomy arrangements with the vilayet[31] system did not go smoothly and encountered serious political problems that had a significant impact on political instability.

---

[31] What constituted modern Iraq's territory were three vilayets of Mosul, Baghdad, and Basra. The vilayets of Mosul and Basra were first under Baghdad Vilayet. Basra became a vilayet in 1875 but due to conflict over power among elites; it was put under Baghdad again. Then, in 1884, it became a vilayet once again and retained this status until the creation of the Iraqi state (Çetinsaya, 2006: 66-71). Mosul became a separate vilayet from Baghdad in 1879 (Hopwood et al., 1993: 3); however, its borders were not fixed and had undergone several changes. Among

McDowall (2004: 49) considered these Kurdish political entities a crucial factor in maintaining inter-tribal relationships and the tribes with the Empire. This centralization process led to the deterioration of the economy, inter-tribal battles, and an increase in banditry and robbery. Above all, it ignited the Kurdish national aspirations for independence. Consequently, the first Kurdish revolt against the Ottomans aiming at establishing a Kurdish state broke out in 1880 headed by sheikh Ubaydullah i Nahri (Jwaideh, 2006: 77). This was followed by the emergence of the Kurdish nationalism originating from the middle-class families and tribal sheikhs.

The only ethnic autonomy arrangement in the history of modern Iraq is known as March Manifesto of 1970. The year 1970 witnessed a major change in the policies of the Iraqi regimes towards the Kurds. The March Manifesto was declared for settling the Kurdish question that contributed to political instability in Iraq (Anderson and Stansfield, 2004: 52). Nonetheless, the previous decade witnessed failed negotiations between Qasim (Iraqi Prime Minister) and Barzani (from KDP) for acknowledging autonomy and cultural rights for the Kurds. Then in 1966, Abdul-Rahman al-Bazzaz (the Acting President and Prime Minister of Iraq) restarted negotiations with Barzani. Al-Bazzaz seriously worked on granting autonomy to Kurds. However, he was dismissed from power (Yildiz, 2007:17). In July 1968, the Baath coup took place and Revolution Command Council (RCC) became the ultimate decision maker in Iraq. A solution to the Kurdish dilemma through granting ethnic autonomy became the most prominent on the agenda of Baath.

A deal was reached after negotiations between the Kurds and the Iraqi government in March 1970. The following points are a summary of the Manifesto (Yildiz, 2007: 18, Sluglett and Sluglett, 2001: 142; Izady, 2004: 78; Ghareeb and Dougherty, 2004: 155-156; Anderson and Stansfield, 2004: 52), which was to be fully implemented in four years (Marr, 2012: 152). Firstly, a Kurdish region should be established in the areas in which they were a majority. Secondly, a census should be conducted for demarcating the exact areas of Kurdish majority. These areas could later join the Kurdish region. Thirdly, the Kurds should be proportionally represented in the central government institutions and that the vice president should be a Kurd. Fourthly, Kurdish should become an official language, beside Arabic, in areas of Kurdish majority. Fifthly, the Kurds should have a proportional share of the natural resources including Kirkuk oil fields. Finally, the government of Iraq should embark upon agricultural reform in the region and should pay the pension of the Kurdish Peshmerga (Kurdish fighters).

---

these three vilayets, Mosul was exceptionally hard to manage owing to the presence of large and well-armed Kurdish tribes (Çetinsaya, 2006: 63).

This autonomy arrangement passed through three stages: 1970 to mid-1971 that featured declaring the Manifesto and the initial hope of a peaceful settlement of the Kurdish question. This stage can be identified by the existence of a relatively more political stability than a decade before. The second stage started from the middle of 1971 to 1974 when mutual distrust prevailed between both sides, and finally 1975 that marked the failure of the autonomy. Indeed, the following incidents triggered the failure of March Manifesto.

Both parties (the Iraqi Government and KDP) started to discredit each other in their media. The KDP accused the Iraqi government of arming the Kurdish KDP rival groups (Izady, 2004: 78). The Iraqi government led a campaign of Arabizing Kirkuk (Anderson and Stansfield, 2004: 53), expelled 45,000 Faili Kurds from Khanaqin to Iran, and brought in Arabs from the south to Kirkuk (Marr, 2012: 152). Each side established relationships with different cold war blocks. Baath nationalized oil backed by the Soviet Union (Anderson and Stansfield, 2004: 54-5) and Barzani pleaded for aid from the US, Israel, and Iran (Ghareeb and Dougherty, 2004: 156; Sluglett and Sluglett, 2001: 164). The intelligence institution of the Baath carried out two failed assassination attempts in 1971 and 1972 against Barzani (Yildiz, 2007: 19). The status of the oil-rich city of Kirkuk proved to be an obstacle. Barzani insisted on placing Kirkuk under the jurisdiction of the autonomous region and the Iraqi government did not carry out the promised census (Sluglett and Sluglett, 2001: 167).

The basic reason behind the failure of this ethnic-based autonomy was that both parties had their specific interpretation of autonomy. This problem is usually addressed in partial ethnofederations by constitutionally detailing the meaning of the autonomy. These details are put into unilaterally unalterable constitutional articles. For Barzani autonomy had a meaning close to independence. In an interview with Washington Post in 1973, Barzani said that if US protected the Kurds from the wolves (Baath regime), he would give the oil of Kirkuk to an American company (Anderson and Stansfield, 2004: 56). Elsewhere, Saddam had been reported to say 'autonomy is given to people, not to the soil' (Bengio, 1998: 114).

Another clue provided in this chapter in defending ethnic autonomy arrangements as a recipe for political stability is that the Kurds since the foundation of the Iraqi state in the 1920s kept demanding an ethnic form of autonomy. The Kurds demanded an ethnic autonomy arrangement because they believed it would make them enjoy self-rule in a world where independent statehood was improbable. Except on few occasions, the Iraqi authorities refused such demands, often harshly. Since the 1930s, the general tendency among the Kurds was towards obtaining autonomy within Iraq, inclusion in the central government institutions, and attaining cultural rights. In 1929, six Kurdish MPs submitted a petition to the Prime Minster asking for, firstly, an increase in the education sector expenditures in the Kurdish governorates.

The second demand was the establishment of a unified administration for the Kurds residing in Sulaimaniyah, Kirkuk, and Erbil governorates. This administrative unit was intended to be the only institution that formally links the Kurds to Iraq. The second demand was perceived as a substantial danger to the integrity of Iraq and was rejected by the High Commissioner (the British Mandate representative) and the Iraqi Prime Minister (Al-Hasani, 2008: 311).

Such demands for inclusion, cultural rights, and autonomy continued. After the coup of 1958, Qasim worked for including the Kurds in his government for the sake of political stability. As will be detailed in chapter three, the provisional constitution included reference to the Kurds as partners of Arabs. Nevertheless, the Kurds were not convinced with a mere statement in the constitution and asked for a genuine autonomy. The Kurds petitioned to Qasim through the KDP and public delegations. Barzani demanded that education would be in Kurdish language, Kurds have a share of oil revenues (O'Ballance, 1996: 43), a Kurd as vice president, and the establishment of an autonomous area administered by the Kurds, which would cover Sulaimaniyah, Kirkuk, Erbil, and other areas with Kurdish majority in Mosul and Diyala (Hamidi, 2005: 131). Furthermore, a delegation of the Kurdish tribes, in August 1960, asked for the development of education in the Kurdish areas, equal scholarship opportunities for the Kurdish students, launching industrial factories in Kurdish governorates, developing the agriculture section, and granting citizenship to the Faili Kurds (Abdulhamid and Al-Harbi, 2005: 206-212). Due to his centralization tendencies (Mufti, 1996: 125), Qasim considered Barzani's demands as a step towards the partition of Iraq (Marr, 1985: 177; Sluglett, 1988: 192). Consequently, this led to the failure of implementing the Kurd-Arab partnership ideal.

In 1964, negotiations restarted between the KDP and the new Iraqi government headed by Abdu-Salam Arif. Barzani's demands from Arif's government were accurate and to the point. Barzani's petition included several points, most importantly, amending the 1963 provisional constitution to refer to autonomy for the Kurds. For achieving this end, the petition included that, firstly, an administrative unit should be established from the governorates of Sulaimaniyah, Erbil, Kirkuk, and other Kurdish Qazas (districts) and Nahiyas (sub-districts) with a Kurdish majority. Secondly, this administrative unit should be run through a regional parliament that would be elected directly by the Kurds. Thirdly, the parliament of this administrative unit would have legislation powers. Fourthly, the regional government would execute the laws of central government unless they undermined the existence of such a unit. Fifthly, the Kurdish language should become official in this administrative unit. Sixthly, this administrative unit would be responsible for levying taxes under its jurisdiction and should have a proportional share of the Iraqi oil revenues. Seventhly, the Kurds should be represented in the central government with a vice president and a proportional number of ministers. Eighthly, this

administrative unit should possess a military force that could defend its borders. Ninthly, any legislation that might restrict the national and democratic rights of the Kurds should be considered void. Finally, the government should work for the protection of the rights of those Kurds who dwell outside this administrative unit and several other provisions such equal opportunity in scholarship (Hamidi, 2004: 69-74).

However, Abdu-Salam Arif considered these demands as a step towards the partition of Iraq and he replied to these demands with the use of military force (McDowall, 2000: 314). The response of all Iraqi governments to such ethnic-autonomy demands by the Kurds was to consider them secession-inducing. The rejection of these demands pushed the Kurds into armed-resistance. However, whenever the Iraqi governments showed flexibility towards such demand, the Kurds were ready to negotiate instead of armed-resistance.

To conclude this section, evidence from the history of the Kurds in Iraq informs us that whenever ethnic-based autonomy was granted, the central government was rewarded with peace and more political stability. This was because these autonomies were, more or less, able to address the grievances and desires of the Kurds and they resulted in narrowing the gap between the formal and informal roles and structures. Furthermore, whenever such autonomies were rescinded instability became relatively higher. In the history of Iraq, the Kurds demanded an ethnic-based autonomy arrangement and they were satisfied with it, yet the Iraqi governments translated such demands as secessionist tendencies. Therefore, such demands were rejected and instability prevailed.

Conclusion

The first section of this chapter was the application of the theoretical arguments in regard to ethnofederalism on Iraq. It also discussed how partial ethnofederalism has the potential to offer Iraq relatively higher political stability through some mechanisms such as addressing the primordial nationalist feelings by fulfilling the Kurds' self-determination right. Another aspect of the first defense was the discussion of ethnofederal alternatives. For this, an alternative, proposed by Roeder, was examined. The discussion concluded that this anti-ethnic approach could not be adopted by the Iraqi negotiators due to several factors such as the historical precedence of ethnic autonomy. Then, a section was dedicated to assessing critically the arguments that consider ethnofederalism only as an IV rather than a DV. Ethnofederalism, considered as a DV, means that it was the outcome of the negotiations in Iraq. Consequently, it was the only viable choice for a deeply divided society where minorities are territorially concentrated.

Another section discussed the application of concepts such as the origin of the Iraqi ethnofederation (whether it was coming-together or other sorts), and symmetry and asymmetry in the powers and competencies of the different levels of governance. These concepts are assumed to have a role in the success or failure of the federal arrangements. Nonetheless, this chapter arrived at the conclusion that, in the case of Iraq, these concepts do not influence the ethnofederal success or failure. Firstly, it is not crystal clear what sort of origination the Iraqi federalism has and it can be any of the following three, coming-together, holding-together, or forced together. Secondly, according to evidence, there is symmetry in the competencies of the levels of governance. Consequently, no asymmetrical negative impact could influence the Iraqi ethnofederal arrangement.

The final section provided clues from the history of Iraq (under the Ottomans and after them) that political stability was relatively higher whenever autonomy, based on ethnicity, was granted to the Kurds. In support for this, examples were provided from pre and post-1920 Iraq. The second argument was that political stability became at stake in pre-2003 Iraq majorly because the authorities refused to grant ethnic autonomy to the Kurds. In fact, a glimpse at the demands and petitions of the Kurds since the 1920s proves that they were basically about an ethnic form of autonomy and for this examples were given. The next chapter describes the nature of ethnic conflict in modern Iraq and tries to provide a clear picture of it. It contributes in this dissertation through analyzing ethnic conflict in Iraq aiming at providing more clues to the question of the appropriateness of partial ethnofederation in Iraq.

Chapter 3: Ethnic Conflict and Partial Ethnofederalism in Iraq

Introduction

Partial ethnofederation is basically about managing ethnic conflict. It is a conflict management instrument for a divided society in which a territorially concentrated ethnic group enjoys self-rule of a region. This chapter investigates the nature of ethnic conflict in Iraq aiming at explaining why partial ethnofederalism was the choice of the Iraqi elites and the ethnic groups in 2005. Through a description of the nature of the political system (centralized and authoritarian in most of its history) and the Sunni Arab dominated state's treatment of the Kurds and Shia Arabs, this chapter intends to state, firstly, how unsatisfied the ethnic groups were with such a political system and consequently how politically unstable Iraq was. Secondly, it wants to demonstrate the potential of partial ethnofederalism in addressing such negative consequences of the previous political system and ultimately contributing to generating relatively more political instability.

This chapter tries to fulfill its aims through some sections. The first section investigates ethnic conflict through a literature review of the theories that explain the nature of and the factors behind ethnic conflict. This will be done with an eye on Iraq via providing empirical examples to support the theories. The second section highlights the main features of the political system in Iraq before the fall of Baath in 2003 in terms of the inclusion of minorities in power and the ways the non-dominating minorities were treated under the centralized political system. In this respect, and due to their importance, a section is dedicated to two strategies followed by the Iraq Baath regime to eliminate ethnic and political difference, namely Arabization and Baathification. After knowing the basic features of politics in Iraq before 2003, another section looks at the question of what partial ethnofederation could offer Iraq regarding avoiding secession and decreasing instability. The final section provides an overview of an alternative explanation to political instability in post-2003 Iraq rather than simply blaming ethnofederalism.

Approaches to the Study of Ethnicity and Ethnic Conflict

Answering the question of why there is ethnic conflict[32] is vital in investigating the role of partial ethnofederation in addressing such conflict. In adopting partial ethnofederation, it is

---

[32] Politics in post-2003 Iraq can be identified by conflict among the Kurds, Shia Arabs, and Sunni Arabs. These groups are distinct from each other with regards to either language (Kurd and Arab) or religious sects (Shia and

important to investigate whether a specific conflict can be managed through it. Therefore, the aim this section is to review the theories of ethnic conflict and their application on Iraq. In addressing such a query, a review is made to the literature on ethnicity and ethnic conflict. Why does ethnicity become the defining feature of politics? What makes ethnicity conflictual, or is it indigenously conflictual? Is ethnicity fixed or fluid? If it is either of these, what then are the consequences for the field of conflict management?

In the study of ethnicity and ethnic conflict, two basic approaches with different ontologies stand out, namely primordialism and modernism (or constructivism) (Gellner, 1998: 90). The principal tenets of primordialism are summarized by Yang (2000: 42). Accordingly, firstly, ethnic identity is ascribed, inherited, and deep rooted. Secondly, the ethnic identity that marks ethnic membership is static and finally common ancestry, biology, and culture determine ethnicity. Eller and Coughlan summarized these tenets in three distinct concepts, namely *apriority* (ethnic identity is given, prior to all experience or interaction), *ineffability* (ethnic members necessarily feel attached to the ethnic group), and *affectivity* (ethnic identities are about sentiments, feelings, and attachments) (1993: 187). Pierre de Berge stated that ethnicity is an extension of kinship and kinship is based on the biology of nepotism. Furthermore, he thinks that people favor their fellow ethnics because 'we believe we are more closely biologically related to them than to people outside our ethny'[33] (De Berge, 2005: 114). Thus, for primordialists, the ethnic identity of the people is fixed and it has to be necessarily acknowledged as such. This has its bearing on ethnic conflict management as it indicates that any solution should take the concept of ethnicity into consideration. Some researchers assumed that only nationalists and non-academics support primordialism (Brown and Langer, 2010: 412). Chandra thinks that it is impossible to find social scientists that are openly primordialists (2001a: 8).

However, the problem starts here with the nationalist ideology supported by primordial thinking in Iraq. The main factor behind the maltreatment of the Kurds and non-Sunni Arabs (as will be detailed later) in Iraq was the nationalist ideology of the Arab political elites. Arabic nationalism was primordial in self-perception and somehow constructivist (to perceive ethnic identity as socially constructed and fluid) in treating other non-Arabs. In other words, the Arabic nationalism, mostly Sunni-Arab dominated, believed that Arabic ethnicity is ascribed, inherited, deep-rooted, and fixed. However, in the treatment of the non-Arabs, such as Kurds and Turkomans, it is obvious that the Iraqi nationalist governments were constructivists. An

---

Sunni). The term 'ethnic groups' is used throughout this dissertation to refer to all the social cleavages in Iraq, be they language, religious sects, or religion.

[33] The term 'ethny' is used in the same connotation of ethnic identity as studies in this current section.

example of this Arab nationalist primordialism can be found in the writings of the leading Arab nationalists such as Michel Aflaq, the mastermind behind the creation of Baath and its theoretical founding father.

Aflaq wrote in 1940 that 'the nationalism I am calling for is the love of everything. This love of the nation is the same as the emotion that links the individual to the family. Thus, this land is our big home and the nation is a wide family… love exists only with sacrifice and thus nationalism, and sacrificing for it is the way of heroes' (1988: 133)[34]. This sort of nationalism reflected on the behavior of the Baath Party and the way they established the state institutions. This might explain the dominance of the Sunni Arabs and the exclusion of other ethnic groups from power. The above-mentioned difference-elimination strategies prove that the Arab nationalists treated the Kurdish ethnicity as if it was not ascribed, inherited, deep-rooted, and fixed. For instance, they believed that through nationality correction[35], they could melt the Kurdish ethnic identity and create a homogenized Iraq.

Constructivism holds that ethnic identities are socially constructed. Nonetheless, once such an identity is constructed, it tends to endure over time. According to the constructionist approach, a set of social, political, and economic processes influence ethnic group identity. Chandra states that constructivists agree on two fundamental principles: firstly, individuals are creatures of multiple identities and ethnicity is only one of them, and secondly the identity with which these individuals identify changes according to other outside factors (Chandra, 2001a: 7). Subsequently, when individual identities undergo changes, the ethnic group identity follows. Chandra believes that only major historical and institutional transformations can bring about noticeable changes to group identity (2001b: 345). The constructivist approach has supporters among scholars and practitioners as well. Although it perceives ethnic identity as socially constructed, it does not discredit it after ethnic identity gained prominence.

There is a growing tendency among scholars to adopt an approach that takes benefit from all the existing approaches. Ian O'Flynn considers that constructivism is more ontologically convincing than primordialism, yet that should not lead researchers to neglect the impacts of primordialism on nationalists and their followers (2006: 41). For him, constructivism overlooks the problem that ethnicity continues to be felt and experienced primordially and that the elites themselves may be primordialists. In agreement with this, others believe that only because ethnic identities are socially constructed, they should never be rendered as arbitrary or unreal

---

[34] Translated from Arabic by Jalal H Mistaffa, the author of this PhD dissertation.
[35] The Law of Nationality Correction was formally issued in 2000, yet it was practically implemented by Baath as will be later explained in this chapter. For example, a decision was made by the RCC on 27.11.1988 that forbade the Arabs from changing their nationality and set one-year imprisonment to those Arabs who changed their nationality since 04.09.1980.

in the thoughts of their members (Brubaker, 2004: 11; Oberschall, 2007: 4). Yang (2000: 47-56) calls for the adoption of an integrated approach that could best explain these phenomena under study. The integrated approach is based on four propositions that are construed from the above-mentioned approaches. The propositions are, firstly, ethnicity is partly ascribed because it is partly based on ancestry and presumed ancestry, secondly, ethnicity is largely constructed by the society, thirdly, costs and benefits of membership partly determine ethnic identification, and finally, ethnic boundaries are relatively stable, but they can change from time to time especially when existing ethnic categories are challenged. In brief, showing flexibility in dealing with the approaches to ethnic conflict would be of a great benefit to both researchers and practitioners. If researchers stick to one specific theory of ethnic conflict, then they would be confined to the frameworks of such a theory and then the results would be inaccurate. Practitioners have the responsibility to set a working plan to manage a specific conflict. For this, as much as they are aware of the theories of ethnic conflict, they would be able to understand the thinking of the conflicting parties and design a conflict-ending plan.

Based on the ontologies of primordialism and constructivism, and the integrated approach, in relation to ethnicity, scholars theorized ethnic conflict and its causes and manifestations. According to Esman, the presence of 'ethnic pluralism', defined as the existence of two or more peoples in the same political entity, is a necessary condition for ethnic conflict (2004: 50). Ethnic pluralism may exist due to conquest, annexation, settler migrations, voluntary movement, and coerced migration (Esman, 2004: 51-55). Here, it is important to investigate why ethnic pluralism turns to ethnic conflict and how they could be managed. In reply to ethnic conflict management, several mechanisms, such as ethnofederalism, are suggested, as studied in chapter one. However, the question of ethnic conflict is reviewed below.

Why ethnicity becomes decisive in conflicts is a fundamental issue. For Henry Hale, ethnicity is a social radar and its importance comes from two points. Firstly, it is mentally accessible either via memories or via the nature of the situation and secondly, it provides reasonably liable evidence of behavior (2004b: 473). In other words, Hale states that some properties of ethnicity can guide the individuals in socially complex situations and provide elites with a camouflage for ethnicity mobilization. The power of symbols and myths of common origin in creating boundaries between ethnic groups 'correspond plausibly to important political, economic, or social divides' (Hale, 2004b: 473; Hale, 2008b: 244). Symbols and myths differentiate one ethnicity from another and all are benign until politicized. Politicization of ethnicity refers to the situations when and where ethnic properties, such as symbols and myths, become the defining feature of daily politics. Politicization may harden and strengthen the feeling of belonging to an ethnicity or may soften such loyalty. However,

this depends on several factors among them is the design of state institutions and its political system. Partial ethnofederalism, as detailed later, can address such problems of symbols and common origin myths through guaranteeing cultural rights to ethnic groups.

Why do ethnic groups contend with each other and for what? Stefan Wolff asserts that an adequate theory of ethnic conflict should be able to address the problems of, in addition to elite and mass behavior, 'passionate, symbolic, and apprehensive aspects of ethnic conflict' (2006: 66). Accordingly, it is doubtful that a particular theory could adequately address all these issues. The following paragraphs study some of the theories that altogether can show a more concise picture of the factors that lie behind ethnic conflict.

Oberschall summarizes the theories that explain the presence of ethnic conflict. The theories are ancient hatred, elite manipulations, identity politics, security dilemma (2007: 12) and Varshney (2009) adds the fifth, institutionalism. In fact, none of these theories can individually be sufficient in explaining why ethnic conflict precipitates (William, 2015: 147), yet none could be dismissed easily or abruptly. Even the most unpopular theory among them, ancient hatreds or essentialism (Varshney, 2009: 280; Kaufman, 2006: 45), can be partially beneficial in explaining specific conflicts (Petersen, 2002: 63). For example, in Iraq, it partially helps in understanding why there is still a Shia -Sunni Arab conflict.

Elite manipulation theory (or instrumentalism) posits that ethnicity is neither inherent in humans nor valuable in itself, and it is only about interests, be they political or economic (Varshney, 2009: 282). For instrumentalists, the political leaders compete for power by utilizing and manipulating ethnic divisions through the magnification of incidents (Oberschall, 2007: 11). The instrumentalist theory perceives ethnicity, nation and nationalism as political concepts and that political elites manipulate them for their benefits. For Paul Brass, they are 'creations of elites, who draw upon, distort, and sometimes fabricate materials from the cultures of the groups they wish to represent in order to protect their well-being or existence or to gain political and economic advantage for their groups as well as for themselves' (Brass, 1991: 8-9). John Breuilly understands nationalism to be 'above and beyond all else, about politics and that politics is about power' (1993: 1). For him, power is principally about the control of the state. Hence, nationalism should be first considered a utility of modern politics (Breuilly, 1993: 2). Hobsbawm considered both nation and nationalism to be socially engineered by elites in a process that he called 'invention of tradition' (1983: 1). In fact, Iraqi Sunni Arab elite manipulated politics since the establishment of Iraq due to reasons mentioned later in this chapter. The Sunni-Arab elite domination generated reactions within the Kurds and Shia Arabs. The Kurdish elites have had a vision of an independent state and thus established Kurdish

political parties since 1940s. The Shia Arabs desired a theological state and thus established purely Shia political parties since 1960s.

The theory of identity politics highlights the importance of symbols and ethnic myths in leading to ethnic conflict (Oberschall, 2007: 11). These symbols become helpful for mobilization purposes especially when elites convincingly persuade their fellow ethnic group members of being at risk because of their ethnic membership. In Iraq for instance, the Shia Arabs are deeply attached to the past events of more than thirteen centuries ago. For them, Hussein Bin Ali (Prophet Muhammad's nephew) has become a symbol of sacrifice. By the annual revival of such sacrifices, the Shia religious elites have an extensive ability for mobilization. Such mobilization is often used for political purposes. The Kurds, as well, have resorted to the revival past glorious symbols. They celebrate *Newroz* annually as a reminder of their hero's victory, *Kawa*, over the wrongdoers. Furthermore, atrocities inflicted upon the Kurds by the Iraqi Baath government, such as Anfal and Halabja (detailed later), have become symbolized and celebrated each year and often used by elites as mobilization opportunities.

The theory of rational choice (or security dilemma) can also partially explain why there is ethnic conflict. The core assumption of this theory is 'that the most important explanatory variable across all problems in the field is individuals' efforts to maximize their preferences in a microrational way' (Kaufmann, 2005: 181). This theory's major focus is on the individuals' pursuit of self-interest, be that wealth or power. However, it does not greatly consider the individual's group identity and attachment. Rational choice is based on the instrumentalist understanding of the nature of ethnic identity (Kaufman, 2006: 49). Two specific concepts have been developed as sources of conflict, namely information failure[36] and the problem of credible commitment (Wolff, 2006: 74). Lake and Rothchild state that intensive conflicts are often caused by collective fear of the future. Accordingly, when ethnic groups have fear about their safety, then difficult to solve security dilemmas appear. Thenceforth, 'ethnic activists and political entrepreneurs, operating within groups, build upon these fears of insecurity and polarize society' (1996: 41). These political leaders produce stories to convince the masses that the threats on them and their fears are real (Wolff, 2006: 78). Using expected threats for mobilization might be convincing to the masses because similar threats were carried out against them in the past. Furthermore, the problem of credible commitment intervenes in further convincing the masses of the reality of the fear and threat. In fact, the security dilemma theory, with the elements of information failure and credible commitment, can largely explain the politics of the failure of the only ethnic autonomy arrangement in the history of modern Iraq

---

[36] Information failure is when groups cannot obtain the information necessary to bridge the bargaining gap between them and have incentives to misrepresent their intentions and capabilities (Cordell and Wolff, 2009: 28).

and the failure of other pre-2003 government-Kurdish negotiations to arrive at a solution to the conflicts.

Finally, Varshney mentions institutionalism, a long-lasting approach that dominated the field of ethnic conflict (2009: 289). Scholars refer to some institutional formulas as conflict management mechanisms. These mechanisms aim, according to O'Leary (2014), either at eliminating or at accommodating ethnic differences. Some mechanisms of eliminating difference are undemocratic, such as ethnic cleansing and genocide, but others are democratic such the American melting pot (BBC News, 2006). In Iraq, throughout its history, the Sunni Arab dominating elites resorted to eliminating-difference strategies rather than accommodation strategies. In a few cases, when the authorities in Iraq resorted to the latter, they were rewarded with relatively more political stability. However, whenever the Iraqi governments resorted to eliminating-difference strategies, political instability followed.

In conclusion, these theories and approaches, altogether, can provide a clear picture of the reasons behind ethnic conflict in modern Iraq. In terms of institutions, the state's political system was excessively centralized and represented the Sunni-Arab elite interests. The Kurds and the Shia Arabs were suppressed and they were not allowed even to practice their cultural traditions freely, let alone including them in decision-making. Therefore, any conflict management instrument or theory should have the potential to address such problems in order for it to be successfully implemented. One of the sections of this chapter will scrutinize the potential of partial ethnofederalism in addressing such problems. The following section investigates the basic features of politics in Iraq before 2003, namely the Sunni Arab elite dominance of power and the exclusion of the Kurds and Shia Arabs.

Ethnic Conflict in Iraq

This section tries to investigate the political system since its foundation in 1920 and it uncovers the essential features of the ethnic conflict in Iraq. Through this, it attempts to pinpoint why partial ethnofederation was the preferred remedy in the negotiations of ethnic political elites. This section investigates ethnic conflict in Iraq in three points. These three points could be addressed if the Iraqi governments had adopted an ethnofederal system in the first place. Firstly, the domination of a minority, i.e., the Sunni Arabs, was a major deficiency in the Iraqi political system. Secondly, how the Sunni Arabs treated the other ethnic groups is critical for an appropriate evaluation of the presence of political instability and in understanding the role of ethnic grievances in shaping the current ethnofederal political system. Two examples of such treatments of minorities are provided, namely Arabization and Baathification (reflecting

theories of identity politics and elite manipulation). Thirdly, pre-2003 Iraq has been debated to be a forced-together state rather than built out of the ethnic elite negotiations. Other ethnic group elites had alternative state projects, such as an independent state for the Kurds. Not only was the state imposed but also its political system that was highly centralized and unreflective of the reality of the ethnic makeup of Iraq (reflecting the theory of institutionalism). This problem could have been addressed if partial ethnofederalism was adopted by the ethnic groups' elites since the foundation of the Iraqi state in 1920.

The significant ethnic groups in modern Iraq are the Shia Arabs, Sunni Arabs, and Kurds. Each of these groups is concentrated in separate parts of Iraq. Although no reliable census has been conducted in post-2003 Iraq, Kurds are the overwhelming majority in three governorates, Sulaimaniyah, Erbil, and Duhok. In the governorate of Kirkuk, according to 2014 parliamentary election results, the Kurds are a majority, yet there are significant numbers of Turkomans and Arabs. In Mosul, Kurds, though not a majority, make up a substantial portion of the population. Kurds also live in Diyala, Salahaddin, and Baghdad. The Sunni Arabs constitute a majority in Anbar, Salahaddin, and Mosul. In Bagdad, there is a sizeable amount of the Sunni Arabs and in addition to Basra, Diyala, and Kirkuk. The Shia Arabs constitute the majority in the remaining non-mixed, non-Sunni Arab and non-Kurdish provinces that include Najaf and Karbala (the two holy places of the Shia in the world).

The creation of the Iraqi in its current borders has been criticized from different angles. Iraq was a British 'creation' or 'invention' of an entity with no consideration for the opinion of the Kurds that made up about 62% of the Mosul Vilayet population in 1925[37]. Iraq was a Sunni Arab dominated state where the other groups were excluded. In fact, these ethnic groups were forced together by the British. The Kurds were supposed to have their state according Sèvres Treaty that was signed by the victories allied powers in 1920[38]. The Sèvres Treaty was nullified by Turkey and was replaced by the new peace Treaty of Lausanne in July 1923. This treaty betrayed the Kurdish nationalist aspirations by interrupting their statehood dream (Lukitz 2005: 34). Disappointed at their betrayal, the Kurds resorted to armed-resistance, establishing Kurdish political parties, and the revival of their past symbols.

The Shia Arabs did not want to have a Sunni Arab as their king and they rather preferred a theocratic government (Marr, 1985: 36). Thus, there was an apparent illegitimacy in the establishment of a Sunni Arab dominated state by the British. The British and the Iraqi

---

[37] This is according to the report of the League of Nations' commission of solving the border dispute between Iraq and Turkey.

[38] According to Section III, Articles 62–64 of the Treaty states that the Kurds could have their own independent state south of the Armenian borders. Accordingly, 'if and when such renunciation takes place, no objection will be raised by the Principal Allied Powers to the voluntary adhesion to such an independent Kurdish State of the Kurds inhabiting that part of Kurdistan which has hitherto been included in the Mosul vilayet'.

monarchy failed to a great extent to address this dilemma properly. This failure is apparent in King Faisal's confidential memorandum months before his death in 1933 'there is still –and I say this with a heart full of sorrow- no Iraqi people but unimaginable masses of human beings, devoid any patriotic idea, imbued with religious traditions and absurdities, connected by no common tie, giving ear to evil, prone to anarchy, and perpetually ready to rise against any government whatever. Out of these masses we want to fashion a people…' (Batatu, 1978: 25). Even four years earlier, the British High Commissioner in Iraq wrote to the British Majesty that 'Iraq is still scarcely more than a geographical expression. The different races which inhabit the country have not yet been welded into a single Iraqi nation. A Kurd is still primarily a Kurd and only secondarily (if at all to his own mind) an Iraqi. The tribal confederations of the Euphrates admit no natural loyalty or allegiance to the Iraq Government. The Kurd still dislikes and despises the Arab, the Christian hates and fears the Moslem, and the Shiah[39] distrusts the Sunni' (Amery, 1929). However, how this Sunni Arab domination and imposed statehood reflected on the state policies towards the Kurds, Shia Arabs, and other minorities is investigated below.

The Centralized political system in Iraq

The political system in Iraq was centralized. Iraq was a monarchy from 1921 to 1958 when a coup took place that eradicated the monarchy and ruthlessly liquidated the royal family, including the young King Faisal II. The republican system replaced the monarchy, yet the political system became highly authoritarian. During the monarchy, Iraq was designed on the British model of monarchical majoritarian democracy. The legislative was made up of two chambers, namely House of Representatives (HoR) and House of Lords (HoL). Iraq became centralized with no serious steps towards making it an inclusionary democracy. Power vested mainly with the King. According to the constitution of Iraq, known as the Iraq Basic Law in 1924, the King had the power to hold elections of the HoR (Article 26/2) and the authority of appointing the members of the HoL (Article 26/6). The King was the General Commander of the army (Article 26/8). The Prime Minster had to be appointed by the King, and according to suggestions from the PM, the King appoints ministers (Article 26/5). The Law defined Iraq as monarchical and parliamentarian (Article 2) and the official language of the state was Arabic (Article 17). According to Article 16, each group had the right to establish schools in their native language. However, no ethnic groups were specifically referred to in the constitution.

---

[39] The original text's spelling 'Shia'

The basic problem was that Sunni Arab nationalists dominated the state and excluded both the Shia Arabs and Kurds.

Under the republicans, army officers controlled the political system. The republican system, until the occupation of Iraq, could be classified into two periods: 1958-1968 that featured the ascendance of military officers into power and 1968-2003 that characterized the Baath Party's authoritarian and totalitarian grip on power. The coup in 1958 resulted in a fundamental change in the political system. It substituted the monarchy with republicanism. Two army officers were vital in conducting the coup, namely Abdul-Karim Qasim and Abdu-Salam Arif. Qasim became the PM of Iraq and issued a provisional constitution in 1958 in which, for the first time in the history of Iraq, Kurds were mentioned as home partners with the Arabs and that their national rights would be preserved (Article 2). Article 20 stated that the Sovereign Council, made up of a president and two members, should act as the President of the Republic of Iraq. In fact, although almost completely powerless, the Sovereign Council was made up of a Sunni Arab, a Kurd, and a Shia Arab[40]. Article 21 confirms that the Cabinet of Ministers possesses the legislative power, besides its executive power. The previous parliament was abolished. Nevertheless, the good relationships between Qasim and the Kurds, and Qasim and pan-Arab nationalists, did not last long and resulted in the 1963 coup.

The 1963 coup led to ascendance of the Baath Party and Arab nationalist officers to power. Like their predecessor, the leaders of coup issued a provisional constitution in 1963 in which the political system of was stated to be social democracy induced from 'the Arabic culture and the spirit of Islam' (Article 1). In it, no mention was made to the Kurds and this was a retrospective step compared to the provisional constitution of 1958. According to articles 40 to 60, this constitution provided the President of Iraq with enormous powers. However, it also remained provisional until the Baath Party carried out the coup of 1968.

Under the rule of Baath Party, two other provisional constitutions were issued, one in 1968 and the other in 1970. The 1968 provisional constitution did not refer to the cultural rights of the Kurds and, according to section three, legislative and executive authority were entrusted to the RCC, which was the highest body in the Baath Party hierarchy. Due to the Kurd-government negotiations that resulted in March 1970 Manifesto, another provisional constitution was issued by Baath in July 1970. According to Article 5b, Iraq was made up of two major peoples, Arabs and Kurds, and that the Kurds and the other minorities would enjoy their cultural rights. Article 7a stated that Arabic was the official language and Kurdish was, alongside Arabic, the official

---

[40] In fact, the Sovereign Council was established by Statement No. 2 of General Commander of the Army (who conducted the coup) from Najib al-Rubaiyi, a Sunni Arab as president, Muhammed Mahdi Kuba, a Shia Arab, and Khaled al-Naqshabandi, a Kurd, as members. This statement was published in the Iraqi Gazette on 23.07.1958.

language within the Kurdish autonomous region. This provisional constitution, according to article 8b, stated that Iraq would be divided into decentralized governorates.

The Sunni Arabs politicians controlled the state since its foundation in 1920 and imposed their hegemony on it. This renders automatically as the exclusion of other ethnic groups such as Shia Arabs and Kurds. The Sunni Arabs were only a minority of the population, yet they controlled the vital state institutions. The major reasons behind the Sunni Arab domination can be summarized in two points. Firstly, the Sunni Arabs had the same religious sect as the Ottomans, as they were both Sunnis. This made the Sunni Arabs comfortable to send their children to semi-secular schools built by the Ottomans in Baghdad. This generation of students joined higher education in military institutions in Istanbul who later became the rulers of Iraq. This option was not the same for the Kurds and the Shia Arabs. As for the Kurds, it could cost a fortune to send their children to study in Baghdad. For the Shia Arabs, it had a religious dimension. The Shia Arab religious clerics issued *fatwas* (religious decrees) for their followers that forbade the parents from letting their children being enrolled in these schools. Even after the establishment of the Iraqi state, some clerics issued *fatwas* that prohibited their followers from participation in 1923 parliamentary elections (Nakash, 2003: 109).

Secondly, the British established Iraq. British officers and politicians had to deal with a growing *de facto* Sunni Arab nationalism emerging because of the first point. In administrating the newly established state, the British depended on ex-Sharifian officers, ex-Ottoman officials, and to a lesser extent on the educated strata. These people were mostly Sunni Arabs. Emir Faisal was also a Sunni Arab who fought against the Ottomans in Hijaz. The British promised his father, Hussein, an Arabic state in 1915 (Friedman, 1970: 84). Due to Sykes-Picot agreement in 1916, the British failed to keep the promise but later crowned Faisal as the king of Iraq.

To prove the Sunni domination, researchers attempted to detail statistically the percentages of the Sunni Arabs in the highest state positions (such as prime ministers, ministers, and high-rank army officers). Amatzia Baram (1991: 4-5) asserts that King Faisal I of Iraq had doubts about the loyalty of the Shia Arabs and mostly depended on Sunni Arabs in running the state. As a result, the Sunni Arabs outnumbered the Shia Arabs and Kurds in higher governmental institutions. In the final years of the monarchy, high-rank army officers were distributed as follows: 44% Sunni Arabs (around 20% of the population) and 33% Shia Arabs (around 55% of the population). Liora Lukitz (1995: 14) perceives that Sunni Arab domination was carried out systematically aiming at creating a homogenous society. From 1921 to 1936 only five out of 57 ministers were either Shia Arabs or Kurds and the remaining were overwhelmingly Sunni Arabs and during the monarchy the positions of 'prime minister and ministers of finance, interior, defense and foreign affairs were almost exclusively Sunni' (Stansfield, 2007: 47).

Malik Mufti (1996: 25) looked at the ethnic allocation of high-ranks (prime minister, cabinet ministers, and top officers) for the period of 1920 to 1936. He concluded that Sunnis[41] (36% of the population) had 71% of cabinet ministers, whereas the Shia (56% of the population) had only 24%. Furthermore, 100% of prime ministers were Sunni. Out of a sample of 62 officers, 95% were Sunni and only 2% were Shia. Hanna Batatu focused on the ministerial appointments for the Shia Arabs from the period of 1921 to 1958 and found out that out of 575 appointments only 159 were Shia Arabs[42] , i.e., 27.7% (Batatu, 1978: 47). The Shia Arab participation was lowest in the period of 1932-1936 (15.8%), whereas it was the highest during 1947-1958 (34.7%) out of the total ministerial appointments. The underrepresentation of the Shia Arabs and Kurds continued to become worse under the republican regime.

According to the data gathered by Phebe Marr (1985: 282) under Qasim and the two Arifs, from 1958 to 1968, the Sunni Arabs counted for 79% of the upper level positions, the Shia Arabs were 16% and the Kurds 5%. Under the Baath regime, in 1977, the Sunni Arabs had 71% of the upper-level positions, whereas the Shia Arabs counted for 24%. Appointments to the upper level positions were conditional upon Baath membership under the Baath regime. Thus, the Kurds and Shia Arabs were systematically underrepresented under all the Iraqi regimes until 2003. Consequently, this created antagonism and grievance for them.

The treatment of non-Sunni Arabs

The general policies of the Sunni Arab dominated state in dealing with the non-Sunni Arabs, especially the Kurds, was via eliminating difference rather than managing difference mechanisms. Brendan O'Leary classifies expulsion, forced assimilation, and genocide as eliminating difference strategies, whereas federalism, power-sharing, and ethnic autonomy are strategies for managing difference (O'Leary, 2014). The Sunni Arabs resorted to eliminating difference strategies in dealing with the ethnic groups. Among the strategies adopted by them, especially in the republican period until 2003, were Arabization, the expulsion of the Kurds, and genocide. These practices by the state usually produced resistance from the non-Sunni Arabs. The Kurds reacted through several means such as armed-resistance and firmly clinging to their cultural practices. In few instances, the Iraqi governments tried to manage differences via ethnic autonomy. As detailed in chapter two, such ethnic arrangements produced a relatively politically stable Iraq. Nonetheless, such arrangements served as buying-time instruments.

---

[41] He included Kurds as Sunnis.
[42] The Shia Arabs were estimated to be 51.4% in 1947 (Batatu, 1978: 47).

After the nullification of Sèvres Treaty in 1923, the Kurds kept demanding the right of self-determination but were usually crushed by the RAF (Royal Air Force). The Iraqi army was too weak to stand against the fierce Kurdish fighters in the mountainous terrains of Kurdistan. Therefore, the RAF guaranteed the survival of the Iraqi state. For instance, only in May 1924, during 48 hours, 28 tons of bombs were dropped on Sulaimaniyah that destroyed most of the buildings of the town (Bowyer, 1988: 90). With the end of the British mandate in 1932, not only the Kurds but also others such as Assyrians started to suffer at the hands of a strengthening Iraqi army.

In May 1932, Iraq requested to become a member of the League of Nations and submitted a formal petition. Out of its sixteen articles, ten were about the protection of minorities culturally and politically (League of Nations, 1932). Yet, in 1933, the Iraqi army breached these conditions and massacred the Assyrians (Lukitz, 1995: 22). The Assyrians led by Mar Sham'un wanted to preserve the autonomy they had under the Ottoman *millet* system (Marr, 1985: 57). The Iraqi army, led by General Bakir Sidqi, started attacking the Assyrians. The King, who was in London for medical treatment, returned to Iraq immediately to stop the massacre but the situation was out of control (Khadduri, 1951: 45). According to Marr (1985: 57), in the town of Sumeil, more than 350 Assyrians were killed, among them were children and women. Furthermore, 40 to 50 Assyrian villages were demolished. Overall in the massacre, according to the Iraqi officials, 600 Assyrians were killed, yet according to the Assyrian sources, more than 3000 of them were killed ruthlessly (Makiya, 1991:167). This incident was influential to an extent that in November 1933 the British government worked seriously on a project for resettling the remaining Assyrians in Brazil fearing they might be re-exposed to massacres (Bennett, 1933: 177).

Under the republic, the treatment of the Kurds, territorially concentrated in the north of Iraq, was far worse than under the monarchy. After the failed negotiations between Barzani (the Kurdish leader) and Qasim (the Prime Minister of Iraq) in 1961, the Iraqi army set off retaliating against the Kurds. As Barzani demanded an ethnic form of autonomy, Qasim believed that such autonomy would lead to the creation of an independent Kurdistan (Marr, 1985: 177). Qasim moved towards more centralization of the state (Mufti, 1996: 125). The Iraqi military assaulted the headquarters of the KDP in 1961 and such attacks continued intermittently until 1970. In occasions, the whole army machinery (around 45,000 to 50,000 soldiers) was mobilized in 1964 to retake the Kurdish areas under the KDP (Sluglett, 1988: 194). These army campaigns left a high number of casualties. For instance, only from the mid of 1961 and January 1961, more than 3000 Kurds were killed and a large number of villages ruined (O'Ballance, 1996: 57).

During the reign of Baath, the maltreatment of the minorities reached its peak. However, under Saddam, even the non-Baath Sunni Arabs were not safe from ill-treatment. The allocation of opportunities and labor was dependent upon Baath membership. Stansfield (2007: 96) named this period as 'totalitarian' in which all the powers of the state condensed in the hands of Saddam. Several atrocities were perpetrated on the Kurds from 1979 when Saddam became the president of Iraq. Besides the Iraq-Iran war (1980-1988) that left half a million of casualties, in 1988, the Iraqi military machinery inflicted three atrocities on the Kurds. The three atrocities are, firstly, the Anfal military campaigns (in 1988); secondly, using internationally forbidden chemical weapons against the Kurdish towns and villages, such as Halabja, and thirdly the annihilation of about 5000 Kurdish villages.

The Anfal campaign was carried out against the Kurds without differentiating between civilians and armed men. According to the detailed account of Anfal by Human Rights Watch (HRW) (1994), the campaign had eight stages starting from 23rd February 1988 and ended September 6th, 1988. It covered most of the Kurdish areas from the south to the north and resulted in the mass killing of more than 100,000 of Kurds, or 182,000 Kurds according to KRG accounts. The Iraqi Army, Air Force, Republican Guards, the Popular Army, and others took part in the campaign. The detainees were taken to the deserts in the south and southeast of Iraq where they were shot and buried. A few Kurds survived to tell the horrific stories of how their parents, relatives, and friends (all civilians including children) suffered miserably.

In the Anfal campaigns, chemical and nerve gases were used against the Kurds. During the period, thousands of Kurdish villages were demolished considered by the Baath to have helped the Kurdish Peshmerga forces. Several states recognized Anfal as genocide, among them are Sweden (KRG UK, 2012) in 2012 and United Kingdom (KRG Website, 2013) in 2013. Yet, in March 1988, the Iraqi planes hit the town of Halabja with chemical gas that resulted in the death of around 5000 civilians (Kelly, 2008: 80). Halabja is only one example of many. The main character responsible for the massacre in Halabja was Ali Hasan al-Majeed (known publicly as Chemical Ali), who was Saddam's cousin and was executed in January 2010 (The Telegraph, 2010).

In fact, politics in Iraq before 2003 can be identified by the control of the state by a minority ethnic group that resorted to ethnic difference elimination strategies to settle its problem with other non-Sunni Arabs. Two of these strategies are discussed below. Yet, the key point is that ethnofederalism has the potential to address such issues and if it had been adopted during the republican or monarchy period, some of the atrocities, mentioned above, could have been prevented. What can partial ethnofederalism offer in this respect and through what mechanisms are explained in a section of this chapter.

Arabization and Baathification: two widely utilized elimination strategies

Two strategies were followed by Baath regime in efforts to eliminate ethnic differences, namely Arabization and Baathification. The former targeted the Kurds, especially those in Kirkuk, and the latter targeted all the Iraqis without any ethnic distinction. These were two basic elements of political instability in Iraq and they widened the gap between the formal and informal roles and structures. These two political and ethnic difference elimination strategies were implemented by Baath and if partial ethnofederation or even a genuine ethnic autonomy arrangement was adopted, such strategies could have been avoided, especially Arabization, in return for more political stability. Partial ethnofederation could have managed such issues through constitutional ethnic minorities' cultural rights.

Baathification was an ideological tool that aimed at transforming the state and the people to think and act as Baath Party demands. Several strategies were adopted to reach the goals of Baathification. The first strategy was to eliminate, what the Baath thought of as, obstacles of stability starting by liquidating their comrades who took an active part in the coup of 1968 but were not members in Baath (Anderson and Stansfield, 2004: 50-51). Elimination was carried out via assassinations, abdication, and expatriation. Secondly, the Baath members who were not absolutely loyal to Saddam were eradicated, individually and in groups. One of the documented incidences of this sort was when Saddam, upon becoming president in 1979, ordered the execution of a large group of high-rank Baath members accused of conspiracy against Baath (Yahia, 2012). Among the acts that deserved death penalty was a Baath member concealing his past political affiliation, dismembering in Baath Party and joining another political party, or persuading another member to unjoin the Baath Party (Zaher, 1988: 49). From 1975, a third strategy was followed which was to ban the existence of any political party, rather than Baath. Accordingly, the two powerful parties, the Iraqi Communist Party and KDP, became illegal. A fourth strategy was to insert the Baath ideology into the national curriculum in all the education stages from primary school to higher postgraduate studies (for example see Appendix 3). Fifthly, access to privileges of scholarships, high governmental positions and others, were restricted on Baath (for example see Appendix 4[43]). These were only a few out of many strategies adopted by Baath in attempting to Baath-ify the Iraqi society. Yet, the Kurds were not only targeted with this strategy but also with Arabization.

---

[43] Tameem is mentioned in this document instead of Kirkuk. The Baath government changed the name of Kirkuk governorate to Tameem governorate. Tameem literally means nationalisation, yet the Baath Party gave this word significance because of the event of nationalising the oil production in Iraq in 1972.

Arabization was a process followed by the Iraqi regimes to make Iraq a homogenous Arab society. This strategy was based on believing that homogenization, natural or imposed, leads to political stability. The first Arabization attempt was conducted by the monarchy in the 1930s through moving labor from the Arab areas and settling them in Kirkuk, where oil was exploited (Letayf, 2011: 67). However, systematic Arabization started from 1963 under the first Baath coup (Anderson and Stansfield, 2004: 156). Thus, resettlement of labor was the first mechanism followed by the Iraqi regimes in homogenizing Iraq. A second mechanism was redrawing the internal boundaries of the governorates. The Kurdish Qazas (districts) were detached from Kirkuk and Arab Qazas were annexed to it. For instance, in December 1976, a formal decree signed by the President of Iraq ordered the detachment of two Kurdish Qazas from Kirkuk, namely Chemchamal and Kalar. The same order attached another Kifri (Kurdish Qaza) to Dyala (The Presidency of Iraq, 1976).

Another mechanism was the expulsion of the Kurds, especially in Kirkuk, and bringing in Arabs from the south. Accurate details of such Arabization processes can be found in thousands of documents confiscated from the headquarters of Baath Party after the Kurdish uprising in 1991 and after the collapse of Baath regime in 2003. These expulsions aimed at decreasing the number of Kurds in Kurdish towns and cities. For instance, a Baath confidential document states that the Iraqi Vice President, Taha Ramazan, in a visit to Khanaqin in July 1999, ordered the officials to decrease the percentage of the Kurds in this Qaza to 20%. The first step towards achieving this aim was the transference of Kurdish primary school teachers to schools outside Khanaqin (see Appendix 5) (Salih, 1999). In another confidential document, dated 15 December 1997, Kirkuk Governor states that due to Arabization, the percentage of Arabs in the governorate of Kirkuk became 73% and 58% inside the city of Kirkuk. He indicated that with the orders of Saddam and for the purpose of Arabizing Kirkuk, low cost houses would be built to the Arab settlers (see Appendix 6) (Khalifa, 1997).

Another mechanism for Arabization was the 'correction of nationality' that refers to the process of inducing the Kurds, Turkomans, and others to change their nationality into Arabic without letting the Arabs change their nationality (for example see Appendix 7). Usually this process provided privileges for those who changed their nationality that were otherwise not available to them such as buying properties and employment. On 17th September 2001, a presidential decree formally affirmed that every individual could change his/her nationality into Arabic in solidarity with Baath tenets (The Presidency of Iraq, 2001: no 3896, see Appendix 8). Yet, this nationality correction was in practice since the Baath ascending to power. In another confidential document, by Erbil Head of Security in 31 August 1988, an order was

given by Ali Hasan Majeed to the security forces to demolish the homes of those Shabaks[44] who changed their nationality into Kurdish. Accordingly, they had to be expelled from their birthplace without any compensation and be settled in heavily guarded residential camps (for example see Appendix 9) (Erbil Head of Security, 1988). Other mechanisms include the Arabization of school curriculum all over Iraq and imposing Arabic culture on the non-Arabs, for example, by changing the names of Kurdish cities, districts, sub-districts, city quarters, and villages into Arabic names.

To conclude, this section argued the Iraqi state, since its foundation in 1920, suffered from three fundamental problems, namely Sunni Arab domination, the unfair treatment of non-dominant ethnic groups in terms of representation, and the centralized and undemocratic political system. Consequently, these problems created grievances and antagonism for these non-dominant ethnic groups and widened the gap between them (as informal roles and structures) and the authorities (formal roles and structures). As a result, atrocities were inflicted upon non-dominant ethnic groups that could have been avoided if partial ethnofederation was adopted. The ethnic political elites were satisfied with the adoption of partial ethnofederation in Iraq after 2003 aiming at addressing such grievances and narrowing the gap. How partial ethnofederalism could do that is explained in the following section.

What Could Partial Ethnofederation Offer Iraq?

An important question that remains to be answered is what partial ethnofederation can offer for Iraq in terms of stability and preventing the state from disintegration? Partial ethnofederation aims at addressing the problems of an ethnic conflict in a divided society in which an ethnic minority is territorially concentrated and usually with a legacy of being highly excluded from decision-making at the state and local levels. These ethnic minorities usually resist the dominant ethnic group's exclusionary tendencies, mostly via armed-resistance. Such a discord between the ethnic-dominated government (a formal structure) and the non-dominating ethnic groups makes the instability gap wider. Consequently, this results in more instability.

In several cases, such a discord leads the excluded ethnic group to demand independent statehood and in other instances, the demand is for inclusion and proportional representation. Examples of this in Iraq are the Shia Arabs and Kurds. Sunni Arab political elites dominated politics in Iraq. The Shia Arabs, although a majority, were excluded from power in modern Iraq until the collapse of Baath in 2003. Their demands culminated in asking for proportional

---

[44] The Shabaks are a Shia minority residing mostly in the governorate of Mosul.

representation on the state level. The Kurds have had the dream of independence in mind since the establishment of Iraq and even before that. However, when such a dream was close to impossible to come true, due to international and regional factors, then they searched for an alternative. The Shia Arabs and Kurds were not only excluded but were also exposed to elimination through genocide (as mentioned above), Baathification, Arabization and so forth. In such an environment and after the collapse of Baath, partial ethnofederation was relatively capable of addressing these tendencies of secession and inclusion. Partial ethnofederation in Iraq, under which the Kurds have a region and the rest of the country is divided among fifteen provinces, benefits from the merits of full ethnofederalism and territorial federalism.

Partial ethnofederation has the potential of easing such tendencies through some mechanisms. Firstly, it can address the Kurdish primordial nationalism that has long struggled for achieving self-determination right. By providing the Kurds with a self-administrative region, partial ethnofederation relatively fulfilled the Kurdish dream through practicing the right of self-determination. The Kurds willingly decided to re-join Iraq in 2003 and more than a decade before they voted for partial ethnofederation in their parliament. Formally admitting the Kurdish region in the constitution of Iraq in 2005 was a chance to weaken the Kurdish primordial nationalism. Such a Kurdish primordial feeling can become less highlighted if the Kurds genuinely benefit from partial ethnofederalism. I interviewed Abdurrahman Mustafa (2013), a Kurd who was the Governor of Kirkuk for about eight years, who stated that

> *Federalism can be a way to unity and integrity of the state if the oppression and unfairness of the ethnic groups are removed. However, if anybody sees that under the flag of federalism all his rights are taken way and that federalism does not serve him, for sure he thinks about other options such as independent statehood.*

Secondly, partial ethnofederation was the second best choice for the Kurds and most of the Arabs (Shia and Sunni). It was a fulfillment of the demands of the Arabs by preserving the integrity of the state and for the Kurds; it was the least satisfactory of the self-administration dreams in a world where independence is unlikely. Therefore, it was a significant step towards political stability and narrowing the gap between the formal roles and structure (state and government) and the informal roles and structures (the ethnic groups). Furthermore, partial ethnofederalism, when accompanied with democracy as in Iraq, can prevent the return of authoritarianism. I interviewed Abu Haidar Al-Kufi (2013), a Shia Arab MP, who stated

> *The federal system ensures that no single central tyrannical dictatorship regime is established that may control the destiny of all Iraqis.*

Thirdly, the state can benefit from the merits of territorial federation through linking all the units (regions or provinces) through several mechanisms such a centrally located budget. The revenues from all units are gathered and the distributed on all units.

On top of the above potentials of the Iraqi partial ethnofederation, it has more chances of success, according to McGarry and O'Leary (2005, 2009) and O'Leary (2001). As mentioned in chapter one, if a federation has more success chances if it has a *staatsvolk*, inclusion of minorities in decision-making, and a democracy with agreed resource management regimes. In fact, in Iraq, the Shia Arabs can be considered as a *staatsvolk* because they constitute the majority of the population and they are co-founders of its partial ethnofederation. The Shia Arabs, accordingly, feel more secure to make concessions to the Kurds. Regarding power sharing, both forms (local or central) exist in Kurdistan Region in Iraq. Due to the heterogeneity of Kurdistan Region, although overwhelmingly Kurdish, there is power sharing arrangement in the Parliament and this current cabinet. In Iraq, although there was only one formal consociational element in the constitution that demanded that the position of the president would be run by a Presidency Council, had to make decisions unanimously, for one round of elections (Article 138)[45], there are other informal consociational elements that mark the political process in Iraq. Among such informal elements is the proportionality in allocating the highest positions in the government. The most powerful executive position, i.e., the Prime Minster, has always been occupied by a Shia Arab, the President of the Republic by a Kurd, and the President of the CoR by a Sunni Arab. Another element that exists informally is a mutual veto. None of the national-wide laws, such as the budget law, passes the legislature if not previously agreed by representatives of the significant ethnic groups. Finally, Iraq is a democracy concerning having elections once in four years. The insignificant minorities are represented in the parliament through a quota system[46]. Iraq, so far, suffers from non-agreed resource management regimes. Finally, although there are a few articles about resource management, it has become a dilemma due to the presence of different opposing interpretations to them.

One of the properties of a democratic partial ethnofederalism, as in Iraq, is to have power sharing at the levels of the federal (central) and regional governments. These power sharing arrangements aim at the inclusion of non-significant ethnic groups, besides the significant ones. Such an inclusion is vital for three key reasons. Firstly, it contributes in leading to political stability by narrowing the gap between the ethnic groups, even non-significant ones, and the

---

[45] According to Article 138 of the Iraqi constitution, this practice was formally to end in 2010 as it was for one round of elections, yet it continued until they were abolished in the reforms of the current Prime Minister, Haidar al-Abadi, on August the 9th, 2015. For more information on the reforms in Arabic see http://pmo.iq/press2015/9-8-201503.htm

[46] This quota system is detailed in the next paragraph.

government. Secondly, the inclusion of non-significant ethnic groups in decision making is a way of promoting democracy and enhancing the legitimacy of the state institutions. Thirdly, such an inclusion is vital for the advancement of partnership sense (detailed in chapter five). These three reasons may greatly influence closing the gap between formal and informal roles and structures.

There are mechanisms through which such an inclusion of non-significant ethnic groups is practically implemented. The Iraqi constitution, article 20, has firmly affirmed the rights each individual citizen of political participation in elections and voting. Article 49 of the Iraqi constitution affirms that all the components (ethnic groups) should be fairly represented. At the level of the federal decision making, according to 2013 election law[47], the non-significant ethnic groups (called components therein) would have a quota of eight parliamentary seats out of 328 (about 2.43%) as follows: 5 seats for the Christians[48], 1 seat for the Yazidis in Mosul, 1 seat for the Sabia in Baghdad, and 1 seat for the Shabak in Mosul. At the regional level (Kurdistan Region 2014 elections), out of 111 parliamentary seats, the non-significant ethnic groups have 11 seats (9.9%) divided as follows: 5 for Chaldeans, Assyrians, and Syriacs, 5 seats for Turkomans, and 1 seat for the Armenians. However, the inclusion of these non-significant ethnic groups extends to the local governments in the Kurdistan Region's governorates of Sulaimaniyah (1 seat for Chaldeans and Assyrians out of 32), Erbil (out of 30 seats, 3 for Turkomans and 2 for Chaldeans, Assyrians, and Syriacs), and Duhok (out of 28 seats, 2 for Chaldeans, Assyrians, and Syriacs, and 1 for the Armenians)[49].

These reasons seem to be sufficiently positive in terms of preserving the integrity of the state whereas centralization and anti-ethnic federalism were rejected. Furthermore, partial ethnofederalism brings political stability by pacifying the Kurds, the only minority who have had tendencies of having an independent state. Thus, any conflict management instrument not addressing such secessionist tendencies would be exposed to the risk of not being adopted and thus more instability. However, partial ethnofederalism should not be interpreted as being capable of leading to political stability under all conditions. Factors exogenous to partial ethnofederalism (as explained in the three remaining chapters) may greatly negatively outweigh the positive influences of partial ethnofederalism in terms of leading to political stability.

To conclude, partial ethnofederalism has contributed to leading to political stability through territorial self-governance, the inclusion of all ethnic groups in decision-making

---

[47] Law no. 45 in 2013 was published in the Iraqi Official Gazette no. 4300 on 02/12/2013. This document is available online in Arabic http://www.iraq-lg-law.org/ar/webfm_send/1491 accessed 17/02/2016.

[48] The five seats were divided on the governorates of Baghdad, Mosul, Kirkuk, Duhok, and Erbil.

[49] The System of Seats' Allocation no. 15 in 2014 for the Governorate Local Elections. This document is available online in Arabic http://www.ihec.iq/ihecftp/kurd.2014/sys/sys15-kr.pdf accessed 17/02/2016.

according to their proportion, and other mechanisms. These mechanisms have been able to address the antagonism of the previously non-dominant groups and allocate fair representation for previously dominant groups. Several exogenous factors to partial ethnofederalism have contributed majorly to the current instability in Iraq. These factors are called throughout this dissertation as 'alternative explanations' of political instability.

Alternative Explanations of Political Instability in Iraq

A distinction should be made between partial ethnofederalism and its partial (incomplete) implementation. Whereas partial ethnofederalism is a structural and institutional ethnic conflict management instrument for territorially concentrated ethnic groups, its incomplete implementation is an agent (ethnic elites)'s problem. Making such a distinction between these two notions is important for academic and empirical purposes. Academically, it is fundamental to focus on specific concepts for reaching a valid analysis of a certain outcome, for example instability in post-2003 Iraq.

This dissertation argues that ethnofederalism does not have a major role in leading to political instability in Iraq and suggests an alternative explanation. The alternative explanation is based on presenting other variables that would better explain why there exists political instability. Thus, two other factors are proposed as majorly contributing to political instability. These two alternative explanations are firstly, the lack of a sufficient amount of legitimacy, investigated in chapter four, in rebuilding the overall political process and, secondly, deficiencies in the processes of rebuilding the political system (examined in chapter five) and in the design of some of the institutions (reviewed in chapter six). The common and fundamental feature of these explanations is that they are all exogenous to partial ethnofederalism or not sufficiently federal.

However, this alternative may be counter-argued by critics as even if these elements of legitimacy and process-structure deficiencies did never exist in Iraq, political instability would have still existed. In other words, ethnofederalism, in itself, leads to political instability and there is no need for alternative explanations. For them, ethnofederalism is endogenously problematic and puts the state integrity at a definite risk of political instability, manifested in the partition of the state as it took place in Soviet Union, Yugoslavia, and Czechoslovakia. This argument is discussed in chapter one and chapter two of this dissertation. These chapters argued that ethnofederalism does not necessarily lead to the disintegration of states and it has success stories besides failures. Furthermore, it is argued that intervening variables may explain the failure of ethnofederations. On top of this theoretical defense of ethnofederalism, evidence from

the interviews carried out by the author of this work, the data from Middle Eastern Values Surveys, and other documents support the alternative explanation. This is not to exclude other factors, which may have contributed to the existing political instability, such as the interference of regional powers in the internal affairs of Iraq, but this work only covers the major internal factors.

Another reply to this criticism is that the factors that lead to political instability in Iraq are not by-products of the adoption of a federal system. In fact, it is argued that partial ethnofederalism was the only feasible choice, which had the minimal consensus of the ethnic groups. If any other democratic conflict management mechanism, such as a centralized political system, were to be adopted, these factors would have still led to political instability. Although several examples could be provided here, only the status of article 140 about the future of the disputed territories is discussed. Kirkuk, as the most controversial disputed territory in Iraq, did not become a factor in leading to political instability in the aftermath of the adoption of partial ethnofederalism. This problematic feature of Kirkuk goes back to several decades ago. Kirkuk was the point that led to the failure of the March-1970 Manifesto between the Kurds represented by KDP and the Iraqi Baath government (McDowall, 2004: 335). Kirkuk has become a central feature of the Kurdish identity as it is called 'the Jerusalem of Kurdistan' and for them the Kurdish ownership of Kirkuk is non-negotiable. For the Turkomans, however, Kirkuk is as sacrosanct. None of this has been the by-production of ethnofederalism.

Nonetheless, the critics may then argue that it is partial ethnofederalism that has equipped the Kurds with such capability, through providing them with formal institutions, to powerfully claim the ownership of Kirkuk. Thus, if the Kirkuk issue is to lead to political instability, then it is the fault of partial ethnofederalism. Although this criticism is partially true, especially concerning the Kurds claim of the ownership of Kirkuk, partial ethnofederalism has only provided formal empowerment. The Kirkuk-ownership calls by the Kurds have always been as strong as they are currently and as old as their struggle for self-determination. Therefore, ethnofederalism was not behind the creation such ownership calls. Ethnofederalism has strengthened the formal capabilities of the Kurds, yet this potential could have become stronger even if ethnofederalism was not adopted. The Kurds then may have resorted to taking Kirkuk by military force, as they were trying effortlessly during the reign of the Baath regime. Resorting to hard power by the Kurds would have been costlier to all the parties of the conflict. In not resorting to hard power in taking over the disputed territory of Kirkuk, partial ethnofederalism should be praised.

Another criticism against this alternative view may be that, even if the elements of legitimacy and the institutional building processes are external to ethnofederalism as an

institutional mechanism for managing territorially concentrated ethnic groups, the structural deficiencies are part of the partial ethnofederal political system. Thus, any faults in the structure are adjudged to have been caused by it. In fact, this criticism is correct on considering partial ethnofederalism to be about the structure of the state institutions, i.e., ethnofederalism is no more than an institutional conflict management mechanism. Nonetheless, concerning the institutional cases selected in this dissertation, none of them is problematic due to its ethnofederal nature. The four selected structural deficiencies are problematic in leading to political instability because of either being non-federal or not sufficiently federal. Firstly, the constitutional vagueness and over-incrementalism have created problems on both levels of intergovernmental relations and ethnic relationships. These two deficiencies in the structure of the Iraqi constitution could have been avoided if the process was not rushed by the occupation authorities.

Secondly, the still centralized structure of the state proves that Iraq is not yet sufficiently federal, except for the relationship between the FG and KRG. This means that any contributions generated by this feature in Iraq's political system should not be attributed to partial ethnofederalism. In fact, this stands as evidence against those, academics and politicians, who may argue for centralization to replace partial ethnofederalism. Thirdly, the absence of the FC in Iraq is the absence of an imperative part of the ethnofederal system in Iraq. The FC represents the interests of the GNOR and the regions, including Kurdistan Region. In addition, the existence of the FC would have contributed positively towards leading to political stability in Iraq due to its legitimacy in representing the mere interest of regions and the GNOR. Moreover, the FC as a fundamental branch of the legislature, alongside the Council of Representatives, could have resisted the increasing centralization tendencies of the executive that successfully blocked any attempts towards the regionalization and decentralization of Iraq from 2006 to 2014. Finally, the de-Baathification institution is problematic as it was a major factor behind the dissatisfaction of the Sunni Arabs. What is obvious is that de-Baathification is a transitional justice instrument rather than a required institution for an ethnofederal state.

To sum up, the alternative explanations of insufficient legitimacy and deficiencies in structure and process can convincingly explain why there is a widening gap between the formal and informal roles and structures. These explanations share on common feature which is they are either not ethnofederal (in its partial form) or not sufficiently ethnofederal (in its partial form).

Conclusion

In this dissertation, as explained in this chapter, ethnic identity is considered as socially constructed. However, once formed, ethnic identity tends to endure. Ethnic identities, upon

becoming the defining feature of politics, can be hardened and softened. They harden or soften through the design of institutions and the behavior of the other ethnic identities. In societies divided along politicized ethnic identities, two institutional mechanisms soften them, firstly, the inclusion of the minorities in central government's decision-making and secondly letting them rule over the area in which they are a majority. In contradiction to this, as much as ethnic groups are excluded from decision-making at the level of the central government and denied self-rule, politicized identities become more hardened. Some exclusionary central government policies contribute more to the hardening process such as forced assimilation of minorities, genocide, and demographic change. Such exclusionary practices led to the antagonism of minorities in Iraq, resulted in creating political, social, and economic grievances.

Several factors stand behind the emergence of ethnicity as the defining feature of politics in Iraq such as the Sunni Arab domination of politics, the primordialism of Arabic nationalism and its treatment of non-Arabs, the exclusion of non-Sunni Arabs from politics and central decision-making, and the design of the state based on the British majoritarian model (Hazelton, 1988: 9). These factors produced grievances to the Kurds and non-Sunni Arab groups. These grievances could have been addressed properly through the inclusion of non-Sunni Arab groups in central decision-making and by allowing ethnic based self-rule for the Kurds, mechanisms of partial ethnofederation. Both of these basics of conflict management mechanisms were almost absent in the history of modern Iraq. The grievances had to be addressed in the new post-invasion Iraq and its political system and were to weaken via adopting partial ethnofederalism in post 2003-Iraq. However, as will be mentioned in the next chapter, other factors contributed to weakening the role that partial ethnofederalism was supposed to play in generating political stability.

Chapter 4. Insufficient Legitimacy: The First Alternative in Explaining Political Instability

Introduction

This chapter provides the first alternative in explaining the existence of political instability in post-2003 Iraq, namely insufficient legitimacy in rebuilding the state. It aims at defending partial ethnofederalism as being the major factor behind instability in Iraq. In order for it to reach its objective, this chapter is organized into two sections. The first section conceptualizes legitimacy in three components: consent, justifiability, and legality. Each of these terms is discussed in relation to Iraq and examples are provided. The last two terms are only addressed in this section because the problems emanating from them are implicitly investigated in the next two chapters. Consent is specifically studied in the second section of this chapter. The Sunni Arabs, one of the three significant ethnic groups in Iraq, rejected to grant consent to the rebuilding of post-occupation Iraq. This chapter argues that three factors were behind this, namely the occupier rule, de-Baathification, and the perception of the imposition of the political system. In fact, these factors existed while partial ethnofederalism was still under consideration by the ethnic group elites. Not granting consent widened the gap between the Sunni Arabs (informal structure and role) and the government (formal roles and structures) and, in turn, political instability increased.

Legitimacy Conceptualization

Coicaud defines legitimacy as 'the recognition of the right to govern' (Coicaud, 2004: 10). Recognition indicates willing obedience to those who have the authority to govern (Levi et al., 2009: 354). This definition presupposes the presence of institutions because they are required for governing. John Parkinson (2003: 182) believes that legitimacy is about the moralization of authority to govern through willing obedience and avoidance of coercion. Tom R. Tyler (2006: 375) states that legitimacy is the belief, of those who are governed, that the institutions are appropriate, proper, and just. Dogan (1992: 116) has the same opinion about legitimacy as Tyler.

However, it must be conceded that investigating legitimacy in a divided society, such as Iraq, and a relatively homogenous society, such as the Japan, is quite different. The main difference is that the focus in the latter is on the recognition of state institutions as legitimate by the individual citizens whereas, in Iraq, the legitimacy of the political processes and

institutions depends on the consent of the significant society segments such as Arabs and Kurds. This difference has major consequences on researching the issue of legitimacy in a divided society where the historical grievances of the ethnic groups, majorly caused by the structure of the previous political system, play a consequential role. Another consequence, which is rarely the case in homogenous societies, is that in a divided society the legitimacy of the state itself may be at stake not only its system and institutions.

The relationship between legitimacy and political instability is inverse i.e. the increase of one is the decrease of the other. As conceptualized in this dissertation, consent is a major element of both legitimacy and political stability. The potential for political stability increases when the path taken by the formal and informal roles and structures is consent. This, in turn, means an increase in legitimacy. However, before considering the concept of legitimacy in Iraq, it is important to mention that legitimacy should be treated as a continuum. Therefore, a case should not be judged as either legitimate or illegitimate but rather as closer to one end of the continuum. There is no state with perfect legitimacy or another completely illegitimate (Dogan, 1992: 119). Researching legitimacy can show its closeness from either side of the continuum. The closer legitimacy is to the positive end, the narrower the gap between the formal and the informal roles and structures.

Legitimacy has three elements: legality, justifiability, and consent (Beetham, 1991: 16, Parkinson 2003: 182). Legality is composed of rules and laws. Rules are the regulations and/or social conventions i.e. the way politics is practiced in a particular context. According to Beetham (1991:16), legitimate authority is acquired and exercised according to the established rules. However, in the case of post-2003, this statement seems to be problematic. When the political system in Iraq was rebuilt, there were no established abiding rules. Currently in Iraq, the most established text to legitimize the political system is the constitution. However, this text suffers from some fundamental deficiencies related to its drafting processes and content (investigated in chapters 5 and 6). The processes of drafting the constitution were marked and undermined by the exclusion of the Sunni Arabs. Another deficiency in the process was that the constitution did not receive enough negotiations. The reasons for that were many, yet most importantly was the American's rushed schedule (Morrow, 2005: 2). The other principal deficiency in the constitution is related to its content. The constitution's problematic content has made it prone to different interpretations. This widening-gap feature of the constitution has led to more instability. Among the deficiencies of the constitution is its abundance of unregulated laws that were deferred for later enactments. Overall, there are more than forty unregulated laws in the constitution. The deferral for later enactment is not problematic in itself; however, in a deeply divided society such as Iraq, these enacted laws have become a source of

instability through the politicization of the legislative process. This has resulted in the presence of insufficient legitimacy.

The second element of legitimacy is justifiability. Justifiability is the agreed norms on which the relationship between the differing groups is based. Agreed norms are required for legitimacy because they form the base of the political activities of the segments (Coicaud, 2004: 15). Therefore, the agreed norms can become the basis of a fair level of legitimacy. Beetham (1991: 17) states that 'rules of power will lack legitimacy to the extent that they cannot be justified in terms of shared beliefs'. These norms are classified into source norms and content norms (Parkinson, 2003: 182-183).

Source norms are either external to the society, such as the divine command, or internal to it, such as traditions. Then, the issue of religion and tradition of all the ethnic groups should have contributed to rebuilding the state and its institutions. These norms played a role in the low extent of consent. Distinguished Shia Arab or Sunni Arab religious scholars have used religion as a political tool. For example, Abdul Malik Al-Sa'di, a Sunni Arab renowned scholar, issued a religious decree in which he forbade any support to federalism (Al-Sa'di, 2012). Al-Qaida, which is considered as a political tool in the hands of some religious people, has been always calling for boycotting the political process in Iraq. In rebuilding Iraq, the Americans did not take the internal norms of the society seriously into consideration. For instance, insulting the Iraqi prisoners in Abu-Gharib[50] prison from 2003 to 2006 was an extremely humiliating act in the eyes of the Iraqis and it was a grave misunderstanding of the nature of the Iraqi tribal society. The Iraqi tribal society finds dignity in being respected and considers humiliation as major disrespect that is unforgivable (Al-Wardi, 1965: 90). Humiliation, especially by an outsider, causes grave dissatisfaction and leads to vengeance.

Content norms are those according to which decision-makers and followers were specified. The question here, in relation to Iraq, is according to what norms some people are selected to represent the Iraqi segments, for instance, in the IGC. The answer to these questions is considerably vital because it may uncover why the Sunni Arabs were almost completely dissatisfied with the process of rebuilding the Iraqi state. The CPA had the ultimate authority in Iraq and even the IGC members were appointed by it. The authority lacked legitimacy for two reasons: firstly, occupiers in the modern world are generally considered as lacking proper legitimacy (Hechter, 2010: 403). The US was considered as an occupier by the UN Resolution 1483 (UN Website, 2003). Secondly, religious texts, such as Quran, urge the Muslims to fight the occupiers who invade their country. Religion, represented by texts belonging to ancient and

---

[50] For more details of such insults see the following links http://news.bbc.co.uk/1/hi/world/americas/3701941.stm and http://www.theguardian.com/gall/0,8542,1211872,00.html . Both links were accessed on 22 October 2015.

modern Islamic scholars, has had a considerable role in shaping the attitude of the Muslims against occupiers. Therefore, religious texts made the CPA lack a sufficient level of legitimacy in the eyes of some of the Iraqis. Religion and maltreatment of the Iraqi people by the US soldiers and officials were enough justifications for the armed-resistance of, for instance, the Sadr Movement (Abouaoun, 2011) and Sunni Arab groups[51].

Finally, consent is defined as acceptance 'on the part of the subordinate to the particular power relation in which they are involved, through actions' (Beetham, 1992: 18). In Iraq, the situation to be accepted was rebuilding the state based on partial ethnofederalism and democratic principles. Those who should have accepted this were the groups that constitute the Iraqi society, especially the significant ones.

Iraq became formally and constitutionally a partial ethnofederation and democratic after decades of centralization and authoritarianism. The adoption this new political system required the consent of the Iraqi ethnic groups. The results of the October 2005 referendum proved that the Sunni Arabs did not grant their consent to the constitution and the political process of rebuilding Iraq. The two Sunni Arab dominated governorates of Anbar and Salahaddin overwhelmingly voted against the constitution. Furthermore, if it was not for a few percentage of the voters who voted 'Yes' for the constitution in Mosul, the constitution would have been rejected and should have been redrafted. However, the reasons behind such a dissatisfaction of the Sunni Arabs should be studied. The next section will investigate why the majority of the Sunni Arabs did not give consent to the political process. This will be done by investigating the extent to which consent of the Sunni Arabs and other significant segments was present when the Iraqi state was re-established between 2003 and 2005. The terms 'significant segments' refers to the Shia Arabs, Sunni Arabs, and Kurds that altogether constitute about 95% of the population. For the sake of simplification, in the rest of this chapter the two terms of 'consent' and 'legitimacy' are treated interchangeably.

One of the reasons behind the absence of a sufficient amount of consent from the Sunni Arabs was the presence of occupiers. Here, the term 'sufficient' refers to the significant ethnic groups' minimal willingness to provide consent to the institutions-rebuilding processes. However, this did not take place as hoped for by the occupiers. The presence and actions of the occupiers (the US and its allies in Iraq) were not perceived by the subordinates as fair and just. This was to lead to ineffective or not sufficiently legitimate governance (Hechter: 2009a, 282). Hechter relates that there is a 'near universal consensus' about the unacceptability of being

---

[51] Although no specific mention to both the terms of 'justifiability' and 'legality' will appear anymore in this dissertation, they are implicitly dealt with in the next two chapters that are about deficiencies in the processes of rebuilding the Iraq state and the structure of some institutions. The focus of the rest of this chapter is on consent.

ruled by any non-natives (2010a, 401). Otherwise, the consequences are of a high amount of costs, ineffective governance (Levi, Sacks et al., 2009: 355), and most importantly, in Iraq, influencing the processes of rebuilding the state.

However, if the occupier rule results in rufusal to give consent, then this should be equally so for all ethnic groups, not only the Sunni Arabs. It is fair to ask why, even with the presence of occupiers, the Kurds and the Shia Arabs gave their consent to the political process and the constitution. There are a few reasons behind this. Firstly, the majority of Shia Arabs and the Kurds perceived the occupiers as 'liberators' rather than 'invaders'. The distinction between these two is that whereas the presence of invaders is unacceptable, liberators are welcome. The Kurds and Shia Arabs suffered extensively under the rule of Baath (as detailed in chapter 3) and there was little hope that they could overthrow the regime and end its suppression and tyranny without the assistance of external forces. The overthrow of Baath was the 'good news' that the Shia Arabs and Kurds were waiting for. For the Sunni Arabs in general, overthrowing Saddam was not basically welcome because they were in power and to be deprived of it was not good news. Secondly, the Kurds and Shia Arabs were an integral part of the negotiations on TAL and the constitutional drafting. Their inclusion and being considered as indispensable led them to give their consent to the constitution. However, (as will be detailed in chapter 5), the Sunni Arabs were politically dissatisfied as they were effectively excluded from the negotiations on constitutional drafting. Therefore, the Sunni Arabs' perception of occupiers as invaders, their dissatisfaction, and their exclusion from decision-making were decisive behind the stance on the constitution.

Now, the question is why occupier rule results in an insufficient amount of consent from the subordinates. The reason is the rule of occupiers is obverse to national self-determination (Hechter: 2009a, 282) and popular sovereignty (Roeder: 2010, 412). This can explain the fierce resistance of the some Sunni Arabs groups and a few Shia Arab groups, to the presence of the US army in Iraq. Among the few Shia Arabs' resistance to the American presence in Iraq was the Mahdi Army established in 2004, headed by Muqtada Al-Sadr, which fought the Americans with all its military might. Muqtada Sadr called the Americans 'invaders' (Glenewinkel, 2006), a term that has a religious connotation beside its common use. Religiously, it becomes the duty of Muslims to struggle, by any means, to oust the invaders from the occupied land. The main demands of Al-Sadr were that Americans had to leave Iraq immediately and sovereignty should rest in the hands of Iraqis. Hechter (2009b, 287) affirms that legitimacy of the occupiers may not be considerably affected if small groups withdraw their consent 'but as the numbers and pervasiveness of the discontented grow, chances of political instability increase apace'.

To sum up, legitimacy is conceptualized as consent, justifiability, and legality. These three elements were not properly available in rebuilding post-2003 Iraq and this has consequently led to political instability. Some examples of the problems found in legality and justifiability are given above, yet they are implicitly researched in the next two chapters. The focus of the rest of the chapter is on the question of why the Sunni Arabs, in particular, refused to grant consent to the processes of rebuilding post-invasion Iraq.

A Discussion of Consent in Iraq

If stability is aimed at for a freshly built system, the consent of the concerned ethnic groups is required. Consent leads to the stability of the political system. In Iraq, the majority of Sunni Arabs refused to grant consent to the processes of establishing the state's political system in the referendum of 2005. Some Shia Arab and Kurds, but not in quite a noticeable percentage, did not also grant consent to such a process. This will become more obvious when the data (interviews and surveys) are analyzed in the following paragraphs. Yet, the question is why consent was not granted by the majority Sunni Arabs? This answer to this is through three major factors. Firstly, the perception of occupiers and their rule as invaders is a key factor. Secondly, the dissatisfaction of the Sunni Arabs was partly caused by the adoption and implementation of de-Baathification. Thirdly, another factor was the exclusion of the Sunni Arabs from constitutional drafting. Consequently, they rendered the political system as an imposition. The Kurds and Shia Arabs gave their consent because they did not suffer greatly from these three factors. They generally perceived the occupiers as liberators, were not greatly disturbed by de-Baathification, and were not effectively excluded from the constitution drafting. Other factors might have contributed to it, but these were the most effective (in my opinion).

To investigate the question of consent through these three variables, I utilize quantitative and qualitative data. Qualitatively, I conducted interviews with politicians from different ethnic groups in which consent is operationalized by asking the interviewees about the *imposition of the political system in Iraq*, and *de-Baathification*. I asked them several questions, for example, about the extent to which they perceive the political system as imposed by outside forces such as the US and the regional powers. Imposition contradicts consent and the existence of one undermines the other. Consent is a basic element of political stability. The extent to which consent exists, the potential for political stability increases. Quantitatively, I relied on two surveys conducts by MEVS in 2004 and 2006. These surveys were useful in investigating the opinion of the grassroots, especially about the questions of occupier rule, and de-Baathification.

The opinion of the grassroots is vital to study the factors behind granting or not granting consent to the political process.

In Iraq, consent refers to the notion that the constitution and the political system being accepted by the principal ethnic groups in Iraq, namely Shia Arabs, Sunni Arabs, and Kurds. As mentioned, three fundamental factors, as in Figure 1, contributed to the lack of proper consent of the Sunni Arabs that constitute about 15-20% of the Iraqi population. These factors are considered essential in the presence of a relatively low level of consent. Each of these factors is scrutinized and the arguments about them are supported with available quantitative and qualitative data.
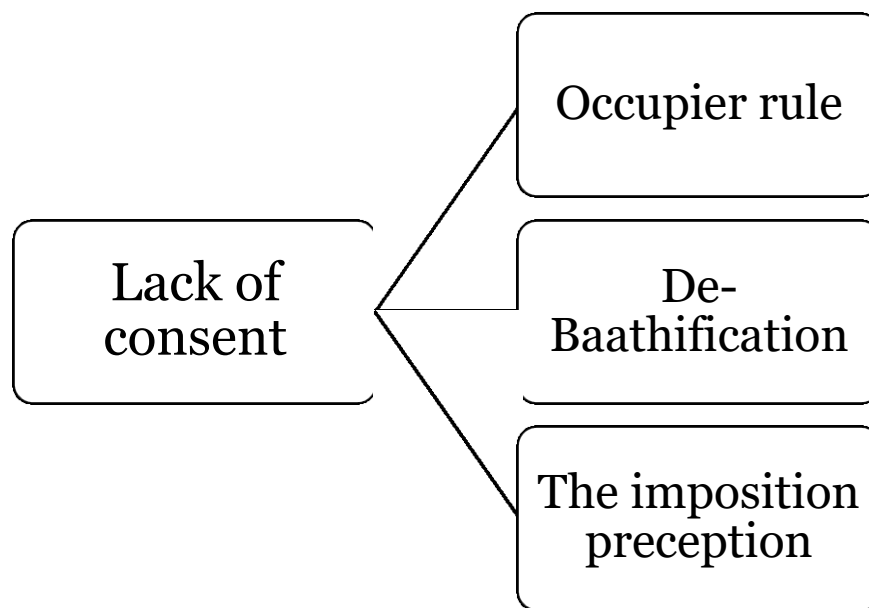
Figure 1: the factors behind the lack of consent in post-2003 Iraq

Rule of occupiers

Some questions in both surveys can *approximately*[52] show whether the rule established by the Americans in Iraq was trustworthy and conceived as just by the ethnic groups. In the following section, the presented data suggests that the Sunni Arabs did not grant consent because they did not have confidence in occupiers and they had doubts about the occupier's reasons behind the invasion and they wanted them to leave Iraq sooner than later. Four question were asked that are *the extent to which the respondents had confidence in the American forces*, *any support to the presence of the coalition forces in Iraq*, *the appropriate time when the Americans should leave Iraq* and, only in 2006 survey, *the reason behind invading Iraq*. Altogether, these four questions can demonstrate the low extent of consent due to the rule of the occupier.

---

[52] As the surveys are conducted by MEVSs were not specifically designed to answer the question of consent of the ethnic groups in Iraq, I had to look for the variables that best fit the concept of consent (legitimacy).

In 2004, when the respondents were asked *the extent to which they have confidence in the American forces*, 27.8% of the Kurds had a great deal of confidence in them and oppositely 15.7% did not have any confidence in them at all. However, the Shia Arabs had less trust in them as 73.4% stated that they did not have any confidence and only 2.5% of them had absolute confidence in the American forces. The Sunni Arabs stated their absolute non-confidence in the American forces with 85.4% and only 0.8% had absolute confidence. The analysis of the data from the two selected governorates almost reaffirmed the figures given above with few increases in the number of those who distrusted the American forces as shown in Table 1.

The Kurds had more confidence in the American forces, yet the Sunni Arabs were very dissatisfied with the new situation. For the Kurds, the Americans were the only force that could save them from the unknown future in their region. For the Sunni Arabs, the American forces were seen as depriving them of the privileges they used to enjoy under the reign of Saddam. For the Shia Arabs, they were oppressed by Baath regime, and it was more expected from them to consider much more confidence in the Americans who helped them out of Saddam's repression and made them the rulers of the new Iraq. In fact, they doubted that the presence of the US would make any visible changes.

When a comparison is made between the responses of the participants in the 2006 survey, it obviously clear that the confidence of all the groups in the American forces was in a sharp decline. This could be because of the behavior of the American forces with the Iraqi people. Among the Kurds, the respondents who had a great confidence in the American forces decreased to 9.4% and those who did not have any confidence at all increased to 44.8%. The same trend applies to Shia Arabs and Sunni Arabs as well. For the Shia Arab, those who had great confidence dropped to only 1.2% and those who had no confidence at all were 87.5%. Nevertheless, the Sunni Arabs had even less confidence in the American forces than both the mentioned-groups. Those who did not trust the American forces at all counted 96% whereas those who had a great deal of confidence were only 0.8%. These figures show that the CPA and the American forces could not make the people have confidence in them.

Although these figures show a level of dissatisfaction with occupier rule from the Shia Arabs and the Kurds, yet the Sunni Arabs were far more dissatisfied. The discontent of the Shia Arabs and the Kurds did not lead them to reject to give consent because of the mentioned reasons of their perception of occupiers as liberators and their inclusion in the negotiations. The dissatisfaction of the Kurds and Shia Arabs increased in 2006. However, such a dissatisfaction were caused more by the daily contacts[53] of the Kurds and the Shia Arabs with the American

---

[53] I still remember why Kurdish common people became dissatisfied with the American forces. Partly, this was caused by the behaviour of the American soldiers and their convoys who used to shoot the cars and vehicles that

forces, rather than being caused by the three mentioned factors that continually dissatisfied the Sunni Arabs.

Ethnic groups	Year (respondents)	Confidence in the American forces (%)				The presence of coalition forces (%)			
		A great deal	Quite a lot	Not very much	Not at all	Strongly support	Somewhat support	Somewhat oppose	Strongly oppose
Kurds	2004 (389)	27.8	32.6	17.5	15.7	35.5	38.3	7.5	12.9
	2006 (384)	9.4	20.1	14.8	44.8	9.6	29.2	24.2	26
Shia Arabs	2004 (591)	2.5	2.5	16.4	73.4	2.9	1.5	3.8	88.8
	2006 (746)	1.2	1.6	5.9	87.5	2.7	1.7	3.2	88.7
Sunni Arabs	2004 (130)	0.8	0.8	7.7	85.4	1.5	2.3	3.8	90.8
	2006 (124)	0.8	0.8	0.8	96	0.8	1.6	1.6	93.5

Table 1: the ethnic groups' perceptions of occupier's rule –A.

Concerning supporting *the presence of the coalition forces in Iraq*, the Kurds, in 2004 survey, expressed their strong support with 35.5% of them, yet 12.9% strongly opposed their presence. In 2006, the Kurdish respondents who strongly supported the presence of US and coalition forces decreased to 9.6% and those who strongly opposed counted 26%. For the Shia Arabs in 2004, those who expressed their strong support were 4.9% of the respondents, whereas those who strongly opposed were 53.8%. However, these figures changed in 2006 survey respectively to 2.7% and 88.7%. For the Sunni Arabs, those who strongly supported the presence of US and coalition forces counted only 1.5% of the respondents and those who strongly opposed counted 90.8%, yet in 2006 survey, the respondents with a strong support decreased to 0.8% and those who strongly opposed increased to 93.5%.

The responses to the question of when *the US and other coalition forces should leave Iraq* would support the claim that the legitimacy of the US was in decline (as in Table 2). These forces were to be considered as liberators as they toppled the suppressing Baath dictatorship. Nevertheless, there was an increasing tendency between 2004 until 2006 that the American forces should leave Iraq soon because they were seen as the source of the worsening political

---

tried to overtake them on the roads, even within the safe zone of Kurdistan Region. The American forces were concerned about their security to an extent that they considered every overtaking vehicle as terrorists. Several innocent people were killed by these convoys and this made the Kurds very dissatisfied with these forces.

instability in Iraq. The sooner the American forces were asked to leave indicates that they were perceived as unacceptable and untrustworthy. For the Sunni Arabs, asking them to leave as soon as possible may refer to their perception of the American forces as unjust because they were marginalized under the American's rule.

Ethnic groups	Year (respondents)	When should the US and other coalition forces leave Iraq? (%)								
		No answer	Don't know	Leave now	Remain until after the new government is formed	Remain for another year	Remain for more than a year	Remain until security is restored	Never leave	Difficult to say
Kurds	2004 (389)	1	7.7	9.5	12.6	3.1	3.9	26.1	22.4	13.9
	2006 (384)	1.6	11.5	23.2	26.1	2.1	1.8	16.4	4.2	13.3
Shia Arabs	2004 (591)	0.3	3.2	21.2	43.3	5.4	2.5	20.6	0.7	2.7
	2006 (746)	0.7	1.1	74.1	16	1.3	0.8	5.2	0	0.8
Sunni Arabs	2004 (130)	0	0.8	72.3	20.8	0.8	0	4.6	0	0.8
	2006 (124)	0	0	91.1	6.5	08	0	1.6	0	0

Table 2: the ethnic groups' perceptions of occupier's rule-B.

In 2004, the Kurds who thought that these forces should never leave Iraq counted 22.4%, those who preferred their stay until security was restored were more than one-fourth of the Kurdish respondents, and only 9.5% preferred that they should leave now. These figures did considerably change in 2006 survey where the rates respectively became 4.2%, 16.2%, and 23.2%. The Shia Arab respondents favored that these forces should stay until an Iraqi government was formed with 43.3%. However, 21.2% of the Shia Arabs stated that these forces should leave now and only 20.6% preferred that the forces should stay until security was restored. However, the analysis of 2006 survey confirms that the responses of the Shia Arabs changed to the following rates respectively, 16%, 74.1%, and 5.2%. With the Sunni Arabs, the dissatisfaction with the US forces was larger than the Kurds and the Shia Arabs. In 2004, around three-fourth (72.3%) of the participant from the Sunni Arabs wanted the US and coalition forces to leave now, 20.8% preferred their stay until the formation of the new government, and no respondent at all stated that they should never leave Iraq. In 2006, the figures change

respectively to 91.1%, 6.5%, and again no respondent preferred their staying forever. In both surveys, the disturbance of the significant groups in Iraq about the presence of the US forces is considerably obvious, yet in 2006, the Iraqis seemed to be even more frustrated about the ways the US approached the overall political process. Consequently, with the increasing distrust and discontent in the presence of the US forces, their capability of building confidence decreased significantly. This outcome might be the result of the way the major groups in Iraq perceived the purpose for which the US invaded Iraq in 2003.

Ethnic groups	Year (responde nts)	Why the US invaded Iraq? The first choice (%)	Why the US invaded Iraq? The second choice (%)	Why the US invaded Iraq? The third choice (%)
Kurds	2006 (384)	Control Iraq's oil (57.6%)	Build military bases in Iraq (24.2%)	Help Israel (13.5%)
Shia Arabs	2006 (746)	Control Iraq's oil (79.2%)	Build military bases in Iraq (40.9%)	Help Israel (30.2%)
Sunni Arabs	2006 (124)	Control Iraq's oil (75%)	Hatred of Arab and Muslims (31.5%)	Help Israel (35.5%)

Table 3: the ethnic groups' perceptions of the reasons behind the occupation of Iraq.

In 2006, the participants were asked to choose three reasons why the US invaded Iraq and the following paragraph gives a summary of the perceptions of the Iraqi significant segments in this regard. For the Kurds *the first main reason behind the US's occupation of Iraq* was to control its oil, the second main reason was to build military bases in Iraq, and finally third reason was to help Israel. The respondents, among the other options[54], chose these reasons. For the Sunni Arabs, the respondents had replied the same as Kurds, except for their second choice that was the hatred of Arabs and Muslims. The Shia Arabs agree with the Kurds and the Sunni Arabs that the first main reason for which the American invaded Iraq was to control its oil. Yet, they exactly agree with the Kurds for the second and third main reason behind the occupation that were to build military bases in Iraq and to help Israel. Therefore, the majority of all the respondents from ethnic groups showed their doubts about the intentions of the US and coalition

---

[54] The options given to the participants were:
- bringing democracy to Iraq
- hatred of Arabs and Muslims
- building political support for George W. Bush inside the US
- helping the Iraqi people by removing a brutal dictator
- helping Iraq to become modern and developed
- making money for the American companies working in Iraq
- the belief that the regime of Sadam was a threat to the US
- no answering
- do not know

forces. Yet, the reaction of the Kurds and the Shia Arabs to the presence of occupiers was not the same as the Sunni Arabs due to the reasons mentioned above.

De-Baathification: a factor against consent

De-Baathification process is a transitional justice instrument that aimed at reversing the past by punishing the perpetrators (high-rank Baath members) and compensating the victims of the Baath regime that ruled Iraq for 35 years, from the coup of 1968 to 2003. The first order of the CPA was the 'De-Baathification of the Iraqi Society'. Due to the forced Baathification of the Iraqi society, especially since the 1980s, a new gap was created between the formal and the informal roles and structures that substantially increased the potential for political instability. Thus, the main objective behind de-Baathification was to enhance political stability in the country and narrow the mentioned gap. For the sake of fulfilling this specific aim, the CPA implemented de-Baathification on different levels such as formally dissolving the Baath party, ranks from Udw Firqah (Group Member) and above to be banned from future employment, disbanding the Iraqi army, and the trial of those Baathists who were suspected of criminal conduct.

De-Baathification in Iraq, instead of leading to political stability, has been leading to further instability. The reasons behind the quasi-failure of de-Baathification are manifold. Most importantly, the Sunni Arabs perceived de-Baathification as targeting them. This has led, at least in the eyes of the Sunni Arabs, to perceive its implementation as unjust. Therefore, targeting any specific group would lead to their disobedience and not granting consent. To investigate the extent to which de-Baathification has negatively influenced the consent of ethnic groups in general, and the Sunni Arabs specifically, in rebuilding Iraq on federal and democratic basis, I utilize both elite interviews and the two surveys of 2004 and 2006 conducted by MEVS.

In fact, de-Baathification was not meritless. It was seen as necessary even by some Sunni Arabs, let alone the Kurds and Shia Arabs. Nevertheless, the objections against it came from its comprehensive application and mal-implementation. Opinions about de-Baathification were divided. The Sunni Arabs were the strongest opposition to it because the majority of the high-rank Baath leaders and full members were Sunni Arabs. The Shia Arabs were almost satisfied with it because they headed the de-Baathification commission and had less high-rank Baath members. The Kurds were less affected by de-Baathification as they had an autonomous or *de facto* independent region that was out of the control of Baath since 1991 and thus did not have many high-rank Baathists among them.

The question asked about de-Baathification in the interviews is based on investigating the extent to which de-Baathification has been able to generate confidence in the newly established institutions and whether all the ethnic groups were fairly treated in the implementation of de-Baathification. This is rendered into this question *'what is your opinion about the de-Baathification in post-2003 Iraq concerning its capability to rebuild the ethnic groups' confidence in the political system and its institutions?'*. Through the replies, some of the negative aspects of de-Baathification and its effect on granting consent to the political process become obvious.

De-Baathification was the embodiment of transitional justice in Iraq. However, for transitional justice to succeed, Stover and others count few conditions: firstly, a level of security in which perpetrators, victims, and investigators can perform their duty as required. Secondly, a vast majority of the population should view the implementing authorities as legitimate and impartial. Thirdly, the authorities must avoid any collective guilt when implementing the procedures of transitional justice. Finally, these measures would be effective if they are implemented in conjunction with social, political and economic reconstruction programs (Stover et al., 2008: 9). However, the question is whether these conditions were present to an extent that could ensure an effective implementation of de-Baathification in Iraq. The answer to this question is quite negative as will be detailed.

A majority of the interviewees from all the significant ethnic groups in Iraq agreed that de-Baathification has not achieved its desired aims in regaining the lost confidence of the ethnic groups in the state and its institutions. Nonetheless, a few Shia Arab interviewees had different opinions. Abbas Al-Bayati (2013), a Shia Arab MP, stated that

> *De-Baathification should not be linked with the issue of confidence in the state institutions because it was only implemented on high-rank Baathists.*

With this statement, Al-Bayati wants to refer to the issue that de-Baathification has been implemented fairly and equally on all the high-rank Baathists with no sectarian discrimination. Hasan Al-Sned (2013), another Shia Arab MP, affirmed that

> *De-Baathification has regenerated the confidence [in state institutions] of those who were subordinated or marginalized under the reign of the Baath regime.*

In fact, the marginalized were the Shia Arabs and Kurds. By this, al-Sned implies that only the Sunni Arabs were dissatisfied with it and the other ethnic groups were satisfied with it. Accordingly, de-Baathification has come close to achieving the aim for which it was designed,

namely generating confidence in the institutions and trust among the ethnic groups. Yet, in contradiction with this, Paul Bremer admitted that implementation of de-Baathification was uneven, unjust, and poorly implemented. He also confessed that the lustration system[55] had badly affected some sectors; among them was the education system (Bremer, 2004). However, not all the Shia Arab politicians were positive about de-Baathification. Abdul Abbas Al-Shya' (2013), a Shia Arab MP, believes that

> *De-Baathification has been unfairly implemented and has been wrong, random, interest-based, and emotionally implemented.*

The most badly affected by the de-Baathification policies were the Sunni Arabs and they frequently declared that they were the only group targeted by it. The immediate negative impact of de-Baathification was to fuel the insurgency that dwelled in the Sunni Arab areas and making thousands lose their jobs (Pfiffner, 2010: 76). Most of the Sunni Arab MPs and politicians, who were interviewed, confirmed the statement made by Al-Shya' above. Alaa Makki (2013), a Sunni Arab MP, stated that

> *De-Baathification has failed to achieve the aims for which it was originally designed. De-Baathification has wronged the Sunnis, yet has privileged the Shia.*

The reasons for the disappointment of Sunni Arabs from de-Baathification are many as mentioned by the other Sunni Arab MPs and politicians. Worse than all, the Sunni Arabs considered it as a collective punishment (Stover et al., 2005: 850). Abdurrahman Sdiq (2013), an ex-Minister of Environment, had proposed that De-Baathification should be called de-Sunnification because the Sunni Arabs were targeted by it. Autheel Al-Nujaifi (2013), the ex-Governor of Mosul and a Sunni Arab, maintained that

> *De-Baathification was implemented in a way that proves it has been retaliation from the Sunni Arabs as they have been the only group targeted by its law and implementation.*

Furthermore, he mentions that de-Baathification was exploited based on sectarian and political affiliations. Ayad Al-Samaraie (2013), a Sunni Arab MP and the head of the Iraqi Islamic Party (IIP), said that

---

[55] Roman David defines lustration law as 'a special public employment law that regulates the access of members of the former repressive apparatus to public positions in the new democracy' (2006: 350). He also believes that lustration systems is the reflection of the logic behind a lustration law (2006: 351).

De-Baathification should not be studied in isolation from other issues such as the ethnic balance in the formation of the army, the establishment of independent committees, and the Parliament's approval of senior leadership in the army.

Furthermore, he believes that de-Baathification, which he identified as targeting the Sunni Arabs and in favor of the Shia Arabs, has led to crisis in the other aspects of the political process, such as problems of imbalanced representation in state institutions. In fact, a specific problem of such lustration systems is that they can be used as political tools because they affect the distribution of power based on the new identity of the state. Therefore, de-Baathification is undisputedly a political tool (Ottaway and Kaysiin, 2010) in the hands of the new rulers of Iraq. Adopting any of the lustration systems depends on the desired effects behind it (David, 2006: 364). In this regard, Zyad Tariq al- Zarb (2013), a Sunni Arab MP stated that

One of the negative aspects of de-Baathification was that it was unequally implemented and unjust exemptions were granted to some high-rank Baath members.

The issue of unjust and biased exemptions made to Shia Arabs who were high-rank Baath members that alleged loyalty to Maliki, the ex-PM and a Shia Arab, is a structural deficiency studied in chapter seven. Yet, Muhammad Iqbal (2013), another Sunni Arab MP, provided some examples of the biased exemptions made to officers based on being loyal to the Shia Arab authorities. He stated that there were about six hundred officers in the Ministry of Interior and around three thousand officers in the army that were supposed to be de-Baath-ified, yet they were pardoned for their loyalty to Maliki. Latif Mustafa Amin (2013), a Kurdish MP whom I interviewed, stated that

There is a large number of high-rank Baathists who now work in state institutions just because they pledged loyalty to Maliki. Even if a Sunni Baathist becomes loyal to Maliki, he will be exempted from de-Baathification.

Most of the other Kurdish MPs and politicians had their concerns regarding de-Baathification. They almost repeated the Sunni Arabs' concerns. The Kurds were not considerably affected by the procedures of de-Baathification because they were, until 2003, out of the direct control of Baath regime. Mahmud Osman (2013), an IGC member and an MP from 2006 to 2014, affirmed that

> *I personally objected to the way de-Baathification was about to be designed*
> *to operate during the sessions of the IGC[56] and described de-Baathification*
> *as very bad.*

In his opinion, de-Baathification would divide Iraq into two opposing camps and lead to retaliation from every Baathist. By this, he refers to the fact that not all Baath members willingly became Baathists. Most of the low-rank members were after their livelihood only. Then, Osman's warning was

> *Even those low-rank members would be then targeted.*

Therefore, he thought it would produce dreadful consequences for Iraq as a whole. To implement transitional justice measures in post-2003 Iraq effectively was not an easy task. Stover and others (2005: 833) admit that, in terms of implementing transitional justice mechanisms, Iraq was the most complex since the aftermath of WWII. In Iraq, and during the reign of Baath, the state passed through processes that made most of the citizens distrust the state institutions and lose any real loyalty to the idea of a united identity of all Iraqis. In other words, the gap between formal structures and roles (the Baath regime) and the informal roles and structures (Iraqi ethnic groups) was wide. Therefore, the main task of de-Baathification was to narrow the gap as much as possible through dealing with the past violations of human rights. However, the de-Baathification procedures have so far proved incapable of closing the gap. Sardar Abdullah (2013), a Kurdish MP, stated that de-Baathification has had four problems. According to him,

> *De-Baathification has been unfair, selective, vengeance-based, and has*
> *deepened societal cleavages.*

For him, de-Baathification was implemented in a way that specifically targeted the Sunni Arabs. This point was affirmed by many Kurdish interviewees; among them was Bakir Hama Sdiq Arif (2013), another Kurdish MP, who believes that

> *De-Baathification was designed specifically to target the Sunni Arabs. Some*
> *Shia Arab officials in the current government were ex-high-rank Baathists*
> *but excluded from de-Baathification because of being Shia Arab.*

Khalid Shwani (2013), a Kurdish MP from 2006 to 2014 and the current spokesperson of the Iraqi President, mentions the negative influence of the exemptions made by Maliki to his

---

[56] Mahmud Osman was then a Kurdish member, out of five, in the IGC in 2003.

loyal Shia Arabs. He stated that despite the fact that most of the Sunni Arabs were Baathists during the reign of Baath, this should not mean that Al-Maliki could pardon or de-Baath-ify whomever he wished. Here, Shwani refers to exemptions made by al-Maliki to some Baathists who alleged loyalty to him. The ex- Minister of Environment and ex-Minister of Women Affairs in Iraq, Narmin Osman (2013), gave an example of targeting the Sunni Arabs even though they were competent enough. She related the story of how one of her deputies was dismissed from his job and de-Baath-ified, despite being a technocrat and a professional only because of being a Sunni Arab.

Thus, from the interview analysis, it can be concluded that de-Baathification has been unsuccessful in meeting the aims for which it was designed. It has dissatisfied the Sunni Arabs to an extent that they refused to grant consent to the whole political processes of rebuilding Iraq. It has been implemented, according to the Sunni Arab, the Kurd, and some Shia Arab interviewees, selectively and unfairly. These results are compared with the data generated from the surveys of 2004 and 2006. In both surveys, two questions can contribute to evaluating the perceptions of the Iraqi masses about de-Baathification. The following questions were asked in both surveys (Table 4 below):

- (To what extent do you agree that) *de-Baathification damaged the political condition of the country?*
- (To what extent do you agree that) *the disbanding of the former Iraqi armed forces was beneficial for the Iraqis?*

The contribution of these two questions is obvious in answering the question of the extent to which the Sunni Arabs and other ethnic groups granted consent. If the Sunni Arabs consider de-Baathification and disbanding the army as damaging the country, this indicates that they would most probably not grant consent to such a constitution and political process that have de-Baathification as an integral part of them. As de-Baathification was founded by the first order of the CPA, it has had a negative influence on the subsequent political processes. Disbanding the Iraqi armed forces is fundamentally related to the process of de-Baath-ifying Iraq. In the perception of the CPA, the Iraqi armed forces were to be disbanded because they represented an influential channel through which the Baath Party might have gained control over power again in Iraq.

Concerning the analysis of the first question in both surveys, the claims made by the Sunni Arab politicians and others is that de-Baathification targeted the Sunni Arabs. In 2004, the Sunni Arabs participants who strongly agreed that *de-Baathification damaged the political conditions of the country* were 29.2% and those who strongly disagreed were 4.6% of the respondents. Yet, these figures changed in 2006 to 56.6% for those who strongly agreed and

7.3% for those who strongly disagreed. The increase in the number of those who strongly agreed is insignificant with the little increase in the rate of those who strongly opposed.

Concerning the question of whether *the disbanding of the former Iraqi armed forces was beneficial* for the Iraqis, the general trend was negative. A significant number of the respondents perceived disbanding the Iraqi armed forces as not of benefit to the Iraqis. Furthermore, Table 4 explains that the number of those who strongly agreed that it was of benefit in 2004 decreased profoundly in 2006, regardless of the ethnic groups. In 2004 survey the figures for the ethnic groups who strongly agreed that the army dismantle was beneficial were as follows: Kurds 43.2%, Shia Arabs 14.6%, and the Sunni Arabs 6.2%. These figures tell that even in 2004 not so many respondents strongly agreed about disbanding the armed forces, except for Kurds.

Ethnic groups	Year (respondents)	De-Baathification damaged the political condition of the country? (%)				The disbanding of the former Iraqi armed forces was beneficial for the Iraqis? (%)			
		Strongly agree	Somewhat agree	Somewhat disagree	Strongly disagree	Strongly agree	Somewhat agree	Somewhat disagree	Strongly disagree
Kurds	2004 (389)	18.5	13.4	17	35	43.2	18.8	9.8	10.5
	2006 (384)	9.6	16.1	27.6	20.3	8.9	20.1	14.6	25.3
Shia Arabs	2004 (591)	12.9	18.6	29.8	23.4	14.6	7.4	38.7	27.6
	2006 (746)	10.3	12.3	20.6	38.3	6.3	8.7	18.6	51.3
Sunni Arabs	2004 (130)	29.2	36.2	12.3	4.6	6.2	3.8	48.5	31.75
	2006 (124)	56.6	19.4	5.6	7.3	1.6	2.4	9.7	81.5

Table 4: the ethnic groups' perceptions of the effects of de-Baathification and dismantling the army on Iraq

In 2006, the Kurds became more convinced that the army dismantling was not beneficial and as such only 8.9% of the respondent strongly agreed to the claim. The need for an army was unquestionable because during these two years the terrorists became stronger. For the Shia Arabs and Sunni Arabs these percentages declined more, respectively into 6.3% and 1.6%. Concerning those who strongly disagreed that the dismantle was beneficial, the percentages of the 2004 and 2006 were respectively as follows: Kurds 10.5% and 25.3%, Shia Arabs 27.6% and 51.3%, and the Sunni Arabs 31.5% to 81.5%. Thus, it becomes clear that disbanding the army, which was part of de-Baathification, was seen as damaging and harming Iraq by an increasing number of the Iraqis between 2004 and 2006.

In conclusion, de-Baathification was a failure and that it generated more distrust among the ethnic groups and in the state institutions. Consequently, de-Baathification undermined the legitimacy of the political system. Through this comparison, the way the ethnic-group members perceived de-Baathification was disclosed.

Imposition of the political system in Iraq

The imposition of political systems by occupiers is quite likely to cause the ethnic groups not to grant consent to it. In a deeply divided society such as Iraq, illegitimacy and imposition should be considered differently than a homogenous society. In October 2002, months before the US occupation of Iraq, John Dower compared the US invasion of Iraq with the invasion of Japan in 1945 (Dower, 2002). Whereas the success of the US invasion in Japan could be linked to the relative homogeneity of the Japanese society and the legitimacy of the invasion in the eyes of the international community and the defeated Japanese to the official surrender of Emperor Hirohito. Iraq, according to Dower, lacked these qualities. As a result, as expected by Dower, the Americans did not succeed in imposing the political system as much as they did in Japan. In Iraq, the ethnic groups had an antagonistic history of coexistence. This makes it difficult for them to have unanimity about the benefits US presence in Iraq, unlike the Japanese homogenous society. Therefore, whereas the Kurds welcomed the US invasion and called it liberation, the Sunni Arabs in general and some Shia Arabs resisted the American presence.

Among the dangers of an imposed political system is that it contradicts consent. Then, the more perceived as imposed, the chance of not granting consent to the political system becomes higher. Nancy Bermeo states that 'every federal system that split apart or turned towards unitarism was imposed by an outside (usually colonial) power' (2002: 107). Part of the failure of any federal system is that the significant ethnic groups do not give their willing consent to it. In my interviews with Iraqi political elites belonging to significant ethnic groups, I asked the MPs and politicians the following question: *In your opinion, was the federal system of governance imposed on Iraqis by the Americans (and other regional powers) or freely adopted by the Iraqis?*

This answer to this question shows the extent to which federalism in its current form in Iraq was an imposition in the perception of the ethnic group elites. Some of the Sunni Arab interviewees considered the federal system an imposition and others did not consider it completely as an imposition. However, two points are of importance here. Firstly, this concept of imposition should not be considered as a deficiency in the federal system itself, but a problem in the processes that led to it. The processes leading to the adoption of partial ethnofederalism

can be identified by the exclusion and dissatisfaction of the Sunni Arabs. Thus, it was not because partial ethnofederalism was bad that the Sunni Arabs did not grant consent, but because they were excluded from decision-making over the details of the political system. However, as will be noticed in following paragraphs, the Sunni Arabs, in 2013, when the interviews were conducted, were no more hostile to the current political system and ethnofederalism in Iraq. Not only this, but the Sunni Arabs formally attempted to enhance federalism in Iraq by converting the Sunni Arab-dominated governorate of Salahaddin into a region. This is a clear indication of the Sunni Arabs' explicit support for a genuine federalization in Iraq. Unlike the Sunni Arab politicians, in general, the Shia Arabs and the Kurds provided clues that partial ethnofederalism was adopted with the free will of Iraqis. Secondly, it should be noted that in the referendum of October 2005, it was not only federalism that was perceived as imposed by the Sunni Arabs, but the whole political process. In that referendum, the overall constitution was rejected, including articles related to democracy and human rights. However, this should not be interpreted as the Sunni Arabs' rejection of democracy and partial ethnofederalism. Most of the Sunni Arabs had this position because they considered themselves to have been excluded from the negotiations leading to the adoption of the constitution.

The Sunni Arab MPs and politicians who were interviewed were generally doubtful about the adoption of federalism by the free will of all the Iraqis. Ayad Al-Samaraie, a Sunni Arab MP from 2006 to 2014 and the speaker of the CoR in 2009, stated that

> *The Americans neither did stand against nor forced any party in the adoption*
> *of federalism and they only played a reconciliatory role.*

For Zyad al-Zarb, a Sunni Arab MP, federalism was both adopted by the free will of Iraqis and imposed as well. This confusion about partial ethnofederalism being imposed or not, in the mind of a Sunni Arab politicians, is justified. The federal system was not imposed because the Iraqi ethnic group elites debated the issue of adopting a partial ethnofederation in the TAL and in the opposition conferences before the fall of the Iraqi Baath regime. Yet, for a Sunni Arab politician, it was imposed because they were excluded from the negotiations over the constitution drafting. Therefore, the problem was not with adoption of a partial ethnofederation but with the Sunni Arab exclusion. Burhan Faraj, a Kurdish MP whom I interviewed in 2013 stated:

> *When the constitution was drafted, all the components [ethnic groups] took*
> *part in the process but the Sunnis were not fairly represented. This explains*
> *why the Sunnis principally refused to participate in building a democratic*
> *political process in Iraq.*

Therefore, for the Sunni Arabs, it was imposed because of two points. Firstly, they were not fairly represented in all the negotiations phases. Secondly, al-Zarb (2013) stated that, because the basics of federalism were unclear to the masses (from all ethnic groups), then it was an imposition on them. According to him, the Americans exploited the unawareness of the Iraqis about federalism and worked on making them adopt it.

Saleem Al-Jibouri, a Sunni Arab MP, a member in constitution-writing committee and the current speaker of the CoR, stated

> *The Iraqi people did not accept federalism by their pure free will. Some Sunni Arab forces and parties did reject federalism and those who accepted it was out of their worry and fear from the return of centralization.*

Moreover, Saleem Al-Jibouri, as he was a constitution-making committee member, admitted the considerable influence the Americans had in the processes of inserting federalism into the constitution. He mentions an important point which is that not all the Sunni Arabs rejected federalism. In fact, the IIP (a Sunni Arab party), in which al-Jibouri was a member of, encouraged the Sunni Arabs to vote for the constitution. The main reason was firstly that the IIP was included in the discussion over amendments of the permanent Iraqi constitution before it was put for a referendum. Secondly, as al-Jibouri mentions that some Sunni Arabs suffered from the centralized system of Baath regime and for that reason they voted for federalism. Therefore, again it was an imposition for some Sunni Arabs because they felt excluded. Otherwise for the IIP it was not an imposition because they were included in constitution-making processes.

Muhammad Iqbal, a Sunni Arab MP and the current Minister of Education in the FG, added other points to the question of imposition. He believes that

> *Federalism was not adopted by the free will of Iraqis. Thus, beside some Sunni Arab parties having reservations about federalism, others did not have a clear idea of what federalism was.*

Two important points should be clarified in this quote, namely the issue of the Sunni Arabs' reservations about federalism and not having a clear idea. These reservations about federalism were about the fear of the Sunni Arabs that Iraq would be divided into three regions based on the territorial concentration of the ethnic groups[57]. The reason for such a reservation is twofold.

---

[57] This was the suggestion made by Joseph Biden and Lasely Gelb, known as the three state solution. This suggested solution was rejected by the Sunni Arabs. The suggestion cab be found on:

Firstly, the Sunni Arab areas suffer from the lack of enough oil fields that may maintain them in case of such a perceived full ethnofederation of three ethnic regions breaking apart. Secondly, the Sunni Arabs still had the nationalistic idea of being the guardian of the unity and integrity of Iraq. Due to their history of dominance in Iraq, the Sunni Arabs still considered the idea of three ethnic regions as a problem.

The issue of the not having a clear idea of what federalism meant is another important point in voting against it. In fact, the political elites who were involved in the negotiations were representatives of the political parties. Most of them did not even have a decent education let alone knowing what federalism was. In fact, I asked some of the politicians themselves, some of them were involved in the negotiations on the constitution and federalism, about *whether they had a clear idea of what federalism meant during the negotiations?* The majority of the interviewees affirmed that they were not aware of what it meant and how federalism worked, but that they acquired experience through membership in the parliament after the adoption of the constitution. The most important point that should have been clear to the ethnic groups' politicians, but was not, was the difference between partial ethnofederation and full ethnofederation and their prospects of failure or success.

From above, some points can be summed up. Firstly, partial ethnofederalism was not in fact imposed, because the Sunni Arabs had already agreed on the formal acknowledgment of Kurdistan Region. Secondly, the processes that led to the entrenchment of partial ethnofederalism in the constitution was considered by the Sunni Arabs as imposed because of being excluded and because of the influence of the CPA had on the ethnic parties attempting to make the negotiations fruitful within a set of deadlines. This second point had the greatest impact of the Sunni Arabs' refusal to give their consent to the political process in general and the constitution specifically. This means that the Iraqis negotiated the structure of the federal political system and decided upon it in its current form and it was not an imposition. Nevertheless, the Americans promoted federalism and continuously attempted to convince the ethnic groups to adopt it.

Yet, for the Kurds, the process was not an imposition. According to the Kurdish interviewees, partial ethnofederalism was the best choice for them when independence was not feasible. For example, both Lana Muhammad Abdurrahman (2013) and Najib Balataee (2013), Kurdish MPs from 2010-2014, stated that the Kurds accepted federalism only after considering the reality of Iraqi politics on the ground. Otherwise the Kurds have had the dream of declaring

Biden, J. and Gelb, L. (2006b) 'Unity Through Autonomy in Iraq', *NewYork Times*. [Online] Available at: http://www.nytimes.com/2006/05/01/opinion/01biden.html?pagewanted=all&_r=0 (Accessed: 05.11.2015).

an independent state. Therefore, for them, partial ethnofederalism is a willingly accepted formula because they negotiated it with the other ethnic groups and they voted for its adoption in October 2005 referendum. I interviewed a Kurdish MP, Ashwaq Jaf, who stated that

> *We [the Kurds] were independent before and ruled ourselves from 1991 until*
> *2003, yet we voted for being a part of Iraq because of this constitution, which*
> *is really ideal and has preserved the rights of the Kurds.*

Narmin Osman, a Kurdish ex-Minister of Women Affairs, reaffirmed that partial ethnofederalism was freely adopted by the Kurds. Furthermore, as mentioned in chapter three, federalism was adopted by the parliament of the Kurdistan Region in 1992, more than a decade before the invasion of Iraq in 2003. Khalid Shwani also added that not only the Kurdistan Region parliament adopted federalism but later

> *Federalism was also reaffirmed as the future political system of Iraq in later*
> *conferences of Iraqi opposition forces.*

The Shia Arab MPs had different viewpoints about the imposition or otherwise of the federal system in Iraq after 2003. Hasan Al-Sned, a Shia Arab MP, believes that

> *Federalism was adopted by the free will of the Iraqis and was not an*
> *imposition of the Americans.*

Of course, by referring to the free will of the Iraqis, al-Sned refers to the negotiations that went on between the political elites. In fact, the Shia Arabs were a fundamental part of the negotiation on the nature of the political system. Accordingly, the Americans did not impose the political system. In fact, the issue of imposition might be prone to different interpretations. For some of the politicians, imposition may mean an imposed ready-made pattern of federalism. In this sense, imposition exists only when a template is accepted with no discussions. However, for some others, imposition exists when occupiers had influence over the political elites either through persuasion or coercion. For example, a Shia Arab MP, Abdulabbas Al-Shya', reaffirms the role that the Americans played in promoting federalism and pushing the parties towards accepting it. He states that

> *The role of the Americans in the adoption of federalism is undeniable.*
> *Moreover, the Americans were very influential in pushing for agreement of*
> *all the political parties.*

Hussein Al-Safi, another Shia Arab MP, asserted that federalism was not adopted with the free will of the Iraqis and that the will of non-Iraqi actors interfered, i.e. Americans and other regional powers.

Overall, from the viewpoint of most of these Iraqi elites we can conclude that, firstly, the Americans did not directly impose a certain federal structure on the Iraqis. However, the processes that led to the adoption of federalism in Iraq were considerably influenced by them in terms of promoting it. Secondly, the Sunni Arabs looked at the political system as imposed more than the other ethnic groups. Therefore, the Sunni Arabs, because they were excluded from the political processes leading to drafting the constitution, perceived the political system as imposed. Yet, as I mentioned above, this should not be interpreted as not accepting partial ethnofederalism by the Sunni Arabs. In brief, they considered the political system as imposed because they were excluded, yet they had already acknowledged the existence of the Kurdistan Region. This feeling of imposition led the Sunni Arabs to reject granting consent to the political system. Consequently, this resulted in widening the gap between them (as an ethnic group) and the formal structures and roles.

Conclusion

This chapter is a significant contribution in investigating the question of partial ethnofederalism and political instability in Iraq. Partial ethnofederalism should not be blamed majorly for political instability in Iraq. Yet, the question is what can explain the existence of political instability in Iraq? This chapter offers an alternative explanation to those who hold partial ethnofederalism as responsible. The first alternative explanation discussed in this chapter was the lack of consent of the Sunni Arabs in rebuilding of Iraq's political system. Accordingly, this lack of consent resulted from three factors: rule of occupiers, de-Baathification, and imposition of the political system. Each of these factors contributed influentially to political instability in Iraq. In verification of such a claim, both quantitative and qualitative data are utilized. Along with the next two chapters that are about major deficiencies in the processes leading to the adoption of the political system and deficiencies in the structure of specific institutions, this alternative explanation is an original contribution in illuminating the role that of not granting consent, rather than partial ethnofederalism, played in Iraq in leading to political instability.

Chapter 5. Process Deficiency: The Second Alternative in Explaining Political Instability

Introduction

Process deficiency is the second alternative in explaining political instability in Iraq. The first was the insufficient legitimacy of the institutionalization process. The principal contribution of this chapter and the next in the whole dissertation is that they fill the gap created by being unpersuaded by the claim that partial ethnofederalism has been a major cause of political instability. This chapter and the next are linked with the previous chapter, which was about the illegitimacy of the political system, in that they together explain the principle reasons behind the existing political instability in Iraq. Having said this, it does not mean that other factors, such as the influence of external actors, are denied to have had an effect on political instability in post-invasion Iraq. It is to assure that these two internal factors have contributed more than the others in exacerbating the political situation.

This chapter is built upon a discussion of some basic questions that are related to the nature of the deficiencies (either in process, this chapter, or structure, the next chapter) and the extent they have contributed to increasing the potential for instability in Iraq. The basic questions are how can deficiency (process or structural) become central to the study of ethnofederalism and its institutions? How is deficiency defined in relation to both the context (Iraq) and the subject (ethnofederalism)? How and to what extent can process deficiencies explain why there exists political instability in Iraq? Why do these process deficiencies exist and what are their origins in Iraq?

Except for the section that conceptualizes 'deficiency' in relation to structure and process, the focus of this chapter is on deficiencies found in the processes of rebuilding Iraq. The term 'deficiency' is related to the inability of these processes to generate and maintain the sense of *partnership*[58] necessary to the success of a new political system, such as partial ethnofederalism in Iraq. Partnership, as discussed below, is about the ethnic groups' commitment to fair bargaining and trying to arrive at a consensus or, at least agree, on the fundamentals. This partnership sense should accompany the negotiation processes leading to the establishment of any democratic political systems, including partial ethnofederalism. Thus, partnership is treated in this dissertation as a condition that should exist in the processes leading to the adoption of partial ethnofederation, i.e., only when it is a DV, rather than an essential component of it.

---

[58] These terms will no longer be italicized in this dissertation.

The Centrality of Deficiency (Process or Structure) in Explaining Political Instability

Deficiency (process or structure) is another variable that explains why political instability subsists in Iraq. Some processes precede the establishment of institutions. Such processes influence the design of the institutions and their outputs. Furthermore, institutions matter in ethnic conflicts by either mitigating or exacerbating the severity of a specific conflict. Stefan Wolff states the presence of a wide agreement on the impact of institutions in divided societies, either through disadvantaging or advantaging specific ethnic groups (Wolff, 2011: 1778). For this reason, several theories and mechanisms (federalism, consociational democracy, and integrationist approach) are continuously developed with respect to addressing how best to design institutions. The aim of all the theories is to found institutions that would lead to political stability. Nevertheless, institutions are not always designed appropriately. Thus, institutions frequently result in exacerbating and complicating the existing ethnic conflicts. Horowitz (1993: 18) states that even democracies fail because of 'inaptly designed institutions'. Accordingly, to avoid inept institutions in divided societies, deficiencies in the processes leading to their establishment should be avoided.

Deficiency in process means that, as in post-2003 Iraq, the processes through which the institutions were founded lack the sense of partnership among the parties involved in designing the political system. Partnership in process means that ethnic groups (via elites) respect cooperation and stay committed to bargaining until they reach an accommodation. In this chapter, the focus of seeking deficiency will be principally on the processes that led to the establishment of partial ethnofederation in Iraq.

Deficiency is defined in two senses in this dissertation firstly, as the lack or not having enough of federal processes (this current chapter) and/or secondly, as weaknesses or faults in the structure of some state institutions that are non-ethnofederal in nature (next chapter). During the former, partial ethnofederalism was in the process of the making (a DV), yet in the latter it is a combination of IV and DV. These two senses of deficiency, structure and process, are termed as 'lack of partnership'. The processes of building the system and the structures of the state institutions are described as deficient when they are incapable of including, maintaining, and generating a sense of partnership. Yet, it is fair to ask what partnership is. Who are the partners? In fact, any federalization attempts should entail both process and structure (Elazar, 1985: 22; Elazar, 1980: 7; Steiner and Dorff, 1985: 49).

Daniel J. Elazar endeavored continuously to provide the students of federalism with a clear sense of what partnership means in a federal context. To understand what Elazar means when

he mentions 'the sense of partnership', his framework of federal structure and process should be first investigated. Among the ambiguities, Elazar (1980: 7) discovered concerning federalism as a theoretical and operational concept was that federalism is not only about structure but equally important about process too. He criticized the solely structuralist readings and evaluations, such as Kenneth Wheare's theory of federalism. He stated that although the structure of the federal state should never be underestimated, it should not be considered as 'the be-all and the end-all of the concern of the federal arrangements' (Elazar 1985: 22). For Elazar, structure is the formal requirement of a federation, i.e. a political system with at least two tiers of governments, each with its autonomy guaranteed in the constitution and each with its political institutions. He rejects the assumption that having a federal structure alone would produce a functioning federal system. Elazar writes (1987: 68) 'if a federal structure exists without a correspondingly federal process, there is evidence to indicate that, although it may have some impact on the processes of governance even if the latter are not ultimately federal, in the last analysis, its impact will be secondary'. However, if process is that vital for a functioning federal system, then what does 'process' mean?

Steiner and Dorff confine the federal process to decision-making. They define process as 'the dynamic day-to-day interactions among decision-makers: how they move an issue from arena to arena, the coalitions and bargains they form, the modes with which they make their decisions, and the way they implement these decisions' (1985: 50). For Elazar, the federal process has a basic element that is 'a sense of partnership' among the parties of the federal compact. Accordingly, this partnership is 'manifested through negotiated cooperation on issues and programs and based on a commitment to open bargaining between all parties to an issue in such a way as to strive for consensus or, failing that, an accommodation that protects the fundamental integrity of all the partners' (Elazar 1987: 67). Thus, according to Elazar, partnership is identified by the existence of negotiated cooperation, commitment to open bargaining until reaching consensus or otherwise/ and an accommodation that preserve the fundamental integrity of the participants. Although in agreement with Elazar's position that structures are not sufficient for understanding federalism, Robert H. Dorff (1994: 101) asserts that Elazar, in his definition of process, left terms such as 'open bargaining' and 'accommodation' operationally undefined.

To overcome this definitional problem, let us start from defining the first term in Elazar's conceptualization of process, i.e. negotiated cooperation. To explore this term, a journey through Elazar's book 'Exploring Federalism' (1987) reveals a great deal about what he meant by it. Elazar refers to federalism as a social contract in which the 'society must be built on the basis of coordinative rather than subordinative relationships, emphasizing partnership among

parties with equal claims to legitimacy' (1987: 116). In this quote, the idea of treating all the parties of the federal compact as vital for the functioning of the federations is highlighted. Cooperation exists accordingly when the parties (ethnic groups in Iraq) treat each other as indispensable in the processes of building and maintaining a political system. Elsewhere in the book, Elazar reaffirms this notion by stating that 'federalism can exist only where there is a considerable tolerance of diversity' (1987: 181).

The second manifestation of partnership is the commitment of the ethnic group elites to open bargaining to reach consensus. Bargaining is defined as a situation 'when two or more players - individuals, organizations, parties, corporations or states - make a tangible effort to reach an agreement over the mode of allocation, distribution or redistribution of scarce resources' (Doron and Sened, 2001: 7). What is crucial about bargains in a divided society is that each side attempts to attain the best deal possible for itself and convince the others that the terms it offers are worth accepting. The importance of bargain is that it becomes the alternative to resorting to hard power in approaching the problems. In the context of Iraq, the parties that were/are to bargain on in the process of building a new structure for running the state were the three mentioned most influential players (Sunni Arab, Shia Arabs and Kurds), plus some other less influential ones, such as the Turkomans. The scarce resources on which these parties bargain/have bargained over ranges from the structure of the state's political system to bargaining over the establishment, deletion, or adjustment of other individual institutions of the state. Furthermore, because process, in the Elazarian sense, is continuous and thus bargaining should be as well.

Political bargaining can become 'open' in two aspects: first, in terms of the participants and secondly, in terms of the bargaining agenda. Bargaining may vary in 'openness' towards participants. It is open when the influential elites who represent influential parties, i.e., the main ethnic groups, are involved in all the stages of the bargaining. In terms of agenda, bargaining is open when the programs and visions of the different ethnic groups are thoroughly discussed, yet with 'mutual forbearance and self-restraint in the pursuit of goals, and a consideration of the system as well as the substantive consequences of one's acts' (Elazar, 1987: 154). According to Elazar, this sort of fair bargaining, in which each side practices self-restraint in the pursuit of goals, may lead to consensus. However, in a divided society in transition from authoritarianism to democracy, such self-restraint can hardly exist. Each group has its fears and tries to get the biggest share. These groups usually have a history of relegation under dictatorship and authoritarianism and need to guarantee that marginalization would not happen again under democracy. Thus, reaching a consensus through bargaining is hard. Nonetheless,

when consensus is almost impossible, the parties should alternatively reach an accommodation that preserves the fundamental integrity of each of them.

Political accommodation is defined by Arend Lijphart (1968: 103) for the context of Netherland as 'the sense of settlement of divisive issues and conflicts where only minimal consensus exists'. Accordingly, in political accommodation, pragmatism should reign even when the problems are of an ethnic nature and seem to be irreconcilable. However, for political accommodation to take place 'there must be a *minimum* of agreement on fundamentals' and 'that the *leaders* of the self-contained blocs must be particularly convinced of the desirability of preserving the system' (Lijphart, 1968: 103-104, Italics in original). In Iraq, political elites should have been convinced by and agreed on fundamentals, such as preserving the unity of the state, maintaining its partial ethnofederal political system, and abiding by the articles of the permanent constitution. Most importantly for Elazar, when consensus is replaced by accommodation the fundamental integrity of the ethnic groups should be preserved. The term 'fundamental integrity' refers to each group's 'willingness to take political action through the political arts of negotiation even when the power to act unilaterally is available' (Elazar, 1987: 181).

The link between these three elements, which Elazar included in his conceptualization of process, leads to a situation where pragmatism prevails among the elites of the ethnic groups and thus issues and problems will be settled in a more peaceful manner. In the course of building ethnofederal structures, the different ethnic groups should be considered as fundamental and indispensable to the political process and relations among them based on coordination rather than subordination (negotiated cooperation). Secondly, ethnic groups should make serious efforts towards consensus through a process of bargaining, with at least the participation of all influential parties and with their agendas bargained through. As Elazar puts it 'the usual prerequisite to action in federal systems is the ability to build consensus rather than the power to threaten coercion' (Elazar, 1987: 181) (open bargaining). Finally, the parties of the federal compact, when consensus is improbable, should peacefully settle the disputed issues and conflicts and, at least, have minimum agreements of the fundamentals (political accommodation). To what extent these three elements of the federal process existed when Iraq was in the process of rebuilding after 2003 is investigated below after studying the importance of partnership.

Why is a sense of partnership significant in the federal processes of building a partial ethnofederation? The answer lies in Elazar perception of federalism. Elazar (1987: 12) states that 'the essence of federalism is not to be found in a particular set of institutions but in the institutionalization of particular relationships among the participants in political life'. This

quote should not be interpreted to imply that Elazar downgrades the importance of institutions. On the contrary, he gives appropriate weight to the structure and institutionalization, as mentioned above. However, in the processes preceding the establishment of federal structures (when partial ethnofederation is a DV), the extent to which the relationship between the parties to the federal compact is characterized by partnership sense will later reflect on the functionality of the institutions (when partial ethnofederation is basically an IV). Thus, the more the federal processes involve a considerable amount of partnership, the more federal structures are expected to be functional and more politically stable. What is to be added to the process-structure concept is that the federal structures should also be able to regenerate and maintain the sense of partnership. The federal structures should be designed in a way that helps the processes to enjoy more partnership, and not in a way that may make the processes paralyzed. Then processes and structures should be linked via a continuous process of generating and maintaining partnership. That is, they should form a 'virtuous circle'.

One shortcoming of the partnership concept by Elazar is that it is mostly explored in the context of the USA. Thus, in application of the concept in Iraq, a partial ethnofederal state, partnership should be redefined in terms of the influential parties that constituted the federal compact. In the USA, the partnership sense is implemented on intergovernmental relationships, i.e. federal and state levels of governance. These two layers of governance are considered vital to US federalism. However, in Iraq, the partnership sense should be assessed and evaluated on the following two levels. Firstly, it should be considered at the level of the relationship between the FG, Kurdistan Region, and the GNOR. Secondly, the partnership sense should be evaluated between the three most influential ethno-religious, namely Shia Arabs, Sunni Arabs, and Kurds.

Thus, the partnership sense should be evaluated and assessed at both levels, i.e. intergovernmental relations (structure in the next chapter) and amongst the elites of the most influential ethnic groups (process). The intergovernmental aspect of partnership should make the three main, aforementioned, levels of governance in Iraq feel that they are real partners in making decisions in the country. Each of these levels should be involved and treated as vital in setting the agenda and strategies followed by the federal state. Furthermore, they should also be considered as an integral part in the negotiations that may lead to solutions to the pending problems and thus, play a pivotal part in political accommodation. As for the significant groups in Iraq, partnership is the perception that each of them is vital and indispensable for the establishment and maintenance of a functioning ethnofederal structure. Exclusion of any of these influential parties to the federal compact in the process of decision-making should not be an option against any of the groups. These ethnic groups should then openly declare that they feel included in the processes and that they are influential in deciding upon the political

structures that are to be adopted, adjusted, or maintained. If the structure of the political system, including the formal institutions, were built whilst a significant ethnic group or more was excluded from the building processes, then according to the historical institutionalism's theory of path dependence, discussed in chapter six, this leaves its own reflections and impact upon the future political processes and structures. The next section shows the ways in which this partnership did not happen in post-2003 Iraq.

In conclusion of this section, partnership was redefined, to suit the context of Iraq, to be assessed and evaluated on two vital levels, i.e. intergovernmental (structural) and ethnic elites' relationships (process). Partnership is a relative concept. The more a sense of partnership exists on both levels, the more the gap narrows between the formal and informal roles and structures and consequently more political stability. To evaluate whether there has been a sufficient amount of partnership on both levels, its components should be investigated in post-2003 Iraq, namely, whether the relationships were coordinative or subordinative and to what extent open bargaining existed. Furthermore, when consensus was improbable, what sort of political accommodation was arrived at and if the fundamental integrity of each party was preserved in it. For evaluating the extent to which partnership existed on both levels, this dissertation provides evidence proving that none of the above components of partnership existed to a sufficient extent in post-invasion Iraq. The term 'sufficient' in this context refers to both intergovernmental and ethnic elites' open acknowledgment that firstly, they have been included in the processes of designing the structure of the state institutions (including ethnofederal institutions) and its political system. Secondly, their open acknowledgment that they have been an indispensable part of the bargaining process of rebuilding Iraq and that their agenda was fairly bargained. Thirdly, the bargaining parties unable to reach consensus, they arrive at a political accommodation that preserved their integrity (the least satisfactory political accommodation).

The Four-stage Processes

As mentioned above, partnership should be evaluated on the level of ethnic groups' relationships and the level of intergovernmental relationships. The existence of partnership is investigated on the level of ethnic group relationship and the next chapter deals partly with the level of intergovernmental relationships. In this evaluation of the extent to which partnership existed in the processes leading to the establishment of a new political system based on partial ethnofederalism and democracy, four stages are highlighted. These stages are the formation of the CPA and IGC in Iraq, the drafting of the TAL, the drafting of the permanent constitution,

and the post-referendum period. Each stage is evaluated in terms of the presence of the sense of partnership.

In an assessment of the IGC period, it would be absurd to assess the existence of partnership on the intergovernmental level because none of the levels of governance (federal, regional, local) did formally exist. Those who bargained about the establishment of a new structure for the Iraqi state were the representatives of the ethnic groups supervised by the CPA. The CPA, according to Regulation Number 6, predetermined the structure of the IGC in the sense of membership, structure, and powers. The CPA structured the IGC in a manner that the Shia Arabs became the majority with thirteen members out of twenty-five, whereas the Sunni Arabs and the Kurds each had five members, in addition to one Christian, and one Turcoman.

Scholars have commented on the formation of the IGC according to such a preset proportionality (Dawisha, 2005: 727; Aitken, 2007: 256). The appointment of the CPA members and the proportion in which the groups were represented was predetermined based on the US perception that the Shia Arabs were the majority (Bremer and McConnell, 2006: 93) and the Kurds and the Sunni Arabs had almost the same proportions. Al-Ali comments on the way the CPA established the IGC as considering Iraq 'no more than a combination of ethnic and religious groupings' (2014: 77). The IGC suffered from deficiencies such as not being considerably inclusive of all the Iraqi ethnic groups such as Yazidis. Besides, it was an appointed body rather than elected. Furthermore, the IGC was made up mainly of Iraqi exiles who were not extensively aware of the Iraqi society's problems (Wippman, 2004: 35). In brief, the IGC had a predetermined composition, not sufficiently inclusive, lacked real decision-making power, and lacked representativeness.

Ali Allawi, the three times Minister (Trade, Defense, and Finance) in Iraq from September 2003 to May 2006, relates that the selection of the 25 members of the IGC was according to some specific formula such as accepting 'the principle of ethnic and sectarian balance in the governing authority' (Allawi, 2007: 164). This led to handing the majority of IGC seats to Shia Arabs whereas no reliable data was available that could prove the percentages of the ethnic groups represented in the IGC. In fact, the most reliable census was carried out in 1957 (Anderson and Stansfield, 2009: 42). Consequently, this reflected on the lack of consensus in the IGC, especially in the aspects that the CPA devolved authorities to IGC.

The CPA was the central political actor that had the absolute power over rebuilding the Iraqi state institutions since May 2003 until its dissolution in June 2004. Although it created the IGC to legitimize the CPA's existence in the eyes of the Iraqis, according to the CPA Regulation Number 6, the IGC did not have much power in the strategic decisions. However, two important events preceded the establishment of the IGC, namely de-Baathification and the dissolution of

the army. These two events had a substantial role in the political process in Iraq. They resulted in delegitimizing the US presence and contributed to the worsening political instability. The consequences of these two processes were many such as thousands of people losing jobs and the start of the Sunni Arabs insurgency (Khalilzad, 2010: 43). The establishment of the IGC, a body of Iraqis proportionally representing the main Iraqi segments, was partially a step intended to ease the tense created by these two prominent events.

Bensahel and others (2008: 106) state that the IGC was acting as an Iraqi advisory group and did not have much decision-making powers except for the cases of the Iraq Special Tribunal and the implementation of de-Baathification. De-Baathification has become one of the most influential factors that minimized the chances of the Sunni Arabs inclusion in the government. The Shia Arabs, who have been controlling this institution since 2003, were seeking a thorough de-Baathification (Allawi, 2007: 151) which meant a replication of de-Nazification. What allowed the Shia Arabs to control this institution of de-Baathification was because Paul Bremer, the CPA head, appointed a Shia Arab to head this committee. This position remained with the Shia Arabs because they were the majority and insisted on taking it to use it as a political tool. The Shia Arabs never allowed the Sunni Arabs to run and head de-Baathification because they doubted that the Sunni Arabs could manage it as properly as the Shia Arabs do because most of the high-rank Baath members were Sunni Arabs. However, the Sunni Arabs resisted the way de-Baathification was implemented as this process negatively disturbed them more than the others. This has negatively affected the rebuilding process and the relationships among the ethnic groups, especially the Shia Arabs and the Sunni Arabs. Thus, the Sunni Arabs felt that they were targeted by the de-Baathification and some of them called it 'de-Sunnification (Allawi, 2007: 152). In brief, the IGC was established more as an advisory group to CPA, yet it had the implementation authority of transitional justice in which there was no consensus at all. Neither a political accommodation was reached in this regard by the ethnic groups nor did the Sunni Arabs acknowledge that their integrity has been preserved.

On November 15, 2003, the CPA had the IGC, some believed the CPA forced the IGC (Al-Istrabadi, 2009: 1634), to sign an agreement known as November 15. This agreement set a roadmap for writing the transitional Fundamental Law and set the deadlines for the establishment of a transitional government to replace the IGC (GPF Website, 2003). Moreover, and most importantly, this document specified the general themes on which the Fundamental Law (later known as TAL) was to be constituted. This left the elites of the ethnic groups with a predetermined agenda for the future political system in Iraq. This predetermination was problematic because it became the political norm followed in the establishment of any other institution. Predetermination polarizes politics around ethnic groups and makes them the

defining feature of politics. Furthermore, predetermination does not let elections decide the weight of the ethnic groups in government institutions.

The predetermined make-up of the IGC influenced the later political events after its dissolution. The IGC established the first post-2003 cabinet composed of ministers appointed by the members of IGC. The mechanism was that each of the IGC members could appoint one minister in the cabinet (Arif, 2013). The agreement on ratifying the TAL was the main achievement of the IGC. According to Article 2 of the TAL, an interim government should replace the IGC on 30, June 2004. The Interim Government was to 'be constituted in accordance with a process of extensive deliberations and consultations with cross-sections of the Iraqi people conducted by the Governing Council and the CPA and possibly in consultation with the United Nations' (TAL, 2004: Article 2 B1). However, this promise of extensive deliberation was not fulfilled, as the rushed schedule of the US, alongside internal and external pressures, did not leave sufficient time for it. The Interim Government was tasked to prepare for a general election for the Iraqi assembly no later than 31, January 2005 (TAL, 2004: Article 2 B1). The assembly would have two main tasks: first to found a transitional government and secondly to design a new permanent constitution. However, these processes did not proceed smoothly as they were marked by Sunni Arab boycotts. These Sunni Arabs boycotted January 2005 elections and this left its mark on the design of the institutions and, most importantly, on the permanent constitution.

The importance of TAL lies in that, according to November 15 agreement and as it took place later, firstly, it would become the primary text for drafting a permanent constitution for Iraq. Secondly, it had to have deadlines for vital processes that would have to take place in Iraq, such as elections, drafting the permanent constitution, and referendum on the constitution. All the deadlines were met, yet mainly with the substantive pressure from the CPA and the American Administration. These deadlines had critical implications such as depriving the TAL of receiving sufficient bargaining from the elites of the ethnic groups, thus they made it impossible to reach a consensus on its content. These deadlines had another a negative impact even on reaching a political accommodation. Paul Bremer, the Head of the CPA, became concerned that the deadlines could not be met with the slow progress the Iraqi elites were making in terms of finalizing the TAL that was due on 28th February 2004. Bremer had a meeting with Adnan al-Pachachi, a Sunni Arab and the January head of the IGC, in which Bremer withdrew the responsibility for writing the TAL from Iraqis back to the CPA (Allawi, 2007: 221). Rushing to meet the deadlines, Bremer did not wait for the Shia Arab and the Sunni Arab representatives to bargain openly with the Kurds, but rather he shouldered the responsibility of negotiating and coming to terms with the Kurds (Allawi, 2007: 221).

Moreover, Bremer imposed the terms of his agreement with the Kurds on the Shia and Sunni Arabs. All these accounts provide evidence that the process of preparing the draft of the TAL largely lacked real partnership sense that should have existed in any federal process. In March 2004, the TAL was signed and became the roadmap for the next elections, for drafting of the permanent constitution, and for referendum on the constitution. In brief, the TAL has left its fingerprints on later processes and structures.

The most vital among all the political events in post-2003 is the process of the preparation and ratification of the Iraqi permanent constitution. The importance of the constitution lies in the following points; first it lays down the basics of vital federal institutions. Furthermore, the constitution provides the initial description of the federal system in Iraq. Secondly, the constitution is the formal institution that structures the formal options and strategies within which the political actors behave. Thirdly, the ratification of a constitution by the people of a country is part of their consent of granting legitimacy to the state institutions. Therefore, having an agreed upon constitution is a component of legitimacy (Dahl, 1998:126)

The process of the preparation and drafting of the permanent Iraqi constitution may also be characterized as lacking a sufficient amount of partnership. Here, it is important to differentiate between the process of drafting the constitution and the constitution itself. The former is studied under process deficiency whereas the latter is studied under structural deficiency in the next chapter. This stage can be identified by the exclusion of a significant segment in Iraq, namely the Sunni Arabs. A brief account of the historical milestones in the process of drafting the permanent constitution clearly proves the above claim. On January 30, 2005, the first parliamentary elections in the post-invasion Iraq were carried out (Morrow, 2005: 2), yet the majority of the Sunni Arab parties boycotted it for prior dissatisfaction over the TAL and the political process, especially de-Baathification (Bennis, 2005). This boycott resulted in the Sunni Arabs being an insignificant minority in the Council of Representatives, as they had 17 MPs out of a total of 275 (ICG Report, 2005: 4), i.e. this roughly stands for approximately or less than a third of the Sunni Arab size in Iraq.

According to Article 61A of TAL, the deadline for approving the draft permanent constitution was August 15, 2005. The duration between the January elections and the preparation of the final text of the constitution text was six and a half months. However, it took the Iraqi segments three months to establish a government and another month to form the Constitutional Drafting Committee (CDC) responsible for preparing a draft of the constitution to be submitted to the Transitional National Assembly, according to TAL. On May 28, 2005,

the CDC had its first meeting of its 55 members, who were appointed based on the size of the parliamentary blocs (Brown, 2005: 4)[59] within which the Sunni Arabs were not represented.

The Americans attempted, after holding some significant preliminary sessions of the CDC, to include American-selected Sunni Arabs and a decision was made about this on June 16, 2005 (Morrow, 2005: 2). The inclusion of the Sunni Arabs was to achieve consensus by involving all significant groups in the process of constitution-making. Fifteen Sunni Arabs were chosen by the Americans to negotiate on behalf of Sunni Arabs in late June 2005 and the first meeting they had as CDC members was on July 8 (Morrow, 2005: 9). Nevertheless, these members suspended their membership in CDC after one of the Sunni Arab CDC members, Mijbil Isa, was assassinated on July 19 (Radio Free Europe, 2005) apparently due to the lack of enough security guards. It took the Sunni Arabs more than a week to re-join the CDC. Surpassing the TAL deadline, the CDC submitted its final draft of the permanent constitution to the Transitional National Assembly on 28th of August. However, in reality, this was never the final version and political leaders in Iraq and the Americans were working continuously to sweeten the deal for the Sunni Arabs to vote 'Yes' for the constitution. Thus, political meetings to reach a political accommodation, when consensus was improbable, with the Sunni Arabs continued to less than one week before the referendum was held on October 15, 2005. Yet, the vital question is how the Sunni Arabs perceived their role in CDC and the overall political process by then?

In his speech on October 12, 2005, the US ambassador to Iraq, Zalmay Khalilzad, stated that the Iraqi leaders, those who participated in the democratic process and those who boycotted, decisively settled their differences and were dedicated to voting 'Yes' in the referendum. Moreover, those participating (Kurds and Shia Arabs) and boycotting (Sunni Arabs) 'have discussed, argued, consulted their constituents, and reached compromises' (Khalilzad, 2005) on the constitution. However, the actions and sayings statements of the Sunni Arabs in CDC and outside it contradict this statement and confirm that their participation in decision-making over the structure of the state was marginal[60].

Tariq al-Hashimi, the ex-Secretary General of the IIP (a Sunni Arab Party that, in the end, decided to support the constitution) stated that 'We (the Sunni Arabs) struggled to participate

---

[59] The constitutional committee was composed of 55 members: 28 Shia Arabs, 15 Kurds, 8 Secular Shia and Sunni Arabs, and the four remaining seats were occupied as follows: one for the communists, one Turcoman, one Christian, and one Sunni Arab (Otterman, 2005).
[60] The following quote is for Mijbal Isa, a Sunni Arab CDC member, half an hour before his assassination 'Our Kurdish and Shiite brothers are trying to impose their notion of federalism without consulting us. They have already made their own decision. We, Sunnis, joined the committee very late. They thought they had chosen the Sunnis who would not discuss matters with them' (ICG Report, 2005: 3).

in the drafting, but at the end of the day our role was one of advisers at most. We are very frustrated and disappointed' (ICG Report, 2005: 4). The results of the referendum (BBC News, 2005) reveal how dissatisfied and disappointed the Sunni Arabs were. Summarizing the process of making a permanent constitution for Iraq, drafting and adopting the permanent constitution seriously lacked a sense of partnership, which is fundamental to a functioning federal arrangement. This process, largely, lacked consensus and lacked bargaining through the agendas of all significant groups (Hamoudi, 2013: 10). Even when a political accommodation was reached, it was unsatisfactory to the Sunni Arabs and it did not preserve their integrity.

All things considered, the process of constitution-making in Iraq had gone through some other problems. Horowitz asserts that in divided societies, it is essential to assure the best configuration of the institutions in a way that leads to a decline in the ethnic tensions and conflicts (Horowitz, 2008: 1213). He refers to some of the problems that may occur in constitution design (Horowitz, 2008: 1227-1228). Firstly, the groups make constitutions in times when their relationships are in crisis. In fact, in Iraq, the constitution was written under the US occupation and in an environment of mutual distrust. The Sunni Arabs were almost completely excluded from the pre-constitutional meetings. Secondly, because of the rushed and set deadlines, somehow imposed bargains replace negotiations. There was a deadline to all the political events in Iraq after 2003; however, the time dedicated to the preparation of the constitution was insufficient. The constitution-making committee convened at the end of May 2005 and the referendum took place in October 2005, i.e. less than six months was given to this process. Therefore, the constitution was finalized by a bargain between the Sunni Arab representatives and the Shia Arabs and Kurds. The Sunni Arabs inserted Article 141 to the constitution in exchange for their agreement to pass the draft of the constitution for voting. Moreover, the Shia Arabs and Kurds have not yet seriously considered implementing the constitutionally required bargain.

Thirdly, for most of the constitution makers it is their first time, and most probably last time, being involved in such a process. The members of the constitution committee were appointed according to their ethnic belonging and political party affiliations (Glenewinkel, 2005) and not according to their competency. The overwhelming majority of them did not have any special academic background or experience in constitution-making. I interviewed Munthir al-Fadhl (2015), an expert in law and a member of CDC, who stated that

> *The majority of the selected members of the constitutional preparation committee were ignorant. In the first meeting of the committee, I told the members of the second sub-committee if they could tell the difference between constitution and law, but nobody could reply. I told them if they could tell me*

what the legal jurisprudence evidence is. Again, nobody could reply. I then asked them to tell me the difference between law, instructions, and orders, again nobody spoke. Then, I told them, Maliki was among them, if the beginning were wrong as such, then the end would be wrong as well.

Finally, most of the constitutions are products of mutual fears and inhibitions. In fact, the main significant groups in Iraq had mutual fear and distrust because of their past. This distrust and fear reflected on the results of October 2005 referendum. This Iraqi constitution was put to a referendum, however, unsurprisingly the Sunni Arabs voted against it. The two governorates with an overwhelming majority of Sunni Arabs, Anbar, and Salahaddin, rejected the constitution with percentages of 96.9% and 81.75%. The votes against the constitution in two other Sunni Arabs majority governorates were 55.08% in Mosul and Diyala 48.73%. On the national level, 21.41% of the Iraqi population rejected the constitution (BBC News, 2005), yet it is worth mentioning that the Sunni Arabs overwhelmingly voted against it (Al-Ali, 2014: 90). These figures tell us how dissatisfied the Sunni Arabs were from the constitution-making process and the overall political process in Iraq.

Although the Sunni Arabs rejected the constitution as they felt excluded, elections were carried out on 15 December 2005. Consequently, more than six months passed before the first Iraqi government was founded after the elections (Global Security Website, 2006). It is worth mentioning that some institutions were already established before the constitution was ratified, namely the FSC and the de-Baathification Committee. The constitution contained articles concerning each of these institutions. These articles include the operation principles of de-Baathification and ask for the establishment of a new structure to the FSC. Yet, so far, most of the Sunni Arabs political grievances and worries are caused by these two institutions. The Sunni Arab representatives accuse these institutions of politicization. Zyad al-Zarb (2013), a Sunni Arab MP, stated that

There is absolutely politicization and sectarianism in the FSC.

Muhammad Iqbal (2013) also confirmed the point of politicization not only in the FSC but all the state institutions. Most importantly he explained why it happened. The following quote from him, besides confirming politicization, ratifies that the grievances of the Sunni Arabs were basically generated because of being excluded from the political processes that led to the ratification of the constitution. He states that

Politicization is in all institutions due to the absence of the Sunnis in the political process in 2005.

By politicization, these politicians refer to the notion that the institutions no longer represent and act according to the interests of all the ethnic groups equally, but rather monopolized by a segment or a political group and directed against the interests of others.

Not only have the Sunni Arabs but also the Kurdish politicians had the same concerns about the politicization of state institutions, especially the FSC. In their opinions, the FSC is not a trustworthy institution as they consider it a puppet in the hands of the Shia Arab politicians, especially, the ex-PM Nuri Al-Maliki. In an informal conversation in 2013, one of the Kurdish MPs told me that Kurds did not dare to approach the FSC for a final solution to the pending issues between the FG and Kurdistan Region. The reason, he explained, is that

> *The Kurds think the FSC is politicized and most probably decide in favor of the FG. Furthermore, as the decisions of the FSC are binding, the Kurdish MPs favor the pending issues remain pending rather than referred to the FSC.*

The last stage in discussing the existence of partnership in the processes of rebuilding the Iraqi state on a democratic and ethnofederal basis is the aftermath of the October 2005 referendum. The permanent constitution was voted for by the majority of the Iraqis and yet refused by the absolute majority of the Sunni Arabs. Yet, the extent of the partnership sense should also be studied in the processes after the adoption of the constitution.

After the adoption of the permanent constitution in Iraq, the Sunni Arabs realized that they had no choice but to find a way to attain the most from the constitution. The main reason was the Sunni Arabs' estimation that they could no longer reject the constitution as the more they do, the more deprived from the state's rare resources they would become. As Hamoudi (2013: 62) noted it took the Sunni Arabs about three years only to start blaming their Shia Arab counterparts for not abiding by the terms and articles of the constitution. Muhammad Iqbal (2013) restated the same notion in relation to the Sunni Arabs' perception of federalism. He said that

> *I believe that the best mechanism to preserve the integrity of Iraq is federalism especially in this state where there exists sharp conflict and various components. Thus, it is of justice that each component [ethnic group] should take its share from wealth and authority and each governorate enjoys its share in administration of its affairs.*

This reservation as explained before was chiefly concerns about Iraq becoming a full ethnofederation. According to article 119 from the constitution, Iraq has the potential to become

a full ethnofederation as the number of the governorates that could merge to become a region is not limited. Thus, there is a possibility of establishing a Shia Arab region in addition to the already acknowledged Kurdish Region. Yet, when the Sunni Arabs took part in the government formed in Iraq in 2006 and contributed to decision-making processes, they realized the difficulty of Iraq becoming a full ethnofederation, especially after the Shia Arabs' turn from the idea of forming a Shia Arab mega-region. Then, the Sunni Arabs realized the benefits of the current Iraqi partial ethnofederation in keeping down the secessionist tendencies of the Kurds and preserving the integrity of the state.

The reasons behind their refusal of the Iraqi constitution in 2005 referendum, according to some of the interviews, were firstly the sectarianism and non-professionalism of the IGC (Al-Jibouri N., 2013; Salih, 2013). Secondly, for some of them, it was perceived almost as an imposed constitution written by the exiles who were largely influenced by the Americans (Al-Jibouri, S., 2013). Finally, another reason was the partial and unfair implementation of de-Baathification, and the exclusion of the Sunni Arabs from the constitution-building processes (Iqbal, 2013).

Yet, for the existence of partnership in the current processes in Iraq, the Sunni Arab politicians stated that they had worries about the procedures followed by most of the state institutions. The main source of the worries of the Sunni Arabs, in current processes, are not majorly about the constitution and partial ethnofederal institutions, but firstly in the FG's tight centralized grip on power. The FG under Maliki unconstitutionally prevented the Sunni governorate of Salahaddin from becoming a federal region. Therefore, their worries were more about insufficient federalization of the state. When these interviews were carried out, Nuri al-Maliki was the Prime Minister of Iraq since 2006 and worked hard to stay in his position for another round starting from 2014. Usama Jamil (2013), a Kurdish MP whom I interviewed, believed that Maliki had an authoritarian tendency and wanted Iraq to be ruled only by Dawa Party[61]. The Sunni Arabs believed that the source of instability in Iraq was Maliki's hegemony and authority over vital institutions (Gaylani, 2013; Salih, 2013) such as being the Prime Minister, the General Commander of the Armed Forces, the Acting Minister of Interior, and the acting Minister of Defense. Moreover, as Toby Dodge affirms, Maliki has had built his private mini-state by appointing his relatives in vital security-related positions (Dodge, 2012: 157-163).

All this has led to the second major worry of the Sunni Arabs, namely was the authoritarianism of the Shia Arab rule, in general, and Maliki's circle specifically. The Sunni

---

[61] A Shia Arab Party established in 1958. Maliki was elected to head the Party in its conference in 2013.

Arab politicians stated that almost all the state institutions are politicized (Iqbal, 2013). The exclusion of the Sunni Arabs from the vital state institutions was a third Sunni Arab concern. According to the Sunni Arab politicians interviewed by the author of this dissertation, de-Baathification has led to the Sunni Arabs' exclusion from the political processes before and after the adoption of the constitution. This transitional justice mechanism, accordingly, has been implemented selectively and the Sunni Arabs have been targeted by it (Al-Jibouri, N., 2013; Salih, 2013; Gaylani, 2013; Iqbal, 2013). It has become commonplace between the Sunni Arabs that they replace the term 'de-Baathification' with 'de-Sunnification'. Yet, de-Baathification was not the only instrument through which the Sunni Arabs were excluded from the political process. Among other instruments is the Law of Terror (Gaylani, 2013) that was decreed in 2005 before the adoption of the constitution. Among the prominent Sunni Arab politicians who were targeted by the Law of Terror was Tariq al-Hashmi in 2011. Al-Hashmi was the vice-president of Iraq and even his political immunity did not help him.

The Sunni Arabs principally began to find the sense of partnership absent in the processes mentioned above. They have started to accommodate themselves within the partial ethnofederalism and its institutions in Iraq and the majority of them have begun to realize the benefits of partial ethnofederalism. In 2012, Salahaddin Governorate applied and submitted their papers for becoming a region (Al-Sumaria TV, 2012) after a survey in the governorate showed that 60 % of the people favored becoming a region (Gaylani, 2013). The importance of this is that, whereas in the past the Sunni Arabs had seen regionalization as partition of the state, now they see it as solution to the problem of exclusion and marginalization they faced due to the practices of the Shia Arab dominated government. Therefore, beside Salahaddin, other Sunni Arab governorates have seriously started attempting to become regions, such as Anbar and Mosul (Iqbal, 2013). The majority of Sunni Arabs interviewees no longer see partial ethnofederalism as a threat but as a contribution to political stability. For them, regionalization of the state narrows the gap between them and the government because it rescues them from marginalization. Salim Salih, a Sunni Arab MP from Mosul, believes that

> *The more the regions and governorates are given authorities the more positive impressions it leaves on the ethnic groups' relationships.*

As it is clear from this quote of this Sunni Arab politician, the problem is the lack of a genuine process of federalization in Iraq. Accordingly, for the sake of stability, the FG should follow strategies that lead the regions and governorates enjoy their full constitutional competencies uncurbed by any authority.

To conclude, this section focused on assessing the concept of partnership in the processes that led to the establishment of partial ethnofederation. The processes were classified into four major periods. The four periods were the reign of the CPA and IGC, the preparation and drafting of the TAL, the preparation for drafting the Iraqi permanent constitution, and the post-referendum period. These four stages were characterized by the lack of a sufficient amount of partnership and they can be identified by the exclusion of the Sunni Arabs, which was a clear breach of partnership sense.

Conclusion

This chapter offered one of the arguments made against the viewpoint that ethnofederalism in Iraq is the major cause behind the existing political instability. The main argument of this chapter was that a major reason behind political instability in Iraq is deficiencies found in the processes of rebuilding post-invasion Iraq based on ethnofederal arrangements. Partnership is not an essential component of partial ethnofederation but a condition to its ultimate workability. That, of course, makes partial ethnofederation extremely challenging to achieve in a divided society, since the sense of partnership is, almost by definition, extremely feeble. In Iraq, a good negotiation process could have made this weak sense of partnership stronger. Partnership had the components of negotiated cooperation, reaching consensus, or if impossible reaching a political accommodation that preserves the integrity of the ethnic groups and federal tiers. In post-2003 Iraq, these components of partnership did not exist to a sufficient level and thus the potential for political instability increased. Only the deficiencies found in process were discussed in this chapter and through analysis of four periods. The four periods were the reign of CPA and IGC, the TAL period, the permanent constitution drafting, and post-referendum period. The structural deficiencies in some of the state institutions will be discussed in the next chapter.

Chapter 6. Major Structural Deficiencies: The Third Alternative in Explaining Political Instability

Introduction

This chapter argues that political instability is mainly the product or the by-product of non-ethnofederal institutions and processes and the non-establishment of vital federal institutions. Thus, political instability exists in Iraq because of the non-ethnofederal institutions or the lack of sufficient federalization and decentralization. This chapter also explains why political instability has resulted from structural deficiencies. The deficiencies are called 'major' to mean that there are other 'non-major' deficiencies in other institutions. This is not to say that the non-major deficiencies have not had influence concerning leading to political instability. However, the major deficiencies have had the highest impact in this regard.

These deficiencies fall into four categories. Firstly, the vagueness and over-incrementalism of the permanent Iraqi constitution are deficiencies that explains why political instability exists in post-2003 Iraq, especially article 140 concerning the future of disputed areas. This deficiency resulted from the incomplete and rushed constitutional negotiations rather than from the ethnofederal nature of Iraq. In fact, these negotiations preceded the formal constitutional acknowledgment of partial ethnofederalism in Iraq. Secondly, the non-establishment of the FC is another major deficiency. This deficiency also upholds that Iraq is not sufficiently and genuinely federalized. The establishment of such a body, as representing the governorates and region, in Iraq could substantially lead to narrowing the gap between the formal and the informal roles and structures. Thirdly, another major deficiency is the on-going *de facto* centralized structure of the state, except in relation to Kurdistan Region, and the serious attempts of the ex-PM Nuri al-Maliki (2006-2014) to prevent and block any attempts of regionalization. This deficiency contributed massively towards widening gap between the Sunni Arabs and the Shia Arab dominated government as in the yearlong protests in Anbar and other Sunni Arab governorates. This deficiency clarifies that Iraq is politically unstable because it is not sufficiently regionalized. Finally, the structural deficiencies found in de-Baathification. For the awareness of the reader, this de-Baathification problem is not a repetition of what was presented in chapter five. Whereas in chapter five, the process deficiencies created by de-Baathification were discussed, this chapter focuses on the structural deficiencies of de-Baathification. The assumption beyond this chapter is that institutional deficiencies result in political instability. To explain such a structural outcome, a historical institutionalist approach is adopted.

Historical Institutionalism and Path Dependency

The origination of appropriate institutions that satisfy ethnic groups should be preceded by an acceptable amount of legitimacy and a process identified by partnership. If the outcome of the political process in Iraq is the widening gap between the formal and informal roles and structures, then both institutions and actors are the key contributors to it. However, not all the approaches to the study of institutions attribute equal roles to both the institutions and political actors. However, historical institutionalism best fits the principal question of this chapter which is about structural deficiencies leading to political instability in Iraq. Firstly, the historical approach fits because it does not merely depend on one factor in analyzing the outcomes of the political processes and institutions (Hall and Taylor, 1996: 937). This helps the researcher to become more open-handed in studying the influence of other factors, such as ideas and culture in the outcomes of specific political processes. Secondly, the historical approach, by focusing on the outcomes, becomes eclectic (Hall and Taylor, 1996: 940) and thus can benefit from some of the merits of other approaches. Finally, the history of the institutions is taken seriously. The proponents of historical institutionalism argue that some political outcomes of political processes cannot be adequately explained until the way these institutions are designed is studied.

Before discussing the issue of federal institutions in Iraq, the term 'institution' should be defined. Institutions are the embedment of formal and informal procedures, norms and conventions in an organizational structure in a polity (Steinmo and Thelen, 1992: 2, Hall and Taylor, 1996: 940). Steinmo (2001: 570) states that institutions are the organization of formal rules (such as constitution), and informal rules (such cultural norms), that become the foundations of political behavior. The important point in these definitions is adding the informal institutions, alongside the formal institutions, in influencing the political actions and outcomes. This can be considered a significant departure from only focusing on formal and legal institutions in studying political processes in a specific polity. This fits the adopted approach to political stability that focuses on the narrowing the gap between the formal and informal roles and structures.

The addition of informal institutions and granting them a role in influencing the origination and the outcomes of any political process is important in analyzing the possible role that ethnofederal institutions has had in Iraq in terms of political stability. Whereas the Iraqi state institutions and its political system were rebuilt anew after 2003, it becomes necessary to study other factors that contributed to this process alongside the political actors. Among the other factors was the negative impact of the previous institutions on ethnic relationships and

producing a condition of mutual distrust and fear. I interviewed Muhammad Iqbal (2013), an ex-Sunni Arab MP and the current Minister of Education in the FG, who stated that

> *The new Iraqi system was established in a wrong way and was founded on mutual fear instead of mutual trust and thus secondary identities gained more prominence than the national identity. The Shia were afraid of the old atrocities of the past happening again. The Kurds had the fear of losing the achievements they had since 1991 as they were in an economically and politically stable condition, and the Sunnis had fears from their unknown future.*

I Interviewed MP X who believed that the new state institutions were not established in a way that could remove this fear. In fact, this influentially reflected on the decisions of political actors and the design of institutions. The term 'path dependency' can be helpful in explaining why certain outcomes, such as political instability, resulted from such events of mutual fear.

 'Path dependency' is the term that the historical institutionalists utilize in explaining the origin and maintenance of institutions. Accordingly, the same operative forces do not result in producing the same outcome because not each context inherits the same factors, such as state capacities and policy legacies, from the past (Hall and Taylor, 1996: 941). This approach asserts that time and sequence of events matter in the production of particular outcomes. In other words, the order of the events leads that the adoption of a political system and its institutions and the timing of embarking on such a task are crucial evaluating the outcomes of a political process (Kay, 2005: 553). The order of these events influences how they happen and 'the strategic choices made at a particular moment eliminate whole ranges of possibilities from later choices while serving as the very condition of existence of others' (Hay and Wincott, 1998: 955). Some of these strategic choices made in the processes leading to the establishment of institutions in Iraq after 2003 served as conditions of other later choices (as discussed in chapter 5). It is vital to note that once these institutions are structured, they produce their legacies and influence the political outcomes and the behavior of the political actors.

The focus of this section was on conceptualizing historical institutionalism that can elucidate the way institutions work. Institutions are assessed through their outputs, yet the question is why some institutions may lead to political instability. What explains such an outcome is the concept of 'path dependency' which asserts the centrality of the notion that the time and sequence of events matter in producing a specific outcome.

First Deficiency: The Iraqi Constitution

Constitutions in democratic ethnofederal states may contribute to both political stability and instability. The Iraqi constitution is not an exception. An analysis of the Iraqi constitution uncovers that some articles have contributed more towards political instability than others. Among them are article 140 about the future of the disputed areas, article 135 about de-Baathification as discussed below, articles 111 and 112 about the management and distribution of natural resources, and laws left for later enactments. These articles and non-enacted laws have considerably affected the inter-ethnic political relationships and degree of partnership required to make the Iraqi ethnofederation politically stable. The main problem with these articles is either vagueness or politicization. Some other articles were considered as subsidizing to political instability, yet they no longer do so. For instance, article one of the Iraqi constitution states that Iraq is a federal state. Federalism (perceived by the Sunni Arabs as a full ethnofederation) was one of the obstacles that made the majority of Sunni Arabs vote against the constitution in October 2005. However, currently, they see partial ethnofederalism and regionalization as a solution to the problems of Iraq.

Among the constitutional deficiencies is Article 140 which has been the source of severe contentions among the ethnic groups' politicians. The importance of article 140 lies in the fact that it was originally proposed to address the past wrongdoing took place in theses territories, especially Kirkuk. This article was to address the widening gap between the informal (Kurds and Turkomans) and the Iraqi Baath regime (the formal structure) over the course of three decades. During the period of Baath reign and due to the strategies followed by the state to eliminate ethnic difference in Kirkuk, the gap widened extensively between the formal and the informal. Consequently, there was a great potential for political instability.

However, as detailed below, this article has some structural flaws that prevented it from performing its role in bridging the formal-informal gap. The potential of political instability was there in Kirkuk long before the invasion of 2003. Nevertheless, due to the structural flaws in article 140, the potential has become more distinct and visible. The potential for instability in the case of disputed territories should not be considered as an ethnofederal issue, i.e. related to the existence of Kurdistan Region. Although, the Kurdistan Region is a party in the conflict over the disputed territories, three other factors account for the instability that are nor related to Kurdistan Region. These factors are the structural flaws of the article 140, the behavior of Arab politicians concerning the implementation of this article, and the pre-2003 widened gap that caused political instability. The following paragraphs include examples of each of these factors.

This article is an extension of Article 58 of the TAL. The discussion below is about the flaws in the structure of both articles followed by a brief account of the reasons for the controversies around them. Although, most of those who have written about article 140 focus on Kirkuk as a disputed territory, other governorates such as Basra, Babil, Mosul, and Anbar have disputed territories with neighboring governorates. Thus, the 140 Committee has branches in these governorates as well (140 Committee, 2009). This focus on Kirkuk, for academics and politicians, can be justified owing to the existence of different ethnic groups and for being an oil-rich area. Frequently, researchers suggest that controlling Kirkuk by the KRG would considerably enhance the independence of Kurdistan and the disintegration of Iraq (Sevim, 2014: 16). Regarding Kirkuk, Stefan Wolff (2010b: 1362) states that in Kirkuk, compared to other disputed territories in Iraq, 'Local, national, regional and international factors and dynamics thus combine in a near-perfect storm of conflicting interests, mismatched capabilities and diverging agendas'. Following this line of argument, this research also stresses the importance of the Kirkuk case, compared to other disputed territories.

The Iraqi governments, especially during the reign the Baath, worked on Arabizing Kirkuk and on changing its demography. Many documents recorded the Arabization processes, of which some are attached in appendices. The main reason behind the Arabization policy was hefty amounts of oil reserves discovered in Kirkuk. Although oil has been extracted from its fields since 1927, Kirkuk still has over 10 billion barrels of remaining proven oil reserves (Global Security Website, 2015). Subsequent Iraqi governments perceived the existence of oil as a threat to the unity of Iraq in the event that the Kurds took control of Kirkuk. Therefore, Arabization started since the 1920s when labor was brought in from the southern Arabic areas (Letayf, 2011: 67). Patricia Letayf (2011: 67-69) argues that Arabization of Kirkuk has five stages: 1925-1958, 1963-1968, 1968-1974, 1975-1987, and 1987-2003. Arabization in Kirkuk was systematically followed by the Baath regime through changes in internal governorate boundaries, the forced expulsion of Kurds and replacing with Arab new comers from the middle and south of Iraq, the confiscation of arable and non-arable lands and granting them to Arabs, the nationality correction and other means. [62]

Article 58 of the TAL called for a remedy to these injustices through: restoring the residents, who were deported, expelled, emigrated from their homes, the resettlement of the brought-in Arabs into their original place with compensation, promoting new job opportunities for those who were forced to quit their jobs, and reattachment and detachment of certain administrative units such as towns. Finally, after these measures were taken, the fate of the

---

[62] Some of these are well documented and available on the website of the article 140 committee
http://www.com140.com

disputed territories shall be decided after a fair and transparent census that should then be followed by a referendum. Article 140 reaffirmed the implementation of Article 58 and put the responsibility for it on the executive branch of the transitional government and, later, on the executive authority formed according to the constitution. Furthermore, it clearly stated that the three stages of implementation should be completed one after another. The three-stage implementation comprises normalization, census, and referendum (detailed below). The problems with these stages are that they can be interpreted in different ways and that no mechanism for their implementation is mentioned. The deadline for the implementation of all the three phases was 31 December 2007.

The main structural flaws of this post-invasion constitutional article are the three-stage implementation complexities (no mechanism of implementation is mentioned) and the clearly stated deadline. Another rarely mentioned problem is the text's potential for politicization. The three stages of the application of article 140 are normalization, census and referendum. Each of these three stages is mentioned by name in the article, yet no details about the mechanisms, through which they should be implemented, are provided. Thus, many questions arise without receiving constitutional answers. According to the Iraqi constitution, the FSC deals with such constitutional crisis. Yet, as mentioned in chapter five, the politicians, especially Kurds and Sunni Arabs, have no trust in the FSC and some of them consider it politicized. The obscurity in the text of the article, although it may provide a space and a chance for new bargains and negotiations among the ethnic politicians, is risky because it produces the possibility of ethnic conflict.

The normalization stage has proved to be considerably slow because it is about reversing the past injustices made on the hands of Baath regime such as property confiscation, forced assimilation, and settlement of non-local and displacement of locals. Rebwar Talabani, a Kurd and the Deputy of Municipality Head in Kirkuk whom I interviewed, stated that so far only 5% (until 25 August 2013) of the claims of properties were decided. This means that after more than 7 years, when the interview was carried out, of continuous work there is no considerable amount of work done. If the process goes as slowly as it has, as Sardar Abdullah (2013), when I interviewed him, said

> *Maybe another 50 years or more is needed to decide upon all the claims made according to Article 140.*

In the Iraqi constitution, Article 140 is drafted under 'transitional provisions' section, yet its slowness undermines the article's transitional feature. Moreover, it is obviously against Article 58's statement that its implementation should be carried out 'expeditiously'.

Furthermore, the political elites blame each other for not abiding by all the articles of constitution, especially article 140. The Kurds are the most committed to the implementation of article 140 but the Sunni Arabs and Shia Arabs are the least committed (Natali, 2008: 439). Each of these groups has their own special narrative concerning the future of Kirkuk. Consequently, commitment or no-commitment originates from their narratives. The implementation and completion of normalization is not an easy task. Some propose that the FSC should interfere and declare that 'normalization meets the constitutional threshold to allow census and referendum to occur' (Bolden and Fussnecker, 2009: 1576). This may look as a practical and feasible solution, yet it should be known noted that not all the Iraqi politicians, especially the Sunni Arabs and the Kurds trust the FSC and the majority of them consider it as biased and politicized. Najib Balataee (2013), a Kurdish MP from 2010-2014, stated his opinion about the FSC as follows

Not only me but also most of those whom [MPs and other political leaders] I spoke to confirm and prove with evidence that the FSC is politicized, we cannot say in all its decisions. Yet, in some strategic decisions it was very evident that it surrendered to political pressure and was thus politicized.

Normalization should be followed by a census. Historically, censuses in Iraq have been unreliable, especially after the fall of the kingdom in 1958. Several censuses have been conducted since then, yet the most reliable remains the 1957 census (Anderson and Stansfield, 2009: 58) in which the Kurds were the majority of the Kirkuk governorate as their percentage was 48%, compared to 28% Arabs, and 21% Turkomans (Letayf, 2011: 69). Although, the 1957 census was a key reason why the 1970 March Manifesto in 1975. Although this census considered the Kurds to be the majority in the governorate of Kirkuk, it showed the Turkomans to be the majority in the city of Kirkuk. This was considered by Mustafa Barzani, the head of the KDP, as an obstacle on the way to forming a Kurdish autonomous region (McDowall, 2004: 335). This political aspect of conducting censuses, especially concerning a disputed territory such as Kirkuk, has always been problematic. Any census may influentially contribute to an escalation of ethnic tension because of being used by an ethnic group to claim majority and ownership of Kirkuk.

Kirkuk is for Masoud Barzani, the President of Kurdistan Region, is the 'heart' of Kurdistan, for Jalal Talabani, the General Secretary of PUK and the ex-President of Iraq, is the 'Jerusalem' of Kurdistan, for Arabs an indispensable part of Iraq, and for the Turkomans is a Turkoman-dominated city. Thus, any census, even after normalization, if not thoroughly supervised by a neutral all-agreed-upon arbiter, is most likely to deepen the ethnic cleavages

and may lead to an ethnic conflict and thereby undermining the possibilities for ethnofederalism to lead to political stability.

The third stage, referendum, is only mentioned by name in Article 140 without any details. This referendum is an expression of the will of the citizens, belonging to all ethnic groups, about the future of their governorate and more broadly about ethnofederalism. After all, any referendum on the disputed territories faces the following problems that are produced due to the structure of the article 140. Firstly, the voting boundaries are not specified (Letayf, 2011: 78). It is unclear whether the referendum would be held on the level of the whole governorate of Kirkuk as one unit, or would be held on other smaller administrative levels such as Qaza (district), Nahiya (sub-district), or village. Each of these choices would have considerable impact on how the map of internal boundaries would be redrawn. Villages, sub-districts, or districts may be left alone, surrounded by the borders of another region. This, in turn, would influence the future ethnic relationships. Secondly, another vital issue is voter eligibility (ICG Report, 2007: 8), which is unmentioned in article 140. The question then is would those Arabs who were brought in Kirkuk as part of Arabization be allowed to vote in the referendum? If not, what about their children who were born in Kirkuk and consider themselves as Kirkukis?

Thirdly, it is not specified in article 140 that for a decision on the fate of a disputed territory, such as Kirkuk, a simple majority of 50% plus one vote is sufficient (ICG Report, 2007: 6; Romano, 2010) to make the results legitimate for all the ethnic groups. Fourthly, and most importantly, the options available for voters in the referendum are not specified in the article. For some, the only option may be to join Kurdistan or not (Kurds), yet for others other options should be considered as well such becoming an independent region (Turkomans), staying as a governorate in Iraq (Arabs), or merging with another region. All these four mentioned issues have to be decided upon in the pre-referendum bargaining. Moreover, the four mentioned issues with the availability of these various options, in case any option is adopted, would considerably affect the post-referendum ethnic relationships. Shak Hanish (2010: 19) states that holding a referendum in Kirkuk could lead to a sectarian bloodshed. All the mentioned details about the structural deficiencies found in article 140 are to prove the claim that they are the real factors that increased, and will continue to increase, the potential for political instability. To explain the potential for political instability through such alternative explanation that focuses on structural deficiencies is to defend partial ethnofederalism as leading to instability in Iraq. In other words, this is all to tell that what is responsible for increasing the potential of instability is such deficiencies rather than partial ethnofederalism.

Another structural flaw in the design of article 140 was the deadline of the implementation, i.e. 31 December 2007. Article 140 was the result of backroom bargaining between the Shia

Arab and Kurdish politicians. The Shia Arab politicians accepted the inclusion of the current form of article 140 in the constitution in return for the Kurdish support for a constitutional article allowing the creation of a Shia region made up of all the nine Shia majority governorates (ICG Report, 2007: 6). The mentioned deadline was an imposition of the Kurdish politicians with the aim of expeditiously attaching Kirkuk to Kurdistan Region, yet the complexities of the implementation stage, the unwillingness of the Shia Arab politicians to implementing this article, and the resistance of the Sunni Arabs made meeting the deadline impossible. With all the efforts, the deadline could not be met and this created a political debate between those who argued that the overall of article 140 was obsolete (the majority of Sunni and Shia Arab politicians) and those who insisted on the validity of the article (The Kurdish politicians). Yaseen al-Ubaidi, a Sunni Arab from Kirkuk and an ex-MP, declared that article 140 was dead and any attempt to reactivate it was as if a dead person was to be revived (All Iraq News, 2103). In an interview with Dijla TV, Hanan Fatlawi, a female Shia Arab MP since 2006 declared if it was not for her continuous four-year efforts at stopping the implementation of article 140, Kirkuk would be long gone now (to the Kurds) (Dijla TV, 2014). The CoR referred this problem to the FSC to solve in 2007, yet so far, the FSC is quiet on that matter (Bolden and Fussnecker, 2009: 1566).

Furthermore, and beyond these constitutional complexities, the situation of the disputed territories has become more complicated due to ISIS's control over most of the disputed territories in Mosul, Kirkuk, and Salahaddin. ISIS captured large areas such as Mosul on 10 June 2014. ISIS also controlled disputed territories in Kirkuk and other northern governorates and arrived at Jalawla on 13th of June (New York Times, 2014). The Iraqi forces collapsed and could not resist ISIS advances and left the disputed areas. Then, the Peshmerga (Kurdish forces) defended the disputed territories in Kirkuk, Dyala, and Salahaddin. After battles with ISIS, the Kurdish Peshmerga regained some of the disputed territories. Now most of the northern disputed areas are under the *de facto* control of the Kurdish forces and it seems that the Kurds are not ready to leave these territories. Masoud Barzani, the President of Kurdistan Region, in a press conference with William Hague, the UK foreign Minister, declared that article 140 was now accomplished and that they would never negotiate again on the destiny of the taken disputed areas (Barzani, 2014). This makes the situation in these areas more complicated and these complexities will appear when ISIS is thoroughly defeated in Iraq.

Through these deficiencies presented about the article 140, one can clearly see how this article might have a major destabilizing effect. As mentioned before, presenting an alternative to explaining why political instability exists in Iraq is an additional way to defend ethnofederalism as leading to instability. The article 140 was to address an already widening

gap between the formal and the informal roles and structures due to the three-decade long practices of the Baath against the Kurds and Turkomans in Kirkuk. However, instead of healing the wound, these structural flaws alongside the behavior of the new ruling authorities in Iraq has led to increasing the potential for political instability.

Beyond the deficiencies found in article 140, the Iraqi Constitution suffers from, firstly, unclearly structured articles, such as articles 111 and 112 concerning the production and distribution of natural resources. Secondly, the Iraqi Constitution left more than forty issues for later legislations (over-incrementalism). This may be considered normal in constitution drafting, yet in post-conflict divided societies, such issues are extremely sensitive and may lead to armed conflict. Some of them are related to the identity of the state (Article 4/Second), the ownership and distribution of natural resources (Article 112), and its ethnofederal structure (such as Articles 65 and 125). The general tendency among the academics and Iraq politicians is to see those two issues, mentioned earlier, as deficiencies. As noted, the point of presenting these structural deficiencies is to defend ethnofederalism by proposing an alternative explanation of why instability exists in post-2003 Iraq. These deficiencies are hardly related to the ethnofederal nature of Iraq. These deficiencies are related to political elites' negotiations that led to producing such a constitutional text that is both vague and over-incremental. These two structural deficiencies are discussed and pieces of evidence to prove their problematic nature are presented in the following paragraphs.

Saad Jawad, an Iraqi Professor, in regard to the constitutional articles related to the distribution of natural resources, states that 'the issue of exploring and exploiting natural wealth, especially oil, has also been highly divisive, with the constitution leaving this matter vague' (2013:17). Thus, so far because of the vagueness of the structure of article 112 regarding the distribution and production of natural resources, especially oil and gas, the relationships between the KRG and the FG has been deteriorating. This worsening relationship reached its peak in January 2014 when ex-PM Maliki ordered the Minister of Finance to no longer provide the KRG with its budget (KRGa, 2014). This step has deepened the ethnic cleavage to an extent that the Kurds started exporting their oil without sharing the revenues with the FG. This decision from Maliki has not only negatively affected the relationship between KRG and FG, but has had a considerable negative impact on the Kurdish grassroots because the KRG could not afford to provide them with their salaries. The author of this dissertation heard from many of the Kurds stating that Arabs were all the same in standing against the Kurds. They equated Maliki and other Arabs to Saddam, the ex-president of Iraq. This step by Maliki has left its consequences on Al-Abadi's government, which was formed at the end of September 2014, as the Kurdish Ministers, boycotted the meeting of the new government for more than a month

until an agreement was reached between KRG and FG. On 2nd of December 2014, the two governments, KRG and FG, reached an agreement according to which the KRG delivers 250,000 barrels to the FG and allows FG to export 300,000 barrels daily through KRG pipelines (KRGb, 2014).

A few scholars have a different point of view about this vagueness and incrementalism of the Iraqi constitution and they consider these two issues as sources of the success of the constitution. Most prominent among them is Haider Ala Hamoudi in his 2013 book *'Negotiating in Civil Conflict: Constitutional Construction and Imperfect Bargaining in Iraq'*. For Hamoudi, the constitution was already a success by 2010 as those who once opposed it in the October 2005 referendum now supported it. Thus, the constitution, in the words of Hamoudi, is a success because it has become 'consensual' (2013: 7). Furthermore, not only Shia Arabs and Kurds abided by and committed to the content of the constitution but the Sunni Arabs as well. According to Article 142, which was inserted into the constitution in a last-minute bargain to seduce the Sunni Arabs to vote for the constitution, the Constitutional Review Committee (CRC) was established in which key Iraqi players from ethnic groups participated. Hamoudi was himself serving in the CRC as an outside advisor from 2009. When the final product, the amendments, by the CRC was submitted to the CoR whose speaker, who was a Sunni Arab, Ayad al-Samaraie did not even consider putting the reviewed amendment draft for a discussion in the parliament (Hamoudi, 2013: 3). This, with other examples cited by Hamoudi, is supposedly proof of the success of the Iraqi constitution. The reasons behind the success of the constitution as stated by Hamoudi are 'the common description of the Iraqi Constitution as one that is deeply ambiguous and leaves matters for future resolution is entirely appropriate… *In fact, it is the primary reason for its success*' (2013, 7-8 *Italics are original*).

In fact, most of the examples Hamoudi has provided, to show the success of the constitution, are debatable. The amendments were not put forward to be voted on by the CoR's Sunni Arab speaker because they were not as ground-breaking for them as they demanded and not, as Hamoudi supposes, because of their satisfaction with the current constitution. The author interviewed the ex-Sunni Arab speaker of the CoR, Ayad al-Samaraie, and asked for the reasons for not scheduling the constitutional amendments on the agenda of CoR. Al-Samaraie (2015) stated that

> *The amendments were about sixty pages long, including provisions that had to be voted on, by all ethnic parties, as one package due to their political sensitivity. Some of the amendments were to lead to a rebuilding of the political system in Iraq that would take away from the competencies of the Kurdistan Region. The KRG parliament, thus, refused some of these*

amendments and it became obvious that the main aim of the amendments would not be fulfilled.

Al-Samaraie (2015) further explained the reason behind his decision not to schedule the amendments for voting:

When I became the speaker of the CoR, I turned unconvinced by the rest of the amendments…and when al-Nujaifi became the speaker of the CoR, we tried to form a committee for covering the necessary technical aspects of the amendments but we found no response at all from any of the political blocks.

Even if the Sunni Arabs accepted the current constitution basically, as Hamoudi argued above, they still would ask for vital amendments in regard to some articles, such as 135 (de-Baathification) and 140 (disputed territories). However, what is more problematic about Hamoudi's argument is not that the constitution is somehow a success, which it is, but to specify the constitution's ambiguity and 'left-for later' legislations as the primary reasons for its success. As mentioned above, left-for-later regulations, such as Article 112 (natural resources), have created unprecedented problems for the ethnic relationships. Furthermore, textual vagueness (as in article 140) has never been a blessing for the Iraqi segments. Masoud Barzani declared on 8th of May 2014 that for the Kurds to stay within Iraq, they should be treated as real partners, Article 140 of the constitution should be implemented, oil and gas law should be ratified, and non-constitutional institutions should be removed (KRP Website, 2014). Otherwise, the Kurds would follow other options such as independence referendum (BBC News, 2014). Subsequently, these deficiencies in the constitution should not be considered as ethnofederal for a reason. The reason is that these deficiencies resulted from the negotiations of political elites. These negotiations preceded the formal adoption of partial ethnofederalism in Iraq.

Concluding this section, a part of the Iraqi constitution suffers from two fundamental flaws, namely vagueness and over-incrementalism. These two flaws are present in several articles, yet article 140 and articles related to the distribution of natural resources were studied. The problem with vagueness is that it makes these articles prone to opposing interpretations. This problem would have been solved if the umpire (the FSC) was perceived by the all ethnic elites as impartial and fair. Nevertheless, the ethnic elites, especially the Sunni Arabs and Kurds, consider the FSC as politicized (evidence in chapter 5). Over-incrementalism is also problematic in a divided society such as Iraq because some of these left-for-later legislations are ethnically sensitive. These problems were created because of the rushed negotiations rather than being outcomes of partial ethnofederalism. Therefore, they are non-ethnofederal in nature.

Second Deficiency: The Non-Establishment of the FC

This section defends ethnofederalism by presenting another structural deficiency in explaining political instability, namely the non-establishment of the FC. In restructuring the federal Iraq, some institutions deemed fundamental to be founded, mentioned by name and function in the Iraqi constitution. However, they have not yet. The non-establishment of the FC is just one example of these institutions, albeit an important one. This institution would have represented the governorates and regions and acted in their interests. This could influentially narrow the gap between formal (the FG) and the informal (the residences of these regions and governorates). This section proceeds as follows: firstly, it explains the relationship between federalism and the existence of federal councils. Secondly, the vitality of the federal councils (second chambers) is discussed. Thirdly, the provisions, in the Iraqi constitution and other formal legislations, related to the establishment of a federal council, are scrutinized. Finally, the reasons behind the non-establishment of such an institution in Iraq are analyzed.

Although, bicameralism is not an exclusively federal feature, it is considered as vital to the structure of most federal states 'for ensuring the entrenched representation of the regional components in policy-making' (Watts, 2008: 1). Arend Lijphart considered the existence of a 'strong bicameralism' as a fundamental component of his consensus model of democracy because bicameralism provides the minorities with special representation (Lijphart, 1999: 39). Bicameralism is defined as 'an institutional design for a two-house representative assembly' (Patterson and Mughan, 1999: 1). Usually, these two houses are referred to as lower house (first chamber) and upper house (second chamber). In the Iraqi constitution, the second chamber is referred to as the FC.

Second chambers differ in function and capacity (Norton, 2007: 6). To investigate the function of the second chamber is to study the reasons behind its creation. The purposes behind the establishment of second chambers, according to Philip Norton (2007: 6-8) are representation and reflection. It is vital to ask whom second chambers represent. The answer to such a question determines how legitimate is second chambers to act in the capacity of their constituencies. For example, Meg Russell (2003: 11), states that 'the lack of perceived legitimacy of the House of Lords (in the UK) has been one of the key factors preventing it being a powerful check on government'. Second chambers may be representative of different constituencies depending on their selection method (Watts, 2008: 6). The second part of the function of the second chamber is 'reflection', defined by Norton as the deliberation of the second chamber on 'but not exclusively on what the first has done' (2007: 7). Second chambers usually tend to be subordinate to second chambers (Lijphart, 1999: 205), yet some second chambers have equal

powers to the first chambers, as in the US, and exclusive powers related to the ratification of treaties (Watts, 2008: 7). In federal states, second chambers usually represent territories, be they regions, provinces, cantons, states or in the case of Iraq the governorates and regions. Thus, it has a distinct representational basis from that of the lower house that represents the citizens (Russell, 2001: 107).

The FC has yet to be founded in Iraq. However, the constitution demands its establishment. Article 65 of the Iraqi constitution affirms that the FC would be established as a representative of regions and GNOR. The committee that reviewed the constitution, as mentioned above, detailed the formation, selection, and powers that the FC would have. Although, these amendments may never be adopted due to the lack of political consensus on them, a brief account of the competencies of the FC is worth noting. According to the amended constitutional draft[63], the FC would have the same selection method as the CoR, i.e. secret ballot elections each four-years, but the President and the Prime Minister would have the authority to appoint five members (Article 81). Article 94 of the reviewed constitution draft details the competencies of the FC such as: proposing legislations related to the interests of the regions and GNOR, consideration of the draft laws referred from the CoR and showing objection, voting on the selection of the FSC president, endeavoring to solve the controversies among the regions and GNOR, observation of the allocation of the federal budget to the regions and GNOR.

Most importantly, the CoR has made its first reading to a draft law on the establishment of the FC, on 22 September 2014, prepared by the Committee of the Regions and Governorates. This draft law requires a second reading and voting from CoR to become an abiding legislation. This draft considers all the governorates, even the capital, as equal, in representation in the FC, and allocates four members for each. Furthermore, the citizens of the governorates, in a secret ballot, would elect its members. According to article 13 of the draft law, the FC has the competence of proposing, to the President, any laws to be drafted that would be in the interest of the regions and governorates. The FC would also have the competence of seeking solution to the controversies between the FG, the regional governments, and the GNOR. More importantly, the FC would have the authority to veto the laws legislated by the CoR that affect the constitutional rights and competencies of the regions and governorates (article 14).

With the aforementioned competencies, the FC plays a considerable role in political stability by directly representing the interests of governorates and regions. As mentioned in previously, partially the widening gap between the formal and informal roles and structures has

---

[63] These amendments, as mentioned in this chapter, were not even discussed by the CoR. Thus, mentioning them here is just for clarification purposes. Yet, there is a chance to consider this text as basic if any amendment of the constitution was on the agenda of the politicians.

been because of the governorates that asked to become regions or demonstrated due to the lack of basic services, such as Basra, Salahaddin, and Anbar. The FC could have become an effectual instrument of further closing this gap, as the FC is a representative of the governorates that enjoys influential powers. The members of the FC are representatives of governorates and elected directly by them. This endows legitimacy to the FC members to act on behalf and in the benefit of their constituencies. This FC, along with the CoR, could have together confronted the authoritarian tendencies of the government, especially during the reign of al-Maliki from 2006-2014. However, the government of Maliki did not allow this draft law to be voted on in the CoR. I interviewed Muhammad Kayani (2015), the head of the Committee of Regions and Governorates from 2010-2014 that drafted the FC law, who stated that:

> *There was no consensus among the influential parties and thus the draft did not receive any consideration, except for one initial reading.*

To sum up, the FC should have been established according to the Iraqi constitution, yet the political elites avoided that due to political reasons. This institution could have helped in leading to political stability owing to its quality of representing the interests of the regions and governorates. It could also have an influential role in the genuine federalization of Iraq. The non-establishment of this institution refers to the point that there is no sufficient federalization in Iraq.

Third Deficiency: The Still Centralized System in Iraq in relation to the GNOR

This still centralized structure of the Iraqi state is considered a structural deficiency that explains the existence of political instability. In fact, this defense of ethnofederalism refers to the notion that Iraq is politically unstable because it has not sufficiently become decentralized (by genuinely devolving power to the governorates), federal (by blocking the governorates from becoming regions), or ethnofederal (by preventing the establishment of a Sunni Arab region). Whereas some academics and politicians blame ethnofederalism for the existing political instability, in fact, Iraq is still a centralized state. Iraq is an ethnofederal state solely due to the existence of Kurdistan as an ethnofederal region. To understand this claim, one should imagine Iraq without Kurdistan; it is a *de facto* centralized state. Iraq was a centralized state since from its creation in 1920. Nevertheless, this centralization became tighter with the Baath regime's ascension to power in 1968. The RCC, Baath Party's highest authority, was the ultimate decision-maker in Iraq as there was no working constitution.

Iraq is a deeply divided society and was almost impossible to run democratically with a centralized system. The Iraqi opposition groups, before the collapse of Baath regime, preferred a federal structure for managing post-Saddam Iraq (as detailed in chapter three). The American administration, represented by the CPA, worked on abolishing the centralized structure of post-invasion Iraq and replacing it with a federal one. Because of Iraq's long history of centralization, federalization became a complicated task. Since then, several laws have been decreed to federalize and decentralize Iraq, yet it could be argued that, except in relationship to Kurdistan Region, the GNOR remain connected with the FG in a centralized manner. This is considered as one of the major structural deficiencies. How that is so will be detailed in the next few paragraphs.

The authorities in Iraq have issued several laws in order for the federalization of Iraq to take place, especially concerning the GNOR. Iraq is composed of eighteen governorates of which three (Sulaimaniyah, Erbil, and Duhok) are formally organized under the Kurdistan Region and fifteen others not organized as a region. The major federalization laws are: order no. 71 from the CPA in April 2004, several articles in the constitution, the law no. 13 in 2008 regarding the special executive measures of creating regions, and the law no.21 in 2008 known as 'The Law of the Governorates not Organized into a Region', along with its two amendments in 2010 and 2013. Important aspects of these laws are discussed below such as the administrative and financial relationship between the FG and the governorates not organized in a region. These two aspects are vital because they demonstrate the extent to which the structure of the state, in terms of FG and GNOR relationship, has deviated from its previously centralized form.

Although admitting that formally, according to the laws mentioned above, these governorates enjoy specific federal powers, the author of this dissertation demonstrates that there is a high level of centralization in Iraq. What implication does this have in answering the research question of this dissertation? The implication is that what caused political instability is that Iraq is not sufficiently decentralized (as the governorates still wait for the devolution of power) and not sufficiently ethnofederal (by the FG's blocking any attempts from these governorates to become regions). To make this case clear, the following discussion develops on two main aspects: the competencies of the governorates to become a region and the competencies they enjoy in staying as governorates. Through this discussion, the authorities these governorates enjoy in becoming regions, or staying as they are, are detailed. Within the following paragraphs, it should become clear to the reader how centralized Iraq and not sufficiently federal is now.

Articles 116, 117, 118, 119, 120, and 121 of the Iraqi constitution are about the creation and competencies of regions. A governorate, on its own, or in conjunction with others, can become a region via holding a referendum (article 119) when a third of each governorate's council or one tenth of its eligible voters formally demand it. Upon becoming regions, the converted-into-region governorates acquire certain authorities such having their own constitution (article 120) and its legislative, judicial, and executive powers (article 121). Among other authorities the new regions attain are, firstly, independence in terms of spending and a specific budget would be allocated to them according to their population size (article 121/3); secondly, control of their own region-guards and police forces. Thirdly, when there is a contradiction between regional and FG's legislations, the region's legislation would prevail over the federal ones, except when the contradiction is about the exclusive powers of the FG (article 121/2).

These powers, along others in the constitution, enjoyed and exercised by regions have been great incentives for GNOR to proceed formally to become regions. Basra governorate, located in the far south of Iraq on the Persian Gulf, had arranged to become a region at the end of 2008 and the beginning of 2009. The preliminary requirement for becoming a region, according to Law 13 of 2008, is that, if the demand was through the governorate's population, 2% of the eligible voters should sign a petition demanding the governorate to become a region. Basra did meet the first requirement and thus, the Independent High Electoral Commission (IHEC) set up 34 signature centers, from December 15, 2008 to January 14, 2009, in the governorate of Basra for the voters who supported Basra becoming a region (Dakhil, 2008). The purpose was to meet the second requirement, having the signature of 10% of the Basra voters for becoming a region, before any referendum on the future of Basra. The petition was a failure and the supporters could not meet the second requirement (Al-Wazzan, 2009). For the reasons behind the failure of the first project of Basra becoming a region, I interviewed Wael Abdullatif[64] (2015), may be the first politician who worked and still working on converting Basra into a region, who stated that

> *The reason for the failure was that Maliki [the ex-PM of Iraq], the*
> *Independent Higher Electoral Committee [IHEC], the remnants of Saddam*
> *Hussein's Baath Party and Islamic political parties (Shia or Sunni) stood*
> *against it. In a meeting with the representative of the UN Secretary-General*
> *in Baghdad, I presented more than 50 documents confirming the violations*

---

[64] A judge by profession who held the following formal governmental positions since 2003: a member of the IGC, the Minister of Provincial Affairs The Iraqi Interim Government, a CDC member, the Governor of Basra in 2003, and an MP from 2006 to 2010.

of the polling stations to miss an opportunity of Basra becoming a region, he said, and I quote, 'I tell you the truth. Neither the government nor the IHEC wants Basra to become a region'.

In fact, Maliki had centralizing and majoritarian tendencies and stood firmly against the regionalization of Iraq. Following Basra, calls from other governorates to become regions have arisen, such as Anbar, Mosul, and Salahaddin. Maliki's government adamantly resisted regionalization projects. As mentioned, Salahaddin governorate had finished the preliminary requirement of becoming a region. The governorate's council formally petitioned becoming a region to the Council of Ministers according to Article 3A of Law 13 in 2008. According to Articles 3A and 3B, the Council of Ministers should ask the IHEC to take the necessary procedures for a referendum within a maximum of 15 days. The Council of Ministers does not have the authority to object, yet al-Maliki resisted the Salahaddin governorate's petition to become a region. Maliki's explicit rejection was based on claiming that this demand was rested on a sectarian background and was to protect the Baathists in Salahaddin (Al-Sumaria TV, 2012). The Law Committee in the CoR considered Maliki's decision to obstruct Salahaddin's demand of to becoming a region as unconstitutional. Al-Gaylani (2013), a Sunni Arab MP from Salahaddin whom I interviewed, stated how Maliki obstructed the regionalization of Salahaddin

Maliki did not dedicate the budget necessary for the IHEC to conduct the referendum on the future of Salahaddin because this demand was against his wishes.

Thus, the Shia Arab majority government headed by Maliki (Prime Minister from 2006 to 2014) stood decisively against any implementation of the constitutional articles related to the regionalization in Iraq.

Not only regionalization was blocked but also al-Maliki stood firm against the decentralization of power to the GNOR. The Iraqi constitution is clear about adopting a decentralized political system concerning the relationship between the FG and GNOR. According to article 122/2, GNOR 'shall be granted broad administrative and financial authorities to enable them to manage their affairs in accordance with the principle of decentralized administration'. Paragraph five of the same article confirms that the GNOR shall have financial independence and shall never be subject to the control of any ministry or its institutions. For the sake of implementing decentralization on the ground, Law 21 in 2008 was issued. This law made several other previous laws obsolete, such as Law 159 (in 1969) that was based on the centralized political system in Iraq. The provisions of the law were to be implemented from the governorate council election of 2009.

Law 21 provides the governorate council with some competencies such as outlining the general policies of the governorate's development plan in coordination with the related ministries (article 7/4). Most importantly is article 44 of the law that details the financial resources of the governorates. Accordingly, these governorates would have an allocated budget from the FG (article 44/first). This in addition to the following resources: revenues generated from the services provided to the people by the governorate (article 44/second), revenues from taxes, duties, and local fines (article 44/third), and revenues from the sale or lease of the governorate's movable and immovable assets (article 44/fifth). The problem is that of implementation. The United States Agency for International Development (USAID) prepared a document on the Law No. 21 in which it referred explicitly to Maliki's government and the Ministry of Finance's obstruction on the way of implementing article 44 and depriving the governorates of exercising their constitutional right (USAID Report, 2011).

Law No. 21 has been amended twice since its issuance in 2008. The first amendment was Law 15 in 2010 and the second was Law 19 in 2013. The second amendment is crucial in terms of decentralizing the political system in Iraq. The most important amendments include providing more financial resources to the GNOR and wide administrative competencies. The amendments made article 44 of Law 21 of 2008 obsolete and replaced it with another article in which it clearly articulated the financial resources of the GNOR. The financial resources are, next to the allocated FG's budget, all revenues attained in the governorate from taxes, fines, and any other except for oil and gas. According to the law, each governorate earns five US dollars from any barrel of crude oil produced in the governorate, five dollars from any barrel of refined oil that is produced from the governorate's refineries, and five dollars for any 150 cube meters of natural gas produced in the governorate. If implemented, these resources would be a giant step towards the federalization of Iraq and fiscal independence of the GNOR.

In terms political and administrative decentralization, according to the law, the competencies of eight ministries in the FG shall be devolved to the governorates. The competencies of the following ministries devolve to the GNOR: Construction and Housing, Finance, Education, Agriculture, Health, Youth and Sport, Labor and Social Affairs, and Municipalities and Public Works (Article 45 of the Second Amendment of Law No. 21 of 2008). Accordingly, the FG ministries would remain only as developers of the general governmental policies. A body would be created to supervise this process known as The Higher Commission for Inter-Governorates Coordination (HCIGC). The amended law was to be implemented right after its publication in the Official Gazette, i.e. 5th of August 2013. However, once again, Maliki's Shia Arab majority cabinet did not agree with the amended law and formally submitted a contestation, on the amended law, to the FSC in 2014 (GSCM, 2014).

The FSC was silent on this matter. Al-Abadi, the current Prime Minster of Iraq, paid a formal visit to Basra, on 29 December 2014, and he declared the withdrawal of the previous government's contestation to the FSC (Al-Shammari, 2014). Thus, in the Iraqi cabinet meeting, on 31 December 2014, the PM formally made the decision of the contestation withdrawal. The current government withdrew the contestation because of the huge pressures from the governorates and the due to increasing demands for regionalization, especially from Basra.

Basra has a population of 2,403,301 according to 2013 estimate (JAU Website, 2013) and is an oil-rich city. Basra had a failed referendum, yet since then the campaign for Basra to become a region has become more popular with the involvement of political figures on the national and local levels (Al-Mada Press, 2014). Sabah al-Bazouni, an MP from Basra from 2010 to 2014, stated 'the establishment of the Basra region would give us sufficient independence to work because we would be administratively separated from the ministries that have caused disruption in the reconstruction of the city' (Wahid, 2012). Waleed al-Gaytan, the vice president of Basra Council, stated that they would effortlessly continue working to make the dream of Basra, becoming a region, come true (Mahdi, 2015). Nevertheless, it is not clear if the executive, led by the Shia Arab majority, is serious about its promise to abide by the constitution and decentralize the structure of the Iraqi state[65]. All these refer to the still centralized structure of the Iraqi political system. This means, any more widening of the gap between formal and informal due to this centralized nature of the state should not be stated to have been caused by ethnofederalism.

The above evidence is mentioned to support the argument that the structure of the Iraqi state in relation to the GNOR is still centralized. The responsibility of political instability caused by the still centralized political system in Iraq cannot logically be attributed to ethnofederalism. Although according to the Iraqi constitution and the law of GNOR, with its two amendments, the FG should be linked with the GNOR in a decentralized way; the FG obstructed any attempt made by the GNOR to become regions or to exercise their full constitutional competencies. For instance, the CoR issued Law 20 signed by the Presidency Council in 2010 in which the competencies of the Ministry of Municipality and Public Work would be devolved to the GNOR, yet al-Maliki obstructed this decentralization effort by submitting a contestation to the FSC in this regard. The FSC, in its turn, judged the law obsolete is its decision no. 43 on 12

---

[65] The General Secretariat for the Council of Ministers (GSCM) has prepared a third amendment to law no. 21 on 29th July 2015. The new amendments are sent to the CoR but they have to be discussed and voted on. It is not clear what the amendments include but the government has promised to transfer the competencies of several ministries to the governorate councils. The news about the amendments can be found on the website of GSCM http://cabinet.iq/ArticleShow.aspx?ID=6373 (accessed 21.08.2015). The news about the government's promise can be found on the Prime Minister's website http://pmo.iq/press2015/2-8-201503.htm (accessed 21.08.2015).

July 2010. Thus, another attempt, by the executive, for keeping the state structure centralized was successful.

To sum up, Iraqi is still more of a centralized state on the ground rather than federal, except in relation to Kurdistan Region. Although there are a few laws that urge the regionalization and decentralization in Iraq, none of them have practically implemented. During the reign of Maliki (2006-2014), any attempts of decentralization and regionalization were blocked by the executive. During the current Abadi government, the Prime Minster pretends to be sympathetic to regionalization and decentralization, yet still with no trace in reality. This centralized structure of the state has led to widening the gap between the formal and the informal roles and structures as it was the case of Sunni Arabs in Salahaddin. Iraq is yet to be federalized genuinely.

Fourth Deficiency: The Structure of De-Baathification

De-Baathification can be claimed to have had an influence on widening the gap between the informal roles (the Sunni Arabs) and the formal structure and roles (the government and the state). In the following paragraphs, the ways in which this institution widened the formal and informal gap is discussed. Some of the problems that de-Baathification had, concerning illegitimacy and process deficiency, were examined in the previous chapters. In this chapter, the focus is solely on the structural deficiencies that contributed to political instability. This institution is non-ethnofederal. Therefore, de-Baathification in this section should not be perceived as repetitions of the previous treatments of it.

De-Baathification was established by the first order of the CPA in May 2003 and was followed by order number two that dismantled the Iraqi army and Baath-related security forces and militias (CPA, 2003b). To make de-Baathification as effective as possible, other CPA orders were issued concerning confiscating the properties that belonged to the Baathists and establishing the High Tribunal Court for the trial of the Baath leaders who were responsible for the atrocities and predicaments inflicted upon the Iraqi people since Baath's accession to power in July 1968. The National Committee for Accountability and Justice (NCAJ) replaced the High De-Baathification Commission in 2008. Following criticisms and pressure from the Sunni Arabs, the work and operation of NCAJ were organized by a law named after the NCAJ itself. However, this did not lead to the satisfaction of the Sunni Arabs who continued to criticize the former for not leading to reconciliation. The following quote from Alaa Makki (2013), a former Sunni Arab MP from 2006 to 2014, whom I interviewed, shows how unsatisfied the Sunni Arabs have been about de-Baathification by stating that

The Shia [Arabs], when de-Baath-ified, have attained high-rank jobs in the military, or they have even become ministers or high officials. The Sunnis, when de-Baath-ified, were rejected and this wrong situation creates disturbance in Iraq.

Nonetheless, deficiencies found in the structure of de-Baathification made the sense of partnership almost absent. When the sense of partnership is frail, then cooperation among the ethnic groups and reaching an acceptable accommodation for all of them is weak. The weaker is the sense of partnership the wider the gap between the formal and informal structures. The more the gap widens, there will be more instability. The following paragraphs demonstrate the major structural deficiencies in this transitional justice instrument.

First of all, according to order number one, the full member Baathists, i.e. holding the highest four ranks in the Baath Party, were 'removed from their positions and banned from future employment in the public sector' (CPA, 2003a). In addition to those, the three top officials of any government ministries and institutions (even in hospitals and universities) were to be investigated to find out whether they were full members of Baath. In case they were, they 'shall be removed from their employment' (CPA, 2003a). This step led to the unemployment of tens of thousands of people (Sissons and Al-Saiedi, 2013: 18) who had no other source of income. Quoting Pfiffner (2010: 79) 'although Bremer said that the order would affect only about 20,000 people, the total amounted to between 85,000 to 100,000 people'. Those who were harmed by the order were mostly Sunni Arabs. Some of those became members of Baath Party only for guaranteeing a livelihood because access to the employment sectors was closed, except to Baathists (Allawi, 2007: 149). These dismissed people needed to gain their livelihood and, for this, they sought an alternative source. For most of them, and because of their dissatisfaction of the occupation and CPA, their alternative was to work with the growing insurgency, mainly al-Qaida and ex-Baathists.

Secondly and in the words of Larry Diamond, a senior advisor to the CPA from January to April 2004, 'One damn thing followed another' (2005: 281) by which he referred de-Baathification followed by the dismantling of the Iraqi army. According to Order No.2 of the CPA, the Iraqi army, along other Baath security appliances, was dismantled. The Iraqi army, as Allawi states, refused to fight the US and its allies (Allawi, 2007: 149) because it was the Army of the state and not Saddam (Makki, 2013). Yet, it was rewarded with dismantling. This was an unmissable opportunity for the insurgency to employ them. The International Centre for Transitional Justice prepared a report in 2013 in which it commented on the impacts of this order as follows: 'At the stroke of a pen in May 2003, some 400,000 conscripts, officials, officers, and others were left unemployed by CPA Order 2' (Sissons and Al-Saiedi, 2013: 21).

Although later on some of these were reintegrated into the new Iraqi army, the Sunni Arabs were continuously complaining that they were widely discriminated against in this regard. A quote from a Sunni Arab MP, I interviewed, reveals how this reintegration policy has even made them more disappointed. Zyad al-Zarb (2013) stated

> *When a Sunni [Arab] looks at a Shia [Arab] who had the same rank in Baath party but exempted by NCAJ and now holding a position in the government, whereas he [the Sunni Arab] is dismissed and included in de-Baathification, this is the real oppression and wrongness.*

This discrimination has mostly taken place due to the authority of exemption, which is the third major deficiency in de-Baathification. Order No.5 (CPA, 2003d), issued on 25 May 2003, and decided to establish the Iraqi De-Baathification Council (IDC) that would be composed totally of Iraqis selected by CPA itself. According to this order, the IDC would have an advisory role under the authority of the Administrator (Paul Bremer). The IDC could explain to the CPA, according to Section 3 (2d), if an individual was a Baathist and was to be exempted. Then, the IDC should wait for the Administrator to make a final decision in this regard (Section 5 of the same order). Memorandum No.1 (CPA, 2003f) detailed how de-Baathification, Order No.1, had to be implemented, and most importantly, how an exception to a full-member Baathist should be granted. According to Section 2b and 2c, the investigators should report to the Accreditation Review Committee (ARC) that an individual should be exempted, and then the ARC would prepare the case for exemption. The ARC should consider the exemption case based on some criteria such as denouncing past affiliation to Baath, having exceptional educational qualifications, dismembered from Baath before 16 April 2003, demonstrating that the individual joined Baath for his livelihood, and be indispensable for achieving coalition interests (Section 4b). Yet, the Memorandum did not specify whether all these qualities should have existed in the to-be-exempted individual or only the availability of one of these qualities might have qualified the individual for an exemption.

In 2008, when the Law of NCAJ was legislated, the right of exemption remained intact and the Cabinet of Ministers attained the authority of making exception 'based on a petition from the specific Minister and in coordination with NCAJ… and the decision is null unless approved by the House of Representatives' (Law 10, 2008: Article 12). This brief historical account of the authority to make exemptions in the de-Baathification and its successor, NACJ, might not be seen as a deficiency in itself from the viewpoint of transitional justice scholars (David, 2006). For those theorists, it is a positive step because it fills the gap that would be created by either adopting an exclusive or an inclusive lustration system. The gap is the confusion between filling

the administrative position in the new state by corrupted ex-professionals (inclusive) or by new loyal amateurs (exclusive), 'mixed systems solve this dilemma on a case-by-case determination' (David, 2006: 362).

In Iraq, this mixed lustration system with its case-to-case exemption has created more problems, further deepened the societal cleavages, and has led to ethnic mutual distrust. There are several reasons for this. Firstly, these exemptions, according to the Sunni Arabs and Kurdish viewpoints (as mentioned in chapter five), have been mostly granted to the Shia Arab Baathists who alleged loyalty to al-Maliki. Secondly, the mentioned conditions of exemptions have been easy to politicize or even sectarian-ise. Manipulating the required conditions became an easy task for those who headed de-Baathification, so far exclusively Shia Arabs, for their own and or their segment's interests.

Consequently, de-Baathification has become a deteriorating factor in Sunni and Shia Arab political relationships and calls have been made for its cancelation. These calls came from the Sunni Arab demonstrations in Anbar and other Sunni Arab cities and towns (Al-Haidari and Recknagel, 2013) that lasted for more than a year, starting from December 2012 to January 2014. Not only had the Sunni Arabs called for an end to de-Baathification, but the Kurds as well. Fuad Ma'sum (2014), a Kurd and the current President of Iraq, called for the cancelation of de-Baathification and stated that it was unfairly implemented. Furthermore, Fuad Ma'sum mentioned that some people have been exempted from the measurements of de-Baathification who quite clearly had to be included in it, whereas others have been included when they should not have been (Ma'sum, 2014).

Fourthly, another deficiency in the de-Baathification is that there is no specific deadline for the end of its work. According to article 135 of the Iraqi constitution and article 25 of the NCAJ Law, the de-Baathification Commission maintains its existence until dissolved by the majority of the votes of the CoR. The term 'majority' in the Iraqi constitution refers to the presence of half-plus-one of the total number of members of the CoR. This condition for the dissolution of de-Baathification cannot be met easily as it is improbable for the Sunni Arab politicians to convince the Shia Arab politicians that de-Baathification is no longer required. Even if the Kurds and Sunni Arab politicians gather for nullifying de-Baathification, they cannot form the majority in the CoR. The Law of NCAJ that was legislated in 2008 did not put a specific deadline for its operation. This lack of deadline has been another political source of the Sunni Arab dissatisfaction. In 2012, the Committee of Reconciliation and Accountability in CoR prepared amendments to the NCAJ Law, yet the Law Committee refused to submit it to the CoR presidency for assessment and voting. Due to the pressures from the Sunni Arab

demonstrations, Maliki and his ministers (GSCM Website[66], 2013) accepted vital amendments to the NCAJ Law, yet still awaiting implementation. Saleh al-Mutlaq, a Sunni Arab and ex-Vice Prime Minister, stated that the amendments include the exemption of those Baath members who were Group Members and allowing them to be employed (BBC Arabic, 2013). Nevertheless, the approval of the CoR is required for any amendments in laws. Amendments to the NCAJ Law were never submitted to the CoR for approval. After the formation of the new cabinet in Iraq in September 2014, another committee was formed tasked with amending the NCAJ Law. According to the head of the committee, the amendments were almost prepared that would be then submitted to the CoR for approval (NCAJ, 2014). It is yet unknown if the fate of these amendments will not be the same as the previous ones.

In conclusion, four deficiencies in the structure of de-Baathification, a transitional justice institution, widened the gap between the Sunni Arabs and the formal authorities (Shia Arab dominated government). These deficiencies were firstly, the law that dismantled the Baath was exclusive and left a large number of Baathists jobless. Secondly, this was followed by the dismantling of the whole Iraqi army and this made even a greater number of people jobless. Thirdly, the authority of exemption was another deficiency that paved the way for the politicization of de-Baathification. Finally, there is no deadline to the end of de-Baathification. This also allowed for more politicization especially during elections when a significant number of candidates would be disqualified due to de-Baathification.

Conclusion

This chapter covered the deficiency in the structure of some state institutions. These structural deficiencies are proposed as a defense of ethnofederalism against its critics. The defense is that structural shortcomings in some institutions are responsible for political instability in Iraq, not ethnofederalism. These deficiencies were found mainly in major institutions such as the Iraqi constitution, the still centralized system in Iraq, the non-establishment of the FC, and de-Baathification. I investigated these four because they have had major impacts on political instability. These are not exclusively the only institutions that caused the widening of the gap between the formal and informal roles and structures. Some other institutions have, more or less, also contributed to leading to political instability in Iraq. The FSC and the Law of Terror in 2005 are to mention two of them. Both of these suffer from politicization. The FSC suffers from non-constitutionality and lack of the majority of the Sunni Arab and Kurdish politicians' trust. The claim of the non-constitutionality of the FSC is based

---

[66] GSCM is the abbreviation of General Secretariat of the Council of Ministers.

on its foundation the Iraqi Provisional Government's Order No. 30 in 2005. This Order came into force before the ratification of the Iraq's permanent constitution. Although, the Iraqi constitution clearly states how the FSC should be established and the competencies it has, the FSC still has the same old structure.

Conclusion

Political Stability and Partial Ethnofederalism in Iraq

Ethnofederalism is considered by its opponents as an independent variable that leads to the breakup of the state. For them, through institutionalising grievances and enhancing the formal capabilities of the minorities, ethnofederalism puts the integrity of the state at risk. The failure of ethnofederalism is measured either by the breakup of the state or its recentralization However, its proponents assert that ethnofederalism should not be merely considered an IV but rather as a DV. For them, ethnofederalism is the outcome of ethnic-elite negotiations. The ethnic groups, through their elites, reach a satisfying-for-all agreement in the negotiations. They adopt ethnofederalism when other conflict management instruments fail to be considered plausible for adoption. In this dissertation, partial ethnofederalism in Iraq is seen as both as an IV and a DV.

The stance this dissertation takes in regard to partial ethnofederalism is that it contributes to political stability in Iraq through satisfying the Kurds (by providing them with territorial self-rule) and the Arabs (by keeping the integrity of the state intact). Political stability was defined as narrowing the gap between formal and informal roles and structures. The validity of the equation that ethnofederalism leads to the breakup of the state and political instability should be revisited. To explain why partial ethnofederalism in post-2003 Iraq could not fulfil its aim of leading to a satisfactory level of political stability, intervening variables should be investigated. Several significant intervening variables played considerable roles in not letting partial ethnofederalism reach its desired aim of not only preserving the integrity of the state but narrowing the gap between formal and informal roles and structures. The intervening variables are the incomplete implementation of the constitutional articles related to the allocation of natural resources and disputed territories, the still centralised structure of the Iraqi state, the non-establishment of several constitutionally required institutions such as the FC, the absence of the Sunni Arabs' consent in re-establishing the state, the unjust implementation of de-Baathification, the impacts of the presence of the occupier rule, and deficiencies found in the processes of state and institutional building. In a nutshell, these intervening variables can be held responsible for the existing political instability in post-2003 Iraq rather than partial ethnofederalism.

The critics' arguments against ethnofederalism suffer from several weaknesses such as not making a clear distinction between its full and partial forms. However, making a distinction between these two forms of ethnofederations is necessary for two reasons. Firstly, the

distinction is useful in terms of examining the failure or success of ethnofederations. Iraq and Canada, for example, each has only one ethnic region, yet Yugoslavia, for instance, was a full ethnofederation divided among several regions (called republics). Therefore, whereas the integrity of Canada and Iraq is still intact, Yugoslavia broke up into several successor states. Secondly, Iraq is only a partial ethnofederation because of the formal constitutional acknowledgment of Kurdistan Region. This point is important because there was a sort of unanimity among the ethnic groups on partial ethnofederation, whereas there was basic disagreement about the adoption of a full ethnofederation.

Not making such a distinction has led the critics to criticize ethnofederalism in general. For them, ethnofederalism leads to the breakup of states. Accordingly, ethnofederalism does that through two basic mechanisms. Firstly, it institutionalizes the antagonism and grievances of territorially concentrated ethnic groups and equips them with formal institutions. When grievances and antagonism are institutionalized, then they remain fresh in the minds of the ethnic group members and they become an influential source for the ethnic elites and leaders to manipulate co-ethnics and to strengthen their positions through deepening the ethnic cleavages. Secondly, institutionalization and deepening of ethnic cleavages lead to an increase in secessionist tendencies and make the minority ethnic groups to move towards secession. There are other criticisms made by the critics of ethnofederalism, for example considering it as building a state within a state.

However, in the Iraqi partial ethnofederation, this is not necessarily the case. Partial ethnofederalism has equipped, for example, the Kurds with institutions through which the Kurdish antagonism and grievances are formalized, yet this does not necessarily mean that the Kurds have become more secessionists than before. For instance, although some atrocities inflicted upon the Kurds such as Anfal (in which around 100.000 Kurds were mass-killed) and Halabja (around 5000 Kurds were killed through chemical weapons) in 1988, the Kurds unanimously voted for federalism in their first elected parliament in October 1992. Such atrocities were still fresh in the minds of the Kurds, yet this did not make them abdicate the idea of a federal region. For them, partial ethnofederalism was the best viable and realistic choice that could satisfy them. In 2005, the Kurdistan Region became constitutionally acknowledged as a federal region. Thus, from a *de facto* region, Kurdistan became a *de jure* region. The Kurds entered the political process of rebuilding Iraq and the constitutional drafting negotiations willingly for the sake of establishing a partial ethnofederation in Iraq. The institutionalization of grievances and antagonism of the Kurds was taking place since 1992 when the Kurdistan Region had its elections and government. However, this did not make the Kurdish political elites demand independence from Iraq. Instead, they re-joined the Iraqi state after they had their

de facto independence. The Kurdish calls for other alternatives (for example independence) started after 2009 when they experienced problems of credible commitment from the Shia Arab rulers who avoided and blocked the implementation of several articles in the constitution, such as article 140 in regard to the destiny of disputed territories and articles related to the regionalization of Iraq.

Next to the problem of applicability on Iraq, the criticisms against ethnofederalism were not persuasive on other bases. Firstly, the provided examples (the Soviet Union, Yugoslavia, and Czechoslovakia) of the failure of ethnofederations were not genuinely federal in the sense that they were undemocratic. There were no free elections or fair representation of ethnic minorities in nationwide decision-making and there was the rule of one party. Accordingly, genuine federations should be accompanied by fair representation of the minority groups in central decision-making and democracy. Secondly, it was not ethnofederalism that led to the breakup of these states but rather other intervening variables, such as the socio-economic situation of these republics. Thirdly, ethnofederalism should be compared with its alternatives such as anti-ethnic federalism or centralization to see whether its performance is better or worse in terms of keeping the state together. Some partial ethnofederal proponents believe that its record is not as bad as the opponents suggest. Finally, and most importantly, the argument of ethnofederalism critics suffer from a basic fundamental flaw which is considering it as an IV only rather than a DV.

In fact, such as distinction between partial ethnofederalism as a DV or an IV has significant consequences. For example, the usual argument of the critics is that ethnofederalism leads to political instability, manifested in secession. Therefore, for them, ethnofederalism is an IV and stands out there alone causing instability. Yet, partial ethnofederalism is the outcome of the negotiations of the ethnic elites, as it was in Iraq. This argument has a few consequences in terms of leading to political instability. Firstly, partial ethnofederalism is not responsible for instability when it is a DV because it is yet under negotiation. Therefore, any political instability caused during or before the negotiations, partial ethnofederalism is not responsible for it. Secondly, this means that partial ethnofederalism was at least the second best choice on the ethnic group level and the best realistic choice nationwide. This indicates that partial ethnofederalism was the preferred choice that could minimally satisfy the ethnic groups. It was picked up as a conflict management instrument when its alternatives failed to be chosen. If then partial ethnofederalism was the only choice and preserved the integrity of the state, for example for a period of decade as in Iraq, then this should be considered as a merit of partial ethnofederalism.

Other scholars believe that ethnofederation's failure or success is affected by some other additional factors such as its origin, symmetry and asymmetry in the powers of the regions, and the existence of a core ethnic region. Yet, in regard to the Iraqi partial ethnofederation, these additional factors do not have a clear-cut bearing on anticipating its failure. Firstly, in terms of origin, partial ethnofederation in Iraq can be argued to have originated through various ways, namely as a coming-together, or holding-together, or a forced-together. As long as the position on the origin of partial ethnofederation is not decided, then anticipating its failure or success accordingly is irrelevant. Secondly, in regard to asymmetry in the powers of region, this also does not have a clear bearing on its failure or success. In Iraq, there is only one region now, the Kurdistan Region. Then, it is irrelative to refer to the impact that asymmetry may have in leading to the failure of the Iraqi partial ethnofederation. The powers now the Kurdistan Region constitutionally enjoys will be enjoyed by any other future formed region. Therefore, even then, there will be symmetry in the power of regions and not asymmetry. The governorates from another side also enjoy symmetry in power except for the capital, Baghdad, which is not eligible for forming a region by merging with any other governorate. Other than that, there is symmetry in the powers of the governorates. The point is that is that if asymmetry leads to failure then there is no asymmetry in the powers of regions or governorates and if symmetry leads to stability then Iraq should be considered as heading towards stability. Finally, there is not ethnic core region in Iraq according to its definition. Therefore, it is literally not applicable to Iraq.

Why did ethnic group elites and masses adopt partial ethnofederalism in 2005 in Iraq and what could it offer in terms of political stability? In answering these questions, this dissertation examined the previous political systems in Iraq in terms of their basic features. The main reason is that through the analysis of previous political systems, one can arrive at why partial ethnofederalism was adopted. Three central characteristics were present in the previous political systems, namely the Sunni Arab domination of the state, the centralization of the political system and authoritarianism, and the exclusion and maltreatment of non-dominant ethnic groups. These non-dominant ethnic groups were not fairly represented in state institutions, generally excluded from central and even local decision-making, and were treated as inferiors and exposed to mass-killing and genocide. On top of these, the Kurds were exposed to Arabization and nationality correction. In brief, instead of ethnic difference management strategies, the Iraqi governments resorted to undemocratic ethnic difference elimination strategies. Each of these basic features contributed to creating antagonism and grievances for the non-dominant ethnic groups, significant among them were the Shia Arabs and the Kurds. The Iraqi ethnic groups were convinced with partial ethnofederalism because it could address these antagonism and grievances properly.

Partial ethnofederalism could address such grievances through several mechanisms. Firstly, as partial ethnofederalism is about granting self-rule to territorially concentrated minorities, it could satisfy the Kurds and Shia Arabs, i.e., the two previously antagonized ethnic groups. The Kurds have a region in which they are a majority and the Shia Arabs have the constitutional choice of forming a region of their own. Yet, the Shia Arabs, now a majority in the government, do not feel threatened by the Sunni Arabs and that is why they are yet to be convinced with a mega-region that encompasses the nine governorates in which they form a majority. Secondly, the Iraqi partial ethnofederation could guarantee a fair representation of ethnic groups in the FG decision-making, through democratic elections, for the Kurds in Kurdistan Region and for other ethnic groups. Thus, it could address the problem of unfair representation. Thirdly, as partial ethnofederalism is considered an ethnic difference management strategy, the ethnic differences are managed democratically rather than eliminated undemocratically. Generally, partial ethnofederalism contributed to narrowing the gap between formal and informal roles and structures through such mechanisms.

Partial ethnofederalism was in the making and under negotiations from 1992 until the referendum of October 2005. Before the referendum, partial ethnofederalism is considered as a DV and therefore not responsible for any instability. This is because it was still under negotiations. Yet, after the referendum, it is regarded as an IV which has had influence on political stability. However, there are some elements of partial ethnofederalism that are still undergoing negotiations, such as the constitutional articles related to the distribution of natural resources. Therefore, partial ethnofederalism in Iraq now can be considered as an IV with elements of DV (for example constitutional articles that are still under the negotiation of ethnic elites). Such DV elements created instability especially between the Iraqi government and the Kurdistan Region. However, these should not be considered as problems generated by partial ethnofederalism because they are still under negotiations. This and other instances of political instability are present in Iraq now. However, if partial ethnofederalism is not to be predominantly blamed, then what explains these instability instances.

Several problems faced the nascent partial ethnofederal in Iraq that have contributed to producing political instability. One of these was that the Sunni Arabs did not grant their consent to the constitution and its preceding political processes. Three factors can explain why consent was not granted by the majority of them. Firstly, the presence of occupier rule, perceived as invaders by the Sunni Arabs in general and a few other Shia Arab groups was an influential factor. The occupiers were seen by these ethnic groups as illegitimate. Several reasons stand behind the occupier's illegitimacy. Firstly, in this age of the spread of nationalism and self-determination right, occupiers are considered as illegitimate authorities. Invasion and self-

determination are two contradictory concepts and the presence of one undermines the other. When invaded, foreigners, rather than locals, rule a country. Secondly, in the countries where the Islamic culture prevails, occupiers have no legitimacy of ruling. The Islamic teachings encourage that the locals resist any attempt from the outlanders who occupy their land. Resistance may range from a simple act of disobeying the invaders to armed-resistance. According to the Islamic teachings, whosoever is killed in defending his property is a martyr and martyrs should enter Paradise in the hereafter. Both the Shia and Sunni Arab Islamists who followed such Islamic traditions fiercely resisted the US occupation.

A second factor that explains the Sunni Arabs not granting consent was de-Baathification. This transitional justice mechanism was aimed at bringing stability by rebuilding trust among the ethnic groups and confidence in state institutions. Oppositely, it served to widen the gap between the nascent state and the Sunni Arabs who make up about one-fifth of the population. The Sunni Arabs were the victims of de-Baathification because they constituted the high-rank decision makers in Baath Party which ruled Iraq from 1968 to 2003. De-Baathification led to the unemployment of thousands of Sunni Arabs. Some deficiencies in the structure and implementation of this mechanism made it contribute to instability rather than stability. Among the deficiencies is the 'authority of exemption' that the PM has. The ex-PM, Nuri al-Maliki, manipulated, according to the interviews I conducted, such an authority to exclude those high-rank Baath officers who pledged loyalty to him. The Sunni Arabs felt they were targeted by de-Baathification and that it was implemented selectively aiming at taking vengeance upon them because they ruled Iraq since 1920s. What worsened the situation was that de-Baathification was followed by dissolution of the Iraqi army which had more than a million soldiers. Being unemployed, these soldiers were encouraged to work for the terrorists as well.

Due to the impacts of de-Baathification, the Sunni Arabs were dissatisfied with the processes of rebuilding the new federal democratic Iraq. Coupled with the negative implications of the maltreatment of the Sunni Arabs by the American soldiers in areas in which resistance to the invasion was prevalent, de-Baathification produced grievances for the Sunni Arabs who used to dominate politics in Iraq. Such grievances caused them to doubt the political process of rebuilding Iraq on the hands of occupiers. They boycotted two of the most decisive events in the history of post-invasion Iraq, namely January 2005 elections and the October 2005 referendum on the constitution.

The final important factor that made the Sunni Arabs refuse to grant consent was their perception of the political system as an imposition. They considered the political processes and the political system as imposed because they were excluded from the negotiations, rather than because of disagreement about partial ethnofederalism. This is not to say that there were no

disagreements about the details of partial ethnofederalism, but basically it was the only viable option that could minimally satisfy the significant ethnic groups. The three factors of occupier rule, de-Baathification, and the imposition perception made the Sunni Arabs refuse to grant consent and thus the gap widened between the formal and informal roles and structures. However, two other important explanations can be illuminating in answering why there is political instability in Iraq, namely process deficiencies and structural deficiencies.

Process deficiencies lacked the sense of partnership conceptualized as open bargaining, agreement on fundamentals, and reaching an accommodation that preserves the integrity of the ethnic groups. Yet, during the processes that led to the adoption of a partial ethnofederal system for Iraq, the Sunni Arabs felt excluded and then it is argued that there was an insufficient amount of partnership that could minimally satisfy the significant groups. Process deficiencies are divided onto four. The first is the stage of the CPA and the IGC reign. The deficiency in this period was that the CPA was the occupier's institution that had the overwhelming power of decision-making. The CPA founded the IGC on a predetermined formula without depending on any reliable census. Secondly, the implementation process of de-Baathification made the Sunni Arabs feel that they are targeted by it and the others are taking revenge upn them due to their past dominance. De-Baathification had the problem of poor, selective, and inefficient implementation. Thirdly, the TAL was the first fundamental and formal document in post-2003 Iraq and it became the principal source of drafting the permanent constitution. Yet, it did not receive enough negotiations and parts of it were imposed on the Sunni and Shia Arabs. Finally, the process of drafting of the permanent constitution was also deficient because it was characterized by the exclusion of the Sunni Arabs in most of its negotiations. Moreover, it was a rushed constitution and the ethnic groups did not have sufficient time to come to an accommodation that greatly satisfy all ethnic groups and thus it was voted against by the majority of the Sunni Arabs. These deficiencies found in these stages had an adverse influence on stability and led the majority of the Sunni Arabs to perceive the formal structures and roles as imposed and not fully legitimate.

Several structural deficiencies in the several institutions contributed to further widening the formal and informal gap. These deficiencies are present in several institutions such as some articles of Iraqi constitution, the non-establishment of constitutionally required federal institutions, and the centralized structure of the political system in relation to the GNOR, and structural deficiencies in de-Baathification. These deficiencies are either of a non-ethnofederal nature or they are not sufficiently federal. Some articles in the constitution have generated ethnic tensions such as article 140 in regard to disputed territories, articles related to the distribution of resources, and left-for-later-enactment articles that exceeded forty. The main

features of these articles are vagueness and being over-incremental. These two features have further widened the gap between the formal and informal. In addition to that, each of these articles has structural problems. For example, article 140 has exceeded its implementation deadline, which was 31st of December 2007. Furthermore, this article suffers from not providing implementation details. Although, it mentions three stages of normalization, census, and referendum, in a deep ethnically divided society such as Iraq, detailing the stages generate ethnic tensions and sometimes conflicts. This constitutional problem is the result of the ethnic elite negotiations and therefore not ethnofederal in nature. In other words, they resulted from poor negotiations that could not structure the article in a way that could avoid such vagueness.

One of the institutions that are not yet established in Iraq is the FC. The non-establishment of the FC indicates that the political system in Iraq is insufficiently federal. Constitutionally, the FC acts as the representative of the regions and governorates. As Iraq has suffered from the consequences of a strong executive, this legislative institution (FC) could have acted as a catalyst for creating a balance between both authorities. It could have empowered the regions and governorates to an extent that they could attain their full constitutional powers and enable them to defend their self-governing rights. Yet, the FC is still to be established. In addition to this, the political system is still centralized in Iraq in relation to the GNOR. In fact, in theory Iraq is federal, yet in practice it is only so in relation to the Kurdistan Region. Despite the existence of a few laws and constitutional articles that grant the GNOR with a lot of competencies, these laws and articles are not practiced in reality. This is also an indication that Iraq is yet to be sufficiently federalized. Finally, de-Baathification has had several structural deficiencies such as making the highest four ranks in Baath automatically jobless, the dissolution of all military units including the regular army, the exemption authority, and no deadline for its operation. Indeed, de-Baathification is a transitional justice institution rather than an outcome of partial ethnofederalism.

The Contribution and Value of this Dissertation

Any PhD dissertation should, in a way or another, contribute to the academic field and should have claims of originality. The contribution of this dissertation is both theoretical and empirical. Theoretically, works combining the concepts of ethnofederalism and political instability the way this dissertation does are exceedingly rare. The works on ethnofederalism are generally either blaming it for the breakup of states (Roeder, 2009, 2010; Cornell, 2002; Bunce, 1998, 2004)) or praising it, if qualified with specific conditions, as preserving the state integrity (Bermeo, 2002; Anderson, 2013; McGarry and O'Leary, 2009). Therefore, for them,

ethnofederalism is only about state disintegration or integrity. However, this dissertation goes a step beyond this to link ethnofederalism to political stability that is defined as narrowing the gap between the formal and informal roles and structures. The breakup of the state is only one manifestation of instability, yet the far end of it. Secession takes place when the gap between the formal and informal roles and structures is widened to an extent that there is no longer one formal and informal structure and role but two or more. Ethnofederalism does not always lead to the breakup of the state. It may sometimes widen the gap, but in its partial form, it usually narrows it as in the case of Iraq.

A key contribution of this dissertation is in the advancement of the theories of state building, namely ethnic conflict management theories and institutional design. In terms of conflict management, this dissertation asserts, firstly, the centrality of the inclusion of all the significant ethnic groups in designing the political system. A key lesson to be learned from Iraq is that the exclusion of the Sunni Arabs has had fatal consequences on leading to political instability. A second important factor in managing ethnic conflict is that the state should be built on the consent of all significant groups. Consent is a fundamental component of legitimacy. The more legitimate the processes of rebuilding a state, there will be more chances of closing the gap between the ethnic groups and the government. Thirdly, this dissertation confirms that for territorially concentrated ethnic groups who have grievances under undemocratic and tyrannical regimes, ethnofederalism in its partial form proves to be a viable institutional choice. The Kurds in Iraq are concentrated in the north and had suffered greatly from forced assimilation and genocide. However, for the Kurds, the best and most viable institutional and democratic choice that satisfied them, when independent statehood was improbable, was attaining formal and constitutional acknowledgment of an already existing region.

For institutional design to lead to political stability, it is undisputedly important to avoid structural deficiencies. These deficiencies originate from the lack of or weakness in partnership sense. Partnership is about open bargaining, ethnic elites' reaching consensus, and/or an accommodation that preserves the fundamental integrity of the conflicting parties. In post-2003 Iraq, four deficiencies stand out as key in leading to political instability. These deficiencies are the vagueness and over-incrementalism of the constitution, the non-establishment of the Federal Council, the centralism of the political system in Iraq except for the Kurdistan Region, and deficiencies found in the structure of the transitional justice institutions (de-Baathification). Although the structural deficiencies may differ from a case to another, establishing the state institutions based on partnership may be the most viable guarantee in leading to political stability.

Another theoretical contribution is that whereas the opponents perceive ethnofederalism as an IV that leads to the breakup of states, the proponents consider it as a DV, i.e., as the outcome of the negotiations of ethnic group elites, yet, in this dissertation, it has been considered it as a DV and IV. When considered as an IV, according to the critics, ethnofederalism becomes the variable that explains or causes state disintegration. However, if considered as a DV, then it is the second best choice for each ethnic group and the first choice among the other alternatives. It succeeded to become the choice when other alternative failed to be the choice. Secondly, if it is the only option, then blaming it for failure and instability is irrelative because the other alternatives have already failed. Nevertheless, the position this dissertation takes is that partial ethnofederation is a DV and an IV in Iraq. It was a DV when it was under the negotiation of ethnic group elites, yet it became an IV after its formal adoption in the referendum of 2005. However, there are still some aspects of the partial ethnofederation that are under ethnic group negotiations, such as the distribution of natural resources and the future of disputed territories. Therefore, partial ethnofederalism in Iraq, even after the 2005 referendum, can be considered as a combination of IV and DV.

Another theoretical and empirical contribution of this dissertation is that it offers an alternative explanation of political instability, rather than simply blaming ethnofederalism for it. The alternative explanation proposes that for a political system to lead to political stability, in a deeply divided society, firstly, the consent of the significant ethnic groups is required. Secondly, the processes that result in the establishment of the institutions should be identified by the presence of partnership, i.e., the ethnic negotiations should be based on coordination rather that subordination. Otherwise, it is considered deficient. Finally, the structure of the institutions should be as efficiently designed as possible. For example, the constitution should be clear in the basics and not over-incremental. There should be genuine federalization through adherence to the implementation of the constitutional article. In fact, political instability in Iraq is predominantly caused by the lack of sufficient legitimacy and deficiencies in the processes that led to rebuilding the political system and the structure of the institutions.

Empirically, this dissertation has also contributed to the literature on ethnofederations. Federalism in Iraq is often neglected by the scholars partly because they think of it as a nascent experience. For them, this nascency does not allow for meaningful comparisons or reasonable inductions. This does not mean that no scholar has written about federalism in Iraq. There are several articles and book chapters about it, but they are insufficient. More should be written about partial ethnofederation and the sources of instability in post-2003 Iraq. In this aspect, this dissertation fills this gap by extensively analyzing partial ethnofederalism in Iraq regarding leading to stability.

Another empirical contribution of this dissertation is that it posits that Sunni Arabs refused to vote for a federal Iraq because they had concerns about their exclusion and becoming a full ethnofederation, rather than partial ethnofederation. The Sunni Arab had already, before the 2005 referendum and in the opposition conferences before 2003, acknowledged the legality of the Kurdistan Region. The existence of the Kurdistan Region, overwhelmingly Kurdish, makes Iraq a partial ethnofederation. According to the constitution, Iraq has the potential to become a full ethnofederation by dividing up into three ethnic regions (for the Sunni Arabs, Shia Arabs, and Kurds). Therefore, the concern of the Sunni Arabs was basically about this potential. Furthermore, what also encouraged the Sunni Arabs to vote against the constitution was their political exclusion from the drafting processes rather than because of the demerits of federalism.

Two other aspects of this dissertation should be highlighted. Firstly, this dissertation, as it is both empirical and theoretical, can be beneficial for academics working on Iraq and for practitioners. For practitioners, they can benefit from the empirical case of partial ethnofederation in Iraq in recommending it for other deeply divided societies and in taking lessons from the mistakes. It is also of benefit to scholars to see the implications of partial ethnofederation in Iraq as regards leading to political stability. This dissertation can also be beneficial for those scholars who inquire about the manifestations of political instability in Iraq. Secondly, this dissertation can be illuminating if recommended for other cases of divided societies where an ethnic group is territorially concentrated and has a history of grievances caused by dictatorship and centralism. One current case may be post-war Syria. The Syrians suffered from centralism and dictatorship since decades ago. There are various ethnic groups living in Syria. The Kurds are concentrated in the north of Syria where they now enjoy having their own controlled territory. Future Syria can be best managed via a federal system where the Kurds can have their formally acknowledged region. Such a step may greatly contribute in pacifying the Kurds and in making them actively contribute to the stability of post-war Syria.

Further Research

The subject of ethnofederalism and its role in leading to political instability is understudied in the academia. The scholars who have investigated such an issue are few. Ethnofederalism should be further researched in several aspects. Firstly, several scholars blame ethnofederalism for the breakup of states (the far end of political instability) such as the USSR, yet others defend it as capable of preserving the unity of the state and the peoples, as in Canada. These positions can be justified in two ways, either the argument of one side should be wrong, or they (Canada and USSR) fall under different definitions and classifications. The former is excluded in

academic debates, but the latter must be carefully considered. Without a new classification of ethnofederal arrangements, the two camps of opponents and proponents would stay in a vicious circle of arguments.

In this regard, Liam Anderson (2013) (detailed in chapter one) reclassified ethnofederal arrangements based on denial of ethnic institutionalization or accommodating ethnic groups. Ethnicity denied, two arrangements appear, namely anti-ethnic and territorial federations. Based on accommodation, two other arrangements stand out namely full ethnofederations (ethnic federations) and federacies. This classification is beneficial in assessing the success or failure of federations. For instance, the USSR failed because it was a full ethnofederation, whereas Canada has survived because it is not a full ethnofederation. However, the problem still exists because this classification is not comprehensive, i.e., not all ethnofederations can fall under them. For example, Iraq is an ethnofederation; yet, it is neither of these categories. The Iraqi ethnofederation is based on accommodating the Kurds, an ethnic group concentrated in the north of Iraq. Iraq is neither a full ethnofederation nor a federacy. It is not a full ethnofederation because not all the units are intentionally home to ethnic groups and it is not a federacy because the state is constitutionally federal, not unitary. This means that another ethnofederal categorization is still needed. Anderson added another category, namely partial ethnofederations. Partial ethnofederations are a combination of the territorial and full ethnofederations where the logics of both categories meet. Accordingly, on the whole, the country is federal (based on denial), except for one part of it that is ethnic (based on accommodation). Canada falls under this category because Quebec is the home of the French and the rest of the country is a territorial federation.

Anderson's concept of partial ethnofederation has another problem. Iraq is a partial ethnofederation because of its only existing region in which the overwhelming majority of its inhabitants is Kurds. However, under which category Iraq will be categorized if another region is founded that includes the overwhelming majority of either the Sunni Arabs or Shia Arabs? Will then Iraq be called a partial ethnofederation or a full ethnofederation? The answer to this question is important because it influences the success or failure of ethnofederations. Some scholars believe that the USSR and Yugoslavia broke up because they were full ethnofederations. In fact, there is the potential for the formation of such an ethnic region in the Iraqi constitution. Furthermore, any other ethnic region means that two-thirds of the ethnic groups have their homeland regions as there are only three significant ethnic groups in Iraq. In other words, does Iraq remain a partial ethnofederation if only one ethnic group does not have its ethnic region out of three?

Another issue that needs further researching is the assessment of an ethnofederation according to the realities on the ground and not solely according to the constitution. An example may shed light on this. According to the constitution, the way the relationships between local, regional and FG are organized, Iraq can be described as a partial ethnofederation. Taking the reality into consideration, Iraq may be described as an ethnic federacy. The reason is that the relationship between the FG and the local governments is still centralized and unitary, whereas the relationship between the FG and Kurdistan Region is ethnofederal. For this, the definition of ethnic federacy applies on Iraq. Researchers should become clearer in their categorization of ethnofederal arrangements.

The second issue that needs to be further investigated is where and when, if ever, ethnofederalism should be prescribed as a conflict management instrument. Some scholars, as seen in chapter one, perceive ethnofederalism as leading to state breakup. Therefore, they recommend avoiding ethnofederalism in managing ethnic conflicts. Others would recommend it. The reality is that ethnofederalism should not be dismissed as a conflict management tool because it has worked in some states. The vital question of when and where it should be recommended is vital. Although, this dissertation has briefly touched on the subject, it requires more attention in future research. In some post-conflict societies, ethnofederalism seems to be the only viable democratic solution that has the minimum agreement of all the ethnic groups. States, in the transition from dictatorship to democracy, usually have a history of ethnic marginalization and suppression. Therefore, when transitional negotiations start, previously marginalized groups opt for an ethnic form of autonomy. This is usually the case where minorities are concentrated territorially and are *relatively sizeable* compared to the whole population. The terms *relatively sizeable* should also be further studied.

The third issue for further research is postulating ethnofederalism as the explaining variable behind the disintegration of states. In other words, if ethnofederalism has an indigenous potential for partition of states, then it should have that potential in each case. According to this logic, all ethnofederal states should fail solely because they are ethnofederal. In fact, such logic should be avoided. As long as ethnofederal arrangements work in some cases, then other variables should be considered as leading to the breakup of states. Applied to Iraq, if partial ethnofederalism fails in the future, other factors and explaining variables should also be counted responsible. In Iraq, partial ethnofederalism has relatively worked in keeping the state together after a decade on its adoption, whereas its counterparts, such as unitary and centralization systems, failed to be considered as an ethnofederal alternative by ethnic elites in the negotiations. Researchers should focus more on explaining variables rather than merely blaming ethnofederalism for state failure.

The forth issue is whether the ethnicization of politics is undesirable at all times and in all places. Ethnofederalism is about making ethnicity the source of institutionalization either partially or fully. In post-2003 Iraq, it was hard to be convinced that any other solution, rather than partial ethnofederalism, would have minimally satisfied the ethnic groups. The Kurds had a region of their own since 1991 and they managed it without any support from the Iraqi government. In fact, it was unimaginable for the Kurds to abdicate their quasi-independence for less than a formally acknowledged and constitutional ethnic region. Also, the Kurds actively participated in overthrowing the Baath regime through providing military and logistic assistance to the occupying forces in 2003. This was an extra incentive for them to consolidate their demands for an ethnic region. Therefore, when a territorially concentrated ethnicity, suffered from exclusion and had grievances, has a region under control in a post-conflict and deeply divided society, has the chance to negotiate its demands, I presume, no less than partial ethnofederalism can satisfy them.

How the notions of originations and symmetry (and asymmetry) can affect the success or failure of ethnofederations is the fifth issue that should be investigated in future researches. The essential problem with the concept of origination is that it is prone to different interpretations. For instance, the Iraqi ethnofederation may be perceived as holding-together for some researchers, coming-together to others, or putting-together. Therefore, classifying Iraq under each category has impacts on success and failure considerations. Furthermore, as long as this classification is elastic, future researches should concentrate on putting a framework or define the boundaries of each category clearly. Symmetry and asymmetry in Iraqi partial ethnofederation need further research. Iraq is symmetric partial ethnofederalism. All the GNORs have the same constitutional powers. Future regions will have the same authorities and competences as Kurdistan Region and therefore, there will be asymmetry. The question is whether having this symmetry in Iraq would positively contribute to its political stability? Researchers should reconnoiter this issue.

The relationship between ethnofederalism and political instability in post-conflict and divided societies requires further research regarding content and approach. The approaches of political instability concentrate on the duration of government, the existence of civil war, and so forth. To find out about the relationship between ethnofederalism and political instability the focus should be firstly on the structure of the state institutions. This is because ethnofederalism, partial or full, is about structuring state institutions based on ethnic groups. Conceptualization of political instability should be also based on the roles that these ethnic groups, leaders or masses, play in it. These roles and structures may be formal (coded) or informal (non-coded). The approach adopted in this dissertation considers both formal and informal roles and

structures as necessary in political instability. This approach is underdeveloped so far and only researched by J. Eli Margolis (2010, 2012). Furthermore, I am the first one who used such approach in dealing with the question of whether partial ethnofederalism leads to political instability.

In terms of content, the approach suffers from the lack of a clear-cut criterion of what should count as formal and informal structures and roles. Sometimes it is not quite obvious that a certain structure or role should be considered as formal or informal. An example is whether the Kurds or any other ethnic groups should be reckoned as formal or informal roles. Alternatively, should the Shia Arab Marja'ya be counted as a formal or informal structure or role. This approach depends on finding the gap between the formal and informal roles and structures. The wider the gap, there is more political instability. It is about the potential for the existence of instability, yet what is unclear is the question of measuring that potential. How do we now that there is more potential for instability in a political event than another political event? To answer this, I depended on whether the paths taken by the informal and the formal roles and structures were consent and reform or coercion and replacement? The latter two indicate an increase in the potential for instability and the two formers indicate decreasing potential.

Critics of ethnofederalism link it with the breakup of the state. The breakup of the state is under the path of 'replacement' in the adopted approach to political instability. Linking ethnofederalism to political instability should not only be through replacement (or the state breakup) but through the other paths as well. Researchers should scrutinize how and in which ways ethnofederalism could be linked to the other paths of consent, reform, or coercion. This opens new doors for researchers regarding widening the approach and more strongly linking it with ethnofederalism.

The last point for further research is to investigate the ways in which ethnofederalism can contribute to bringing about and maintaining political instability in societies divided along ethnic lines. When partial ethnofederalism is posited as having the potential for bringing stability to an ethnically deeply divided state, then the strength of the extent to which it can bring about consent or reform should be measured. Contrarily, if it is thought of as generating instability, its role in strengthening the paths of coercion or replacement should be assessed. A vital question to be researched is what are the mechanisms through which ethnofederalism may lead to political stability or instability? How can such mechanisms be adjusted, bolstered, or relinquished?

Conclusion

Partial ethnofederalism in Iraq has contributed to promoting political stability through narrowing the gap between formal and informal roles and structures. It has done this through the mechanisms of granting the Kurds a formal acknowledgment of their region, near fair representation of all the ethnic groups in nationwide decision-making, constitutionally granting the GNOR a wide range of competencies, and so forth. This dissertation studied partial ethnofederalism and political stability in Iraq, yet it never claims no need for further research. The scholars working on federalism in its ethnofederal form still need to develop the theoretical and empirical debates about its role in a state's integrity or disintegration. This dissertation contributed theoretically and empirically in the investigation of the role of partial ethnofederalism in leading to political instability in Iraq.

The overarching aim that pushed and encouraged me to work on partial ethnofederalism as conflict management mechanism was to promote the idea that conflicts should be avoided in deeply divided societies. Such a mechanism should not be rejected based on some insufficiently investigated and understudied claims of it leading to the breakup of the state. As a Kurd, I suffered miserably because of the existence of dictatorship and the centralized state. Therefore, I find partial ethnofederalism as a way to genuine coexistence. What is vital for me is that no Kurd, Sunni Arab, or Shia Arab is to become a victim of ethnic elimination anymore. We, human beings, should live in peace and whatever happens, we must find a way to it.

Appendices

Appendix 1: Interviewees' Background Information

Names	Ethnic groups	Official position	Specific position	Duration	Political affiliation	Governorate	Interview	Interview date
Abdulrahman Mustafa	Kurd	Ex-Governor of Kirkuk	Governor of Kirkuk	May 2003-March 2011	Independent	Kirkuk	Face-to-face	25.08.2013
Abdurahman Sdiq	Kurd	Ex-Minister	Minster of Environment in the Iraqi Interim Government	June 28, 2004 to May 3, 2005	KIU Currently independent	Kirkuk	Face-to-face	17.08.2013
Ali Bapir Watman	Kurd	MP	Tribes Committee	2010-2014	The Emir (Head) of Islamic Group in Kurdistan	Erbil	Face-to-face	17.08.2013
Ashwaq Najmaddin Abbas Jaf	Kurd	MP	• Human Rights Committee until 2014 • Currently an MP	2010-2014 2014-2018	KDP	Sulaimaniya	Face-to-face	02.10.2013
Bakir Hama Sdiq Arif	Kurd	MP	Committee of Tourism and Antiquities	2010-2014	KIU	Sulaimaniya	Face-to-face	09.09.2013
Narmin Osman	Kurd	Ex-Minster	• Minister of Education in KRG from 1992-1994 • Minister of Women Affairs in the Iraqi Interim Government from 2004-2005 • Minister of Environment in the Iraqi Transitional Government from May 2005-May 2006 • Minister of Environment from 2006-2010	1992-1994 2004-2005 2005-2006 2006-2010	PUK	Sulaimaniya	Face-to-face	29.08.2013
Rebwar Talabani	Kurd	Vice-President of Kirkuk Municipality		Since 2003	KIU	Kirkuk	Face-to-face	25.08.2013

Names	Ethnic groups	Official position	Specific position	Duration	Political affiliation	Governorate	Interview	Interview date
Autheel AbdulAziz al-Nujaifi	Sunni Arab	The ex-Governor of Mosul		2009-2015	Al-Hadba List	Mosul	Email	01.09.2013
Mahmud Osman	Kurd	MP	Committee of Regions and Governorates	2006-2010 2010-2014	Independent	Sulaimaniya	Phone	04.10.2013
Wael Abdulatif	Shia Arab	Governor of Basra IGC member CDC member MP	Governor of Basra in 2003 • IGC member from 2003 to 2004 • Minister of Provincial Affairs in the Iraqi Interim Government in 2004 • CDC member in 2005 • MP from 2006 to 2010	2003-2014	Al-Iraqiya	Basra	Email	08.07.2015
Munthir al-Fadhl		CDC member		2005			Skype	12.02.2015
Burhan Hama Faraj	Kurd	MP	Committee of Education	2010-2014	PUK	Sulaimaniya	Face-to-face	01.09.2013
Alaa Makki	Sunni Arab	MP	Committee of Education	2006-2010 2010-2014	Tajdid	Baghdad	Face-to-face	11.09.2013
Abbas al-Bayati	Shia Arab	MP	Committee of Security and Defense	2006-2010 2010-2014	State of Law	Baghdad	Filled-in Sheet	25.09.2013
Hasan al-Sned	Shia Arab	MP	Committee of Security and Defense	2006-2010 2010-2014	Dawa Party	Dhi Qar	Filled-in Sheet	25.09.2013
Hussein al-Safi	Shia Arab	MP	Committee of Law	2010-2014	State of Law	Babil	Filled-in Sheet	25.09.2013

Names	Ethnic groups	Official position	Specific position	Duration	Political affiliation	Governorate	Interview	Interview date
Nada al-Jibouri	Sunni Arab	MP	• Committee of Family and Childhood since 2006 • Committee of Foreign Relations since 2010	2006-2010 2010-2014	National Dialogue	Baghdad	Email	25.10.2013
Saleem al-Jibouri	Sunni Arab	MP	• Committee of Law since 2006 • Committee of Human Rights since 2010 • The Speaker of the CoR since 2014	2006-2010 2010-2014 2014-2018	IIP	Diyala	Face-to-face	03.10.2013
Muhammad Iqbal	Sunni Arab	MP	• Committee of Health and Environment since 2010 • Minster of Education since 2014	2010-2014 2014-2018	IIP	Mosul	Face-to-face	03.10.2013
Usama Jamil	Kurd	MP	Committee of Human Rights	2010-2014	KIU	Erbil (Hawler)	Face-to-face	11.09.2013
Zyad Zarb	Sunni Arab	MP	Committee of Regions and Governorates	2010-2014	Al-Hal Movement	Baghdad	Face-to-face	30.09.2013
Khalid Shwani	Kurd	MP	• Committee of Law from 2006 to 2014 • The official spokesman for the Presidency of the Republic since 2014	2006-2010 2010-2014 2014-2018	PUK	Kirkuk	Face-to-face	03.10.2013
Sardar Abdulla	Kurd	MP	Committee of Security and Defense	2010-2014	Goran	Sulaimaniya	Face-to-face	18.09.2013

Names	Ethnic groups	Official position	Specific position	Duration	Political affiliation	Governorate	Interview	Interview date
Jamal al-Gaylani	Sunni Arab	MP	Committee of Health and Environment	2010-2014	Tajdid	Salahaddin	Face-to-face	22.09.2013
Najeeb Abdullah Balataee	Kurd	MP	Committee of Regions and Governorates	2010-2014	KIU	Duhok	Face-to-face	29.09.2013
Latif Mustafa Amin	Kurd	MP	Committee of Law	2010-2014	Goran	Sulaimaniya	Face-to-face	12.09.2013
Ammar Kazim al-Shibli	Shia Arab	MP	Committee of Integrity	2010-2014	State of Law/ Independent	Baghdad	Email	20.10.2013
Salim Dalli Salih	Sunni Arab	MP	Committee of the MPs Affairs and Parliamentary Advancement	2010-2014	Iraqiyun	Mosul	Email	01.09.2013
Muhammad Kayani	Kurd	MP	Committee of Regions and Governorates	2010-2014	Goran	Erbil (Hawler)	Skype	27.01.2015
Lana Muhamad Abdurrahman	Kurd	MP	Committee of Health and Environment	2010-2014	PUK	Sulaimaniya	Face-to-face	19.09.2013
Mr X	Kurd	MP					Face-to-face	01.09.2013
Abubakir Karwani	Kurd	Member of Political Bureau of KIU			KIU	Sulaimaniya	Facebook	2015
Ayad al-Samaraee	Sunni Arab	MP	• Committee of Finance since 2006 • The Speaker of the CoR in 2009 • MP from 2010 to 2014 • The General Secretary of IIP since 2011	2006-2010 2010-2014	IIP	Baghdad	Email (Twice)	16.10.2013 11.01.2015
Abulabbas al-Shya'	Shia Arab	MP	Committee of Economy and Investment	2010-2014	State of Law	Maysan	Email	25.10.2013
Amr Abdullah Al-Kufaishi		MP	Committee of Higher Education	2010-2014	Dawa Party	Najaf	Email	26.10.2013

Appendix 2: The consent form

Informed Consent Form ![Newcastle University logo]

I, the undersigned, confirm that (please tick box as appropriate):

1.	I have read and understood the information about the project, as provided in the Information Sheet dated _____.	☐
2.	I have been given the opportunity to ask questions about the project and my participation.	☐
3.	I voluntarily agree to participate in the project.	☐
4.	I understand I can withdraw at any time without giving reasons and that I will not be penalised for withdrawing nor will I be questioned on why I have withdrawn.	☐
5.	The procedures regarding confidentiality have been clearly explained (e.g. use of names, pseudonyms, anonymisation of data, etc.) to me.	☐
6.	The use of the data in research, publications, and archiving has been explained to me.	☐
7.	I understand that other researchers will have access to this data only if they agree to preserve the confidentiality of the data and if they agree to the terms I have specified in this form.	☐
9.	Select only **one** of the following: • I would like my name used and understand what I have said or written as part of this study will be used in reports, publications and other research outputs so that anything I have contributed to this project can be recognised.	☐
	• I do not want my name used in this project.	☐
10.	I, along with the Researcher, agree to sign and date this informed consent form.	☐

Participant:

_____   _____   _____
Name of Participant   Signature   Date

Researcher:

_____   _____   _____
Name of Researcher   Signature   Date

Appendix 3: (Translated from Arabic by Jalal H. Mistaffa, the author of this dissertation)

In the Name of Allah, the most Gracious, the Most Merciful
The Republic of Iraq

Ministry of Interior
Kirkuk Governorate
Internal Affairs
No. 9/11/1879
Date: 26/02/2000

To/ the Reverent Special Office (Diwan)
Subject/ the execution of the special orders

Executing your reverent order no. 8/11/812 issued on 13/01/2000 following the instructions of the Ministry of Interior/Legal Affairs no. 467 on 04/01/2000 about the traces of the enemies and uncovering their intentions, we would like to inform your excellency about the followings:

1- The reports, about the strengthening the position of the Arabic language in all the governorate's schools, refer to the success of such a process. Arabic has been imposed on all schools and other local languages have been clamped down and choked as they are no longer used in daily communication, especially in the education, learning and teaching. Furthermore, special clothes that hold foreign symbols such as American, Israeli, and Turkish are banned.

2- The Internal Censorship Committee in the Governorate was capable of changing the titles and names of all trading and industrial places, casinos, coffee shops, Takiyas, mosques, streets, and archaeological spots. These were all inscribed in local languages of Kurdish and Turkomani. They were all changed into original historical Arabic names and titles. This was carried out in harmony with your comprehensive instructions and thus included all the aspects of life inside the center of the governorate.

For your information and order, regards.

Brigadier/ Nafi' Salman Mutlaq
The Head of Internal Affairs

بسم الله الرحمن الرحيم
جمهورية العراق

وزارة الداخلية
محافظة التأميم
الشؤون الداخلية
العدد / ٨٧٩ / ١١ / ٩
التاريخ / ٢٦ / ٤ / ٢٠٠٠

الى / المكتب الخاص / قسم الديــــــوان

م / تنفيذ التوجيهات الخاصـــــــة

تنفيذا لامركم المرقم ٨ / ١١ / ١٢ الصادر في ٢٠٠٠/١/١٣ والمعطوف على توجيهات وزارة الداخلية ـ الشؤون الداخلية بالتأميم نهمة المرقم ٤١٧ في ٢٠٠٠/١/٤ حول مسح اثار ومخلفات الاعداء· وفسر نوايـاهم · نود ان نعلم سيادتكم بما يلي :ـ

١ ـ التاريم الواردة من لجان تحكيم اللجنة الزهوبية في كافة مدارس المحافظة تشير الى انجاح العملية بشكل جيد · وتم قرئ اللجنة المعروبة على كافة المدارس· وتم تاصيص المخناق على اللانات المحلية · ولم يحظى لهم اي دور في المخاطبة · وبالاخص في مجال التربية والتعليم والتدريس· وتم ضبط الرقابة على ارتداء الملابس المستوردة الاجنبية · والتي تحمل شعارات وكتابات امريكية وصهيونية شركبية ·

٢ ـ تمكنن لجنة الرقابة الداخلية في المحافظة من تنظيم كافة الاسماء والعناوين · للمحلات التجارية والصناعية · والكازينوات والمقاهي والمساجد والتكايا والشوارع والاماكن الاثارية والتي كانت مدرجة بالتبجات واللغات الكردية والتركمانية · وتم تبديلها باسماء وعناوين عربية اصيلة تاريخية عريقة· وبما ينسجم مع التغيير الشامل · حيث شمل جميع مرافق الحياة في داخل مركز المحافظة للعلم وامركم مسع التقدير ·

العميد / نافع سلمان مطلك
م / الشؤون الداخلية

صورة منه الـــ /

Appendix 4: (Translated from Arabic by Jalal H. Mistaffa, the author of this dissertation)

Ministry of Interior
Tameem Governorate
First Governorate
Confidential Correspondence

No: 17/1717
Date: 27/2/1996

<div align="center">Confidential and private</div>

To/ the General Head of Education in Tameem
Subject / employing school guards

We only agree to employ those Turkomans who are members of the Party as (guards) in the governorate schools, yet not overdoing this. However, our endeavors to find Arabs to fill such jobs should consistently continue. Do whatever it takes for this and inform us about the outcome, please.

General
Ayad Fateeh Khalifa
Tameem Governor
26/2/1996
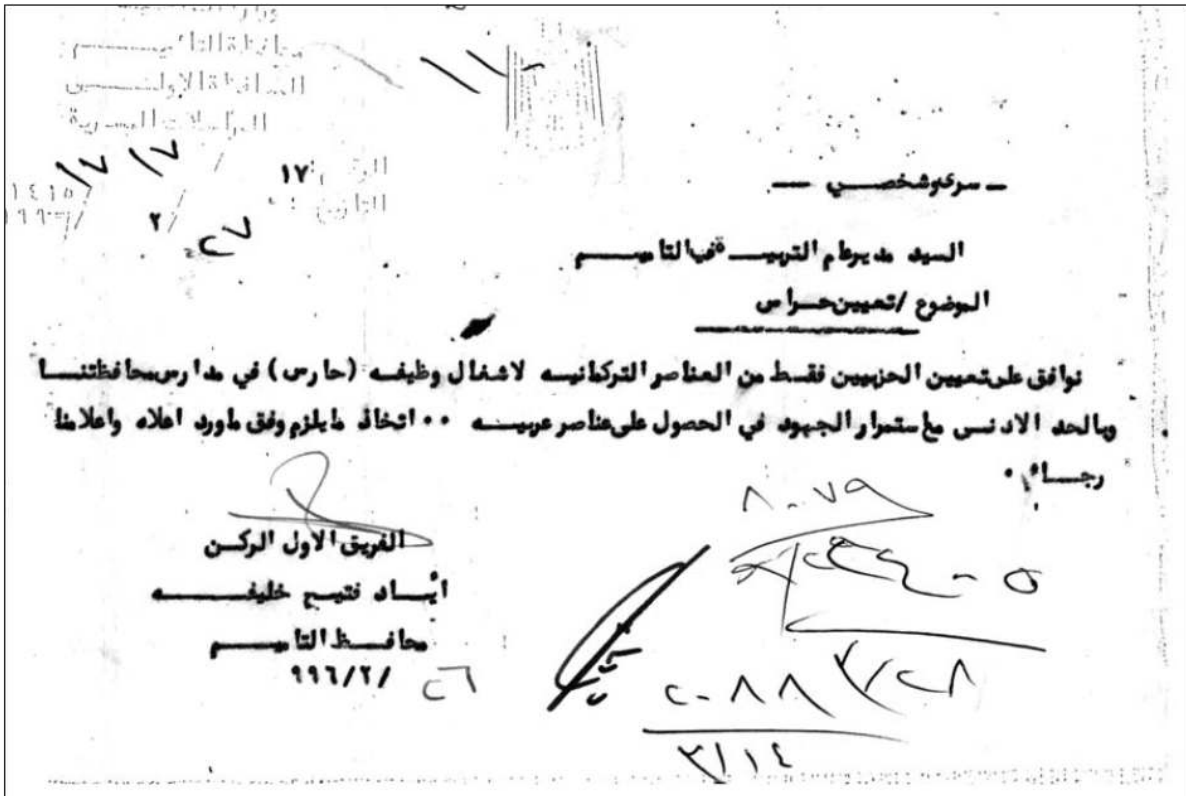
Appendix 5: (Translated from Arabic by Jalal H. Mistaffa, the author of this dissertation)

In the Name of Allah, the Most Merciful, the Most Gracious
Khanaqin District
The Republic of Iraq
The Security Committee

No. 25/363
Date: 24/03/1999

To/ the Khanaqin Heading Branch
Subject/ Stating your opinion

Executing the reverent order of the Vice President (Taha Yaseen Ramazan) during his visit to Khanaqin in July 1998 and his meeting with the Security Committee in the District in which his excellency affirmed the necessity of decreasing the number of Kurds in Khanaqin to 20%, the Security Committee discussed, on 24/03/1999, the issue of transferring the Kurdish male and female teachers to areas outside Khanaqin District.
Please inform us of your opinion about this issue for the sake of fighting against the concerned sides.
With regards

Brigadier
Amr Muhammad Salih
Khanaqin District Qaimqam
The Head of the Security Committee
24/03/1999

بسم الله الرحمن الرحيم

قائمقامية قضاء خانقين

جمهورية العراق

اللجنة الامنية

العدد /٢٥/ ٣٦٣ (سري للغاية)

التاريخ / ٢٤ / اذار / ١٩٩٩

الى / قيادة شعبة خانقين

الموضوع / بيان راي

تنفيذا لامر السيد نائب رئيس الجمهورية (طه ياسين رمضان) اثناء زيارته الـــى خانقين في تموز / ١٩٩٨ و لقائه باعضاء اللجنة الامنية في القضاء و الذي اكـــد سيادته على ضرورة تقليل نسبة الاكراد في خانقين الى ٢٠% عليه ناقشت اللجنـــة الامنية باعضائها المنعقدة بتاريخ ١٩٩٩/٣/٢٤ موضوع نقل المعلمين و المدرسين من الذكور و الاناث من القومية الكردية فقط خارج قضاء خانقين .

للتفضل بالاطلاع وبيان رايكم بصدد الموضوع واعلامنا .

ليتسنى لنا مكافحة الجهات ذات العلاقة ... مع التقدير

العميد

عامر محمد صالح

قائمقام قضاء خانقين

رئيس اللجنة الامنية

١٩٩٩/٣/٢٤

186

Appendix 6: (Translated from Arabic by the website of Article 140 Committee)

Document 78:

Iraq Republic
Tameem Governorate
(Secret Correspondence)

NO: 17/14707
Date: 15/12/1997

Secret – Personal
TO / North Committee
Subject / Kirkuk Arabiazation

The results of General Population Enumeration of 1997 in our Governorate, revealed that Arabic proportion in the Governorate is 73% and Arab proportion in Kirkuk city is 58%. To increase Arab proportion in Kirkuk City distinct the follows:

1. The total sum of Costum recourses specialized for Suliamania Control planning Office in our Governorate from 27/3/1997 till 30/11/1997, is (102,847,120,2) dinars.
2. Already, the President instructed the Rebuilding and Population Ministry to build houses of low cost in Governorate after the deal with the citizens, we encouraged this idea and we arranged with Al- Mansour Company for Contracts, to prepare designs for some houses, the cost of the house was between (3,175,000) Million and (4,530,000) million. According to the attached maps, but no one contract with Population Ministry to buy above houses after advertisement in Newspaper and TV. Because they do not trust Iraqi Market Stability.
3. According to the above mentioned and to attract Arabs to Kirkuk city we suggest the follows:
a. Specialize the mentioned sum from the (1) article to establish houses of low cost in Kirkuk City.
b. To build population units near resident houses that exists a big proportion of other minorities if in occupied lands were provided, and if they were not provided so to establish in any other occupied land of the city.
c. Distribute the houses that established in the city on the delegated Arabs and according to the Revolution Command Council of 42 in 1986.
4. In case if the agreement upon the contents of (3) article this will achieve the follows:
a. Attract great number of Arabs to live in Kirkuk city and this will achieve augmenting of Arabic proportion in it.
b. Employ big proportion of Idle working people now.
c. To charge the population Ministry Company and industrial Military to implement the job.

To see please and your ascribing….
With Regards

General
Aiad Ftaih Khalefa
Tameem Governor
15/12/1997

<u>Accompaniment:</u>
7 designs
1advertisement
<u>Copy to:</u>
- Tameem – Salah Al- Deen – Suliamania Governorate Arrangements. To see please with Regards.

بسم الله الرحمن الرحيم

جمهورية العراق

سري للغاية وشخصي

الى / لجنة الشمال
الموضوع / تعريب كركوك

لقد ظهر من نتائج التعداد العام للسكان لعام ١٩٩٧ في محافظتنا
بأن نسبة العرب في المحافظة هو ٧٣% ونسبة العرب في مدينة كركوك
هو ٥٨% ولغرض زيادة نسبة العرب في مدينة كركوك نبين ما يأتي :-

١٠ لقد بلغ مجموع الايرادات الكمركية الخاصة بمكتب ترسيم سيطرة السليمانية
في محافظتنا اعتبارا من يوم ٩٩٧/٣/٢٧ ولغاية ٩٩٧/١١/٣٠ هـو
(١٠٢ر ٨٤٧ ر١٢٠ر٢) مليارين ومائة وعشرون مليون وثمانمائة وسبعة
وأربعون الف ومائة واثنان دينار٠

٢٠ سبق ووجه السيد الرئيس القائد (حفظه الله وطه) وزارة الاسكان والتعمير
ببناء دور واطئة الكلفة في المحافظة بعد الاتفاق مع المواطنين وشجعنا هـذه
الفكرة وقمنا بالتنسيق مع فرع شركة المنصور للمقاولات لاعداد تصاميم لعدد مـن
الدور فكانت كلفة الدار الواحدة تتراوح بين (٧٥٠ر٣) مليـون دينـار
و (٥٣٠٠٠٠ر٤) مليون وحسب الخرائط المرافقة ولكن لم يتقدم ما حـد
للتعاقد مع وزارة الاسكان لشراء الدور واعلاه بعد الاعلان عنها بالصحـف
والتلفزيون بسبب عدم ثقتهـم باستقرار السوق العراقية٠

٣٠ بناء لما جاء اعلاه ولغرض استقطاب العرب الى مدينة كركوك نقتـرح
ما يأتي :-

أ٠ تخصيص المبلغ المذكور من المادة (١) انفا لغرض انشاء دور واطئة الكلفـة
في مدينـة كركوك٠

ب٠ بناء الوحدات السكنية قرب الاحياء التي تتواجد فيها نسبة كبيرة مـن
الاقليات الاخرى اذا توفرت الاراضي الشاغرة وفي حالة عدم توفرها تنشأ فـي
اي ارض شاغرة في المدينة٠

(١ ـ ٢)

جمهورية العراق

محافظة التأميم

(المراسلات السرية)

العدد / ١٧ / ١٤٧٠٧

التاريخ ١٥ / ١٢ / ١٩٩٧ م

ج ٠ توزع الدور التي تنشأ في المدينة على العرب الوافدين وبموجب قرار مجلس قيادة الثورة ٤٢ لسنة ١٩٨٦٠

٤ ٠ في حالة الموافقة على ما جاء في المادة (٣) أنفا فأن ذلك يحقق ما يأتي :-

١ ٠ استقطاب اعداد كبيرة من العرب للسكن في مدينة كركوك وهذا يحقق زيادة نسبة العرب فيها ٠

ب ٠ تشغيل اعداد كبيرة من الايدى العاملة العاطلة حاليا عن العمل ٠

ج ٠ تكليف شركات وزارة الاسكان والتصنيع العسكرى لتنفيذ العمل ٠

يرجى التفضل بالاطلاع وتنسيبكم ٠٠٠ مع التقدير

المرفقات

تصاميم عدد / ٧

اعلان / ١

الفريق الاول الركن
اياد فتيح خليفه
محافظ التأميم
١٩٩٧/١٢/١٥

نسخه منه الى /-

تنظيمات محافظات التأميم وصلاح الدين والسليمانية ٠ للتفضل بالاطلاع ٠٠ مع التقدير٠

(٢ - ٢)

١٢/١٥م

Appendix 7: (Translated from Arabic by the website of Article 140 Committee)

Document148

In The Name Of ALLAH Most Gracious Most Merciful
Republic of Iraq
Revolution command council
Bureau of vice president

NO: 30/958
Date: 29/10/1996

Secret and Personal

To/
Comrade member of the leadership of Country of Iraq of Baath Party
Responsible for Baath Party in Tameem and Salah Al- Deen
Subject/ correcting Nationality

The vice – president (chief of revolution command council) ascribed that the party branch must urge of (Kakia, Talabny and Dawdiya) tribes to make quick advance, to go to the statistic central service management in governorate for the purpose of making achievements concerning this issue. please peruse and take what is suitable as you see.

with regards.

Maad Ibraheem Khalil
General Manager
29/10/1996

جمهورية العراق
مجلس قيادة الثورة
مكتب نائب الرئيس

(سـري وشخصي)

العدد: ٢٠/ ٩٥٨
التاريخ: ١٦/ جمادي الأخرة/ ١٤١٧
المصادف: ٢٩/ ١٠/ ١٩٩٦م

الرفيق عضو قيادة قطر العراق المحترم
مسؤول تنظيمات محافظتي التأميم وصلاح الدين

م/ تصحيح القومية

نسب السيد نائب رئيس مجلس قيادة الثورة قيام فرع الحزب في
التأميم بحملة لحث ابناء عشائر (الكاكية /الطلبانيين/الداودية)
للاسراع بمراجعة دائرة الجهاز المركزي للاحصاء في المحافظة
لغرض اكمال الاجراءات اللازمة بهذا الخصوص •
للتفضل بالاطلاع واتخاذ ما ترونه مناسبا •
مـع التقدير •

معد ابراهيم خليل
المدير العام
١٩٩٦/١٠/٢٩

Decision Number (608)

In accordance with the fifth material of Governorates Law NO. (159) in 1969 (approved) and in accordance with to what the Interior Minister had proposed.

We decreed the follows:

1. To separate both of Jamjamal and Kalar Provinces from Kirkuk Governorate and then ensue them to Sulymania Governorate.

2. Separate Kifree province from Kirkuk Governorate and ensues it to Dyala Governorate .

Interior Minister must implement this decree

Written in Baghdad in the second of Di - Al- Qudaa month in 1395 6/11/1975.

مراسيم جمهورية

رقم ٦٠٨

استنادا الى احكام المادة الخامسة من قانون المحافظات رقم (١٥٩) لسنة ١٩٦٩ المعدل ، وبناء على ماعرضه وزير الداخلية .

رسمنا بما هو آت : ـ

١ ـ فك ارتباط قضائي جمجمال وكلار من محافظة كركوك ، والحاقهما بمحافظة السليمانية .

٢ ـ فك ارتباط قضاء كفري من محافظة كركوك ، والحاقه بمحافظة ديالى .

على وزير الداخلية تنفيذ هذا المرسوم .

كتب ببغداد في اليوم الثاني من شهر ذي القعدة سنة ١٣٩٥ المصادف لليوم السادس من شهر تشرين الثاني سنة ١٩٧٥ .

احمد حسن البكر

رئيس الجمهورية

الوقائع العراقية عدد ٢٥٠٣ ١٩٧٥/١٢/١٥

Ahmed Hassan Al- Baker
Chief Revolution Command Council

192

Appendix 9: (Translated from Arabic by the website of Article 140 Committee)

Document191

In The Name of Allah Most Gracious Most Merciful
Secret and Urgent Telegram

Date: 31/8/1988

TO/ Departments Security Directorates
From/ Arbil Security

Letter NO. sh.s5/ 13069 we were informed the follows:

1. There are elements that followed the National defense Groups those who changed their nationalities from Arabic to Kurdish and Turkish languages and live in Nynawa Governorate…

2. The Fighter Comrade Ali Hassan Al- Majid Responsible for North Arranging Office to destroy all their houses and to be expulsed to residency conventions in our Governorate and would not have any compensation …

To see please... And inform us ...

Security
Arbil Governorate Security Manager

ـ برقية سرية فورية ـ

الى / مديريات امـــن الاقـــــــــــــــام

من / امـــن اربيـــــــــــــل

النشى / ع.س / // ٦٩ ١٣ // علمنا ما يلــي (٠)

٠١ هنــاك عناصر التحقت بانواج الدفاع الوطني من النبك الذين غيروا قوميتهـــــ
من العربيـة الى الكرديـة والساكنين محافظة نينـوى ٠٠

٠٢ يجيب الرفيق المناضــل علي حسن المجيـد مسؤول مكتب تنظيم الشمال بـــــــد
دورهم جميعـا ويرحلون الى المجمعـات الكبيرة في محافظتنا ولا يعوضـــــون
نهائيـــا ٠٠٠

للاطـــلاع واتخـــاذ ما يلـــزم وأعلمنـــ ١٠

مدير أمن محافظة اربيــــــل

193

Bibliography

140 Committee (2009) *The organizational structure of the Commission on the implementation of Article 140 of the Constitution of the Republic of Iraq*. Available at: http://www.com140.com/paper.php?source=akbar&page=8 (Accessed: 02.11.2015).

Abdulatif, Wael. (2015) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Abdulhamid, N. and Al-Harbi, A. J. (2005) *Ta'rikh ul Wazarat il 'Iraqiya fil 'Ahd il Jimhuri 1958-1968 (The History of Iraqi Cabinets in the Republican Era 1958-1968)*. 2 edn. Baghdad: Bayt ul Hikma Press.

Abdullah, Sardar. (2013) 'PhD Dissertation ' Mistaffa, J.H. *PhD Dissertation*

Abdurrahman, Lana. (2013) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Abouaoun, E.A. (2011) *Iraq's al-Sadr Movement*. [Online]. Available at: http://www.usip.org/publications/iraqs-al-sadr-movement (Accessed: 04.11.2015).

Adeney, K. (2007) *Federalism and ethnic conflict regulation in India and Pakistan*. 1st edn. New York: Palgrave Macmillan.

Aflaq, M. (1987) *Fi sabil il Ba'th (On the Way of Revival)*. Baghdad: National Library.

Aitken, R. (2007) 'Cementing Divisions?', *Policy Studies*, 28(3), pp. 247-267.

Ake, C. (1975) 'Definition of Political Stability', *Comparative Politics*, 7(2), pp. 271-283.

Al-Ahram Newspaper. (1993) 'Untying the knot', *Al-Ahram Weekly*edn). [Online] Available at: http://weekly.ahram.org.eg/2003/625/sc5.htm (Accessed: 05.08.2015).

Al-Ali, Z. (2014) *The struggle for Iraq's future : how corruption, incompetence and sectarianism have undermined democracy*. New Haven: Yale University Press.

Al-Bayati, Abbas. (2013) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Al-Fadhl, Mundhir. (2015) 'PhD Dissertaion' Mistaffa, J.H. *PhD Dissertaion*.

Al-Gaylani, Jamal. (2013) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Al-Haidari, M.R., C. (2013) *Iraq's Sunni Protests Challenge Establishment*. Available at: http://www.rferl.org/content/iraq-sunni-protests-continue/24823754.html (Accessed: 02.11.2015).

Al-Hasani, A.S. (2008) *Tarikh ul Iraq as syasi al hadith (The Modern Political History of Iraq)*. 7 edn. Lebanon, Beirut: Dar u Rafidayn for Printing, Distribution, and Dissemination.

Al-Istrabadi, F. (2009) 'A Constitution Without Constitutionalism: Reflections on Iraq's Failed Constitutional Process', *Texas Law Review*, 87(7), pp. 1627-1655.

Al-Jazeera Net. (2002) نص البيان الختامي لمؤتمر المعارضة العراقية في لندن (*The Final Statement of the Iraqi Opposition Conference in London*). Available at: http://www.aljazeera.net/news/arabic/2002/12/17/نص-البيان-الختامي-لمؤتمر-المعارضة-العراقية-في-لندن (Accessed: 05.11.2015).

Al-Jibouri, Nada. (2013) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Al-Jibouri, Saleem. (2013) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Al-Kufi, Abu-Haidar. (2013) 'PhD Dissertation' Mistaffa, J.H.

All Iraq News. (2013) *Yaseen al-Ubaidi: The efforts from some political blocks to revive article 140 is as if a dead revived*. Available at: http://alliraqnews.com/index.php?option=com_content&view=article&id=94554:-140-&catid=41:2014-06-14-07-47-57&Itemid=86 (Accessed: 02.11.2015).

Allawi, A.A. (2007) *The occupation of Iraq : winning the war, losing the peace*. New Haven Conn.: Yale University Press.

Al-Mada Press. (2014) *Basra Politician Renewed Regionalisation Demand*. Available at: http://www.almadapress.com/ar/news/40745/سياسيو-البصرة-يجددون-دعواتهم-لإقامة (Accessed: 02.11.2015).

Al-Nujaifi, Autheel. (2013) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Al-Sa'di, A. (2012) *The claim of making Anbar a region for attaining privileges*. Available at: http://www.alomah-alwasat.com/fatwaMore.php?id=2343 (Accessed: 04.11.2015).

Al-Safi, Hasan. (2013) 'PhD Dissertation ' Mistaffa, J.H. *PhD Dissertation*

Al-Samaraie, Ayad. (2013) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Al-Samaraie, Ayad. (2015) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Al-Shammari, W. (2014) *Al-Abadi faces regionalisation with the devolution of wide competencies to governorates*. Available at: http://www.newsabah.com/wp/newspaper/32500.

Al-Shamrani, A. (2001) *The Iraqi Opposition Movement in the Post-Gulf War Era 1990-1996*. King's College London [Online]. Available at: https://kclpure.kcl.ac.uk/portal/en/theses/the-iraqi-opposition-movement-in-the-post-gulf-war-era-19901996(e6b1dcaa-682b-4a3e-99e9-78acb40d64fc).html

Al-Shibli, Kazim. (2013) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*

Al-Shya', Abdulabbas. (2013) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Al-Sned, Hasan. (2013) 'PhD Dissertation ' Mistaffa, J.H. *PhD Dissertation*.

Al-Sumaria TV. (2012) *Salahaddin appeals against the position of the Iraqi High Electoral Commission to consider Salahuddin province referendum-forms illegal*. Available at: http://www.alsumaria.tv/mobile/news/59218/iraq-news (Accessed: 02.11.2015).

Al-Sumaria TV. (2012) *Salahaddin Governorate Declared: Its Becoming-Region Referendum Forms Reached Baghdad and the Latter Demands a Slow Down*. Available at: http://www.alsumaria.tv/news/52476/صلاح-الدين-تعلن-وصول-استمارات-استفتا-إقلیمها-إلى-ب (Accessed: 02.11.2015).

Al-Wazzan, S. (2009) *Basra's Bid for Autonomy Fails*. Available at: http://www.niqash.org/articles/?id=2369&lang=en (Accessed: 02.11.2015).

Al-Zarb, Zyad. (2013) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Amery, L. (1929) *Political Survey of Iraq*. [Online]. Available at: http://discovery.nationalarchives.gov.uk/details/r/D7727972 (Accessed: 04.11.2015).

Amin, Latif. (2013) 'PhD Dissertation' Mistaffa, J.H.

Anderson, L. (2010) 'Toward a resolution of the paradox of federalism', in Erk, J.a.S., W. (ed.) *New Directions in Federalism Studies*. New York: Taylor & Francis.

Anderson, L. (2014) 'Ethnofederalism The Worst Form of Institutional Arrangement ... ?', *International Security*, 39(1), pp. 165-+.

Anderson, L. (2015a) 'Ethnofederalism in Comparative Perspective', *ISA*. New Orleans.

Anderson, L. (2015b) Personal Correspondence, 15.07.2015.

Anderson, L. (2015c) 'Ethnofederalism and the Management of Ethnic Conflict: Assessing the Alternatives', *Publius: The Journal of Federalism*, pp. 1-24 [Online] DOI: 10.1093/publius/pjv019.

Anderson, L.D. (2013) *Federal Solutions to Ethnic Problems Accommodating Diversity*. Routledge.

Anderson, L.D. and Stansfield, G.R.V. (2004) *The future of Iraq : dictatorship, democracy, or division?* New York ; Basingstoke: Palgrave Macmillan.

Anderson, L.D. and Stansfield, G.R.V. (2009) *Crisis in Kirkuk : the ethnopolitics of conflict and compromise*. Philadelphia, Pa.: University of Pennsylvania Press.

Arato, A. (2009) *Constitution making under occupation : the politics of imposed revolution in Iraq*. New York: Columbia University Press.

Arif, Bakir. (2013) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Babbie, R., Halley, F., Wagner, W., and Zaino, J. (2011) *Adventures in social research : data analysis using IBM SPSS statistics*. 7th edn. Los Angeles, Calif.

Balataee, Najeeb. (2013) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*

Baram, A. (1991) *Culture, history, and ideology in the formation of Ba°thist Iraq, 1968-89*. New York: St. Martin's Press.

Barzani, M. (2014) 'A press conference for Barzani and William Hague'. Available at: https://www.youtube.com/watch?v=LYP33kaTgp0 (Accessed: 02.11.2015).

Batatu, H. (1978) *The old social classes and the revolutionary movements of Iraq: A study of Iraq's old landed and commercial classes and of its communists, Ba'thists, and free officers*. United States: Princeton University Press.

BBC Arabic (2013) *Iraq: Cabinet amends the Justice and Accountability Law and the ends the work of Confidential Informant Law*. Available at: http://www.bbc.co.uk/arabic/middleeast/2013/04/130408_iraq_debaathification (Accessed: 02.11.2015).

BBC News (2006) *'Melting pot' America*. Available at: http://news.bbc.co.uk/1/hi/world/americas/4931534.stm (Accessed: 30.09.2015).

BBC News,. (2014) *Iraq Kurdistan independence referendum planned*. Available at: http://www.bbc.co.uk/news/world-middle-east-28103124 (Accessed: 02.11.2015).

BBC News. (2005) *Iraq voters back new constitution*. Available at: http://news.bbc.co.uk/1/hi/world/middle_east/4374822.stm#map (Accessed: 05.11.2015).

BBC News. (2011) *Guide: Syria's diverse minorities*. Available at: http://www.bbc.co.uk/news/world-middle-east-16108755 (Accessed: 05.11.2015).

Beetham, D. (1991) *The legitimation of power*. Basingstoke: Macmillan.

Bengio, O. (1998) *Saddam's word : political discourse in Iraq*. New York: Oxford University Press.

Bennett, J.C.S. (1933) *The Assyrian Question*.The National Archives. [Online]. Available at: http://filestore.nationalarchives.gov.uk/pdfs/large/cab-24-244.pdf. (Accessed: 04.11.2015).

Bennis, P. (2005) *The Iraqi Constitution: A Referendum for Disaster*. [Online]. Available at: http://www.ips-dc.org/the_iraqi_constitution_a_referendum_for_disaster/ (Accessed: 04.11.2015).

Bensahel, N., Oliker, Olga.,Crane, Keith. , Brennan,Rick.,Gregg, S.,Sullivan, Thomas. , and Rathmell, Andrew. (2008) *After Saddam: Prewar Planning and the Occupation of Iraq*. [Online]. Available at: http://www.rand.org/pubs/monographs/MG642.html (Accessed: 04.11.2015).

Bermeo, N. (2002) 'The import of institutions', *Journal of Democracy*, 13(2), pp. 96-110.

Biden, J. (2006a) 'A Plan to Hold Iraq Together', *Washington Post*edn). [Online] Available at: http://www.washingtonpost.com/wp-dyn/content/article/2006/08/23/AR2006082301419.html (Accessed: 05.11.2015).

Biden, J. and Gelb, L. (2006b) 'Unity Through Autonomy in Iraq', *NewYork Times*edn). [Online] Available at: http://www.nytimes.com/2006/05/01/opinion/01biden.html?pagewanted=all&_r=0 (Accessed: 05.11.2015).

Bloor, M. and Wood, F. (2006) *Keywords in qualitative methods : a vocabulary of research concepts*. London: SAGE.

Blumstein, J.F. (1994) 'Federalism and Civil-Rights - Complementary and Competing Paradigms', *Vanderbilt Law Review*, 47(5), pp. 1251-1301.

Bobrow, D.B. (2008) *Hegemony constrained : evasion, modification, and resistance to American foreign policy*. Pittsburgh, Pa.: University of Pittsburgh Press.

Bolden, C.A. and Fussnecker, J. (2009) 'The Status of Kirkuk under Article 140 of the Iraqi Constitution: The Need for Adjudication by the Iraqi Supreme Court as Part of an Integrated Solution', *University of Cincinnati Law Review*, 77(4), pp. 1555-1580.

Bowyer, C. (1988) *RAF operations 1918-38*. London: W. Kimber.

Brass, P.R. (1991) *Ethnicity and nationalism : theory and comparison*. New Delhi ; London: Sage.

Bremer, P. (2004) *Turning the Page*. Available at: http://www.iraqcoalition.org/transcripts/20040423_page_turn.html (Accessed: 04.11.2015).

Bremer, P. and McConnell, M. (2006) *My year in Iraq : the struggle to build a future of hope*. New York: Simon & Schuster.

Breuilly, J. (1993) *Nationalism and the state*. 2nd ed edn. Manchester: Manchester University Press.

Brown K. G.& Langer, A. (2010) 'Conceptualizing and Measuring Ethnicity', *Oxford Development Studies*, 38(4), pp. 411-436.

Brown, N. (2005) *Iraq's Constitutional Process Plunges Ahead*. [Online]. Available at: http://carnegieendowment.org/2005/07/18/iraq-s-constitutional-process-plunges-ahead (Accessed: 04.11.2015).

Brubaker, R. (1996) *Nationalism reframed : nationhood and the national question in the New Europe*. Cambridge: Cambridge University Press.

Brubaker, R. (2004) *Ethnicity without groups*. Cambridge, Mass. ; London: Harvard University Press.

Bryman, A. (1988) *Quantity and quality in social research*. London: Unwin Hyman.

Bryman, A. (2012) *Social research methods*. 4th edn. Oxford ; New York: Oxford University Press.

Bryman, A., Bell, E. and Teevan, J. (2009) *Social research methods*. 4th edn. Canada: OUP

Bunce, V. (1998) 'Regional differences in democratization: The East versus the South', *Post-Soviet Affairs*, 14(3), pp. 187-211.

Bunce, V. (2004) 'Is Ethnofederalism the Solution or the Problem?', in Mungiu, A. (ed.) *Nationalism after Communism: lessons learned*. Budapest; New York: Central European University Press, pp. 179-198.

Bunce, V., and Watts, S. (2005) 'Managing Diversity and Sustaining Democracy: Ethnofederal Versus Unitary States in the Postcommmunist World', in Rothchild, P.G. (ed.) *Sustainable Peace: Power and Democracy after Civil Wars* Ithaca: Cornell University Press.

Burgess, M. (2006) *Comparative federalism : theory and practice*. London: Routledge.

Burgess, M. and Gagnon, A. (2010) *Federal democracies*. London ; New York: Routledge.

Burgess, M. and Pinder, J. (2007) *Multinational federations*. London ; New York: Routledge.

Byman, D. (2003) 'Constructing a democratic Iraq - Challenges and opportunities', *International Security*, 28(1), pp. 47-78.

Cameron, D. (2009) 'The Paradox of Federalism: Some Practical Reflections', *Regional & Federal Studies*, 19 (2), pp. 309-319.

Çetinsaya, G. (2006) *Ottoman administration of Iraq, 1890-1908*. London: Routledge.

Chandra, K. (2001a) 'Cumulative findings in the study of ethnic politics: constructivist findings and their non-interpretation', *APSA-CP* 12(1), pp. 7-11.

Chandra, K. (2001b) 'Ethnic bargains, group instability, and social choice theory', *Politics & Society*, 29(3), pp. 337-362.

Charron, N. (2009) 'Government Quality and Vertical Power-Sharing in Fractionalized States', *Publius-the Journal of Federalism*, 39(4), pp. 585-605.

Coicaud, J.-M. (2002) *Legitimacy and politics : a contribution to the study of political right and political responsibility*. Cambridge: Cambridge University Press.

Conversi, D. (2007) 'Asymmetry in Quasi-federal and Unitary States', *Ethnopolitics: Formerly Global Review of Ethnopolitics*, 6(1), pp. 121-124.

Corbetta, P. (2003) *Social research : theory, methods and techniques*. London ; Thousand Oaks, Calif.: SAGE Publications.

Cornell, S.E. (2002) 'Autonomy as a source of conflict - Caucasian conflicts in theoretical perspective', *World Politics*, 54(2), pp. 245-+.

CPA (2004) *Order 71, Local Governmental Powers.*

CPA. (2003a) *Order Number 1, De-Baathification of the Iraqi Society*.

CPA. (2003b) *Order Number 2, The Dissolution of Entities*.

CPA. (2003c) *Order Number 4, Management of Property and Assets of the Iraqi Baath Party*.

CPA. (2003d) *Order Number 5, the Establishment of the Iraqi De-Baathification Council*.

CPA. (2003e) *Regulation No. 6: The Iraq Governing Council*.

CPA. (2003f) *Memorandum Number 7, Delegation of Authority*.

CRC (2009) *Amendments to the Constitution of Iraq as proposed by the ad hoc committee.*Zaid al-Ali. [Online]. Available at: http://zaidalali.bookswarm.co.uk/wp-content/uploads/2014/03/Iraqs-constitution-Official-documents-relating-to-the-constitution.zip (Accessed: 05.11.2015).

Cromartie, A. (2003) 'Legitimacy ', in Bellamy, R., et al. (ed.) *Political Concepts*. Manchester, UK ; New York, Manchester University Press: Distributed exclusively in the USA by Palgrave.

Dahl, R. (1998) *On democracy*. New Haven: Yale University Press.

Dakhil, J. (2008) *The supporters of 'Basra Region' heading towards the voting centres*. Available at: http://archive.aawsat.com/details.asp?section=4&article=498973&issueno=10975#.VM-o3yyMmSq (Accessed: 02.11.2015).

Dardanelli, P. (2011) 'Multi-lingual but Mono-national - Exploring and Explaining Switzerland's Exceptionalism', in F. Requejo, M.C. (ed.) *Federalism, Plurinationality, and Democratic Constitutionalism - Theory and Cases*. Abingdon: Routledge.

David, R. (2006) 'From Prague to Baghdad: Lustration Systems and their Political Effects', *Government and Opposition*, 41(3), pp. 347–372.

Davison, R.H. (1963) *Reform in the Ottoman Empire, 1856-1876*. Princeton, N.J.,: Princeton University Press.

Dawisha, A. (2004) 'Iraq: Setbacks, advances, prospects', *Journal of Democracy*, 15(1), pp. 5-20.

Dawisha, A. (2005) 'The prospects for democracy in Iraq: Challenges and opportunities', *Third World Quarterly*, 26(4-5), pp. 723-737.

Dawisha, A.a.D., K. (2003) 'How to Build a Democratic Iraq', *Foreign Affairs*, 82(3), pp. 36-50.

De Berge, P. (2005) 'Ethnies and nations: Genealogy indeed ', in Ichijo, A.a.G.U. (ed.) *When is the nation? : towards an understanding of theories of nationalism*. London: Routledge.

Diamond, L.J. (2005) *Squandered victory : the American occupation and the bungled effort to bring democracy to Iraq*. 1st edn. New York: Times Books.

Dijla TV. (2014) *More than dialogue*. Available at: https://www.youtube.com/watch?v=9UJaG7zDQAw (Accessed: 02.11.2015).

Dobbins, J., Coalition Provisional Authority. and International Security and Defense Policy Center. (2009) *Occupying Iraq : a history of the Coalition Provisional Authority*. Santa Monica, CA: RAND Corp.

Dodge, T. (2012) *Iraq - from War to a New Authoritarianism: Beyond Civil War and Counter-insurgency*. London: Routledge.

Dogan, M. (1994) 'The Legitimacy of Regimes and the Crisis of Confidence', *Sotsiologicheskie Issledovaniya*, (6), pp. 147-156.

Dorff, R.H. (1994) 'Federalism in Eastern-Europe - Part of the Solution or Part of the Problem', *Publius-the Journal of Federalism*, 24(2), pp. 99-114.

Doron, G. and Sened, I. (2001) *Political bargaining : theory, practice and process*. London: SAGE.

Dower, J. (2002) 'Lessons from Japan about War's Aftermath', *New York Times* edn). [Online] Available at: http://www.nytimes.com/2002/10/27/opinion/lessons-from-japan-about-war-s-aftermath.html (Accessed: 04.11.2015).

DPPWG (2002) *The Future of Iraq Project* [Online]. Available at: http://nsarchive.gwu.edu/NSAEBB/NSAEBB198/FOI%20Democratic%20Principles.pdf (Accessed: 05.11.2015).

Elazar, D.J. (1980) 'The Political-Theory of Covenant - Biblical Origins and Modern Developments', *Publius-the Journal of Federalism*, 10(4), pp. 3-30.

Elazar, D.J. (1985) 'Federalism and Consociational Regimes', *Publius-the Journal of Federalism*, 15(2), pp. 17-34.

Elazar, D.J. (1987) *Exploring federalism*. Tuscaloosa, Ala: University of Alabama Press.

Eller, J.D. and Coughlan, R.M. (1993) 'The Poverty of Primordialism - the Demystification of Ethnic Attachments', *Ethnic and Racial Studies*, 16(2), pp. 183-202.

Erk, J., and Anderson, L. (2009) 'The Paradox of Federalism: Does Self-Rule Accommodate or Exacerbate Ethnic Divisions?', *Regional & Federal Studies*, 19(2), pp. 191-202.

Esman, M.J. (2004) *An introduction to ethnic conflict*. Oxford: Polity.

Faraj, Burhan. (2013) 'PhD Dissertation' Mistaffa, J.H.

Flick, U. (2006) 'Triangulation', in Jupp, V. (ed.) *The Sage Dictionary of Social Research Methods*. SAGE Publications.

Foregin Affairs Committee (2015) *UK Government policy on the Kurdistan Region of Iraq*. [Online]. Available at: http://www.publications.parliament.uk/pa/cm201415/cmselect/cmfaff/564/564.pdf (Accessed: 05.11.2015).

Friedman, I. (1970) 'The McMahon-Hussein Correspondence and the Question of Palestine', *Journal of Contemporary History*, 5 (2), pp. 83-122.

Gagnon, A. (2010) *The case for multinational federalism : beyond the all-encompassing nation*. London ; New York: Routledge.

Gellner, E. (1998) *Nationalism*. London: Phoenix.

Ghareeb, E. and Dougherty, B. (2004) *Historical dictionary of Iraq*. Lanham, Md.: Scarecrow Press.

Gillham, B. (2000) *The research interview*. London: Continuum.

Glenewinkel, K. (2005) *Members of the Constitution Drafting Committee*. Available at: http://www.niqash.org/en/articles/society/672/Members-of-the-Constitution-Drafting-Committee.htm ((Accessed: 04.11.2015).

Global Policy Website. (2003a) *Agreement on Political Process*. Available at: https://www.globalpolicy.org/component/content/article/168-general/36091.html (Accessed: 04.11.2015).

Global Security Website. (2006) *Iraqi Governing Council*. Available at: http://www.globalsecurity.org/military/world/iraq/igc.htm (Accessed: 04.11.2015).

Global Security Website. (2014) *Kirkuk*. Available at: http://www.globalsecurity.org/military/world/iraq/kirkuk.htm (Accessed: 02.11.2015).

Grigoryan, A. (2012) 'Ethnofederalism, separatism, and conflict: what have we learned from the Soviet and Yugoslav experiences?', *International Political Science Review*, 33(5), pp. 520-538.

GSCM Website,. (2013a) *Council of Ministers decisions in Session 13 in 07/04/2013*. Available at: http://cabinet.iq/ArticleShow.aspx?ID=2967 (Accessed: 02.11.2015).

Guelke, A. (2012) *Politics in deeply divided societies*. Cambridge, UK ; Malden, MA: Polity Press.

Gunter, M. (1993) 'A de facto Kurdish State in Northern Iraq', *Third World Quarterly*, 14(2), pp. 295-319.

Gunter, M.M. (2008) *The Kurds ascending : the evolving solution to the Kurdish problem in Iraq and Turkey*. New York, NY: Palgrave Macmillan.

Gunter, M.M. (2011) *Historical dictionary of the Kurds*. 2nd edn. Lanham, Md.: Scarecrow Press.

Hale, H.E. (2004a) 'Divided we stand - Institutional sources of ethnofederal state survival and collapse', *World Politics*, 56(2), pp. 165-+.

Hale, H.E. (2004b) 'Explaining ethnicity', *Comparative Political Studies*, 37(4), pp. 458-485.

Hale, H.E. (2005) 'The Makeup and Breakup of Ethnofederal States: Why Russia Survives Where the USSR Fell', *Perspectives on Politics* 3 (1), pp. 55-70.

Hale, H.E. (2008a) 'The double-edged sword of ethnofederalism - Ukraine and the USSR in comparative perspective', *Comparative Politics*, 40(3), pp. 293-+.

Hale, H.E. (2008b) *The foundations of ethnic politics : separatism of states and nations in Eurasia and the world*. Cambridge ; New York: Cambridge University Press.

Hall, P.A. and Taylor, R.C.R. (1998) 'The potential of historical institutionalism: a response to Hay and Wincott', *Political Studies*, 46(5), pp. 958-962.

Hamidi, J.A. (2004) *Ta'rikh ul Wazarat il 'Iraqiya fil 'Ahd il Jimhuri 1958-1968 (The History of Iraqi Cabinets in the Republican Era 1958-1968)*. 1 edn. Baghdad: Bayt ul Hikma Press, .

Hamidi, J.A. (2005) *Ta'rikh ul Wazarat il 'Iraqiya fil 'Ahd il Jimhuri 1958-1968 (The History of Iraqi Cabinets in the Republican Era 1958-1968)*. 2 edn. Baghdad: Bayt ul Hikma Press.

Hamoudi, H.A. (2013) *Negotiating in civil conflict : constitutional construction and imperfect bargaining in Iraq*.

Hanish, S. (2010) 'The Kirkuk Problem and Article 140 of the Iraqi Constitution', *Digest of Middle East Studies*, 19(1), pp. 15-25.

Harvey, W.S. (2011) 'Strategies for conducting elite interviews', *Qualitative Research*, 11(4), pp. 431-441.

Hay, C. and Wincott, D. (1998) 'Structure, agency and historical institutionalism', *Political Studies*, 46(5), pp. 951-957.

Hazelton, F. (1986) 'Iraq to 1963', in Iraq, C.A.R.a.f.D.R.i. (ed.) *Saddam's Iraq : revolution or reaction?* London Totowa, N.J., USA: Zed Books ; US distributor Biblio Distribution Center.

Hechter, M. (2007) 'Asymmetrical Federal Systems: Self-determination, Cultural Identity, and Political and Fiscal Decentralization', *Ethnopolitics: Formerly Global Review of Ethnopolitics* 6 (1), pp. 125-127.

Hechter, M. (2009a) 'Legitimacy in the Modern World', *American Behavioral Scientist*, 53(3), pp. 279 -288.

Hechter, M. (2009b) 'Alien Rule and Its Discontents', *American Behavioral Scientist*, 53(3), pp. 289-310.

Hechter, M. (2010) 'Alien Rule in the Longue Durée: A Response to Coakley, Roeder and Roshwald', *Ethnopolitics: Formerly Global Review of Ethnopolitics*, 9(3-4), pp. 419-423.

Hobsbawm, E.J. and Ranger, T.O. (1983) *The invention of tradition*. Cambridge: Cambridge University Press.

Hopwood, D., Ishow, H. and Koszinowski, T. (1993) *Iraq : power and society*. Reading: Ithaca.

Horowitz, D. (1993) 'Democracy in Divided Societies', *Journal of Democracy* 4(4), pp. 18-38.

Horowitz, D. (2007) 'The Many Uses of Federalism', *Drake Law Review*, 55, pp. 953-966

Horowitz, L.D. (2008) 'Conciliatory Institutions and Constitutional Processes in Post-conflict States', *William and Mary Law Review*, 49(4), pp. 1213-1248.

HRW (1994) *Iraq's Crime Of Genocide: The Anfal Campaign against the Kurds*. New York, Washington, Los Angeles, London. [Online]. Available at: http://www.hrw.org/reports/1993/iraqanfal/ (Accessed: 01.10.2015).

Hurwitz, L. (1973) 'Contemporary Approaches to Political Stability', *Comparative Politics*, 5(3), pp. 449-463.

Imber, C. (2002) *The Ottoman Empire, 1300-1650 the structure of power*. Palgrave Macmillan,. Available at: http://site.ebrary.com/lib/princeton/Doc?id=10076850.

Iqbal, Muhammad. (2013) 'PhD Dissertation' Mistaffa, J.H.

Izady, M. (2004) 'Between Iraq and a Hard Place: the Kurdish Predicament', in Potter, L., Sick, G. (ed.) *Iran, Iraq, and the legacies of war*. New York: Palgrave Macmillan.

Jaf, Ashwaq. (2013) 'PhD Dissertation' Mistaffa, J.H.

Jamil, Usama. (2013) 'PhD Dissertation' Mistaffa, J.H.

JAU Website. (2013b) *Basra Governorate Profile*. Available at: www.jauiraq.org/documents/378/GP-Basrah%202013.pdf (Accessed: 02.11.2015).

Jawad, S.d. (2013) 'The Iraqi Constitution: Structural Flaws and Political Implications', London. LSE Middle East Centre

Jenne, E. (2009) 'The Paradox of Ethnic Partition: Lessons from de facto Partition in Bosnia and Kosovo', *Regional & Federal Studies*, 19(2), pp. 273-289.

Jick, T.D. (1979) 'Mixing Qualitative and Quantitative Methods - Triangulation in Action', *Administrative Science Quarterly*, 24(4), pp. 602-611.

Juhasz, J. (2005) 'Ethno-Federalism: Challenges and Opportunities', *International Problems*, 57 (3), pp. 245-263.

Jwaideh, W. (2006) *The Kurdish national movement : its origins and development*. 1st edn. Syracuse, N.Y.

Kadhim, A. (2011) 'Forging a Third Way: Sistani's maja'iyya between Quietism and wilayat al-faqih', in Pāyā, A.a.J.E. (ed.) *Iraq, democracy and the future of the Muslim world*. London ; New York: Routledge.

Karim, H. (2008) *Mala Idrisi Batlisi, roli la yakxistni mirnishina kwrdiyakanda (Mulla Idris Batlisi: His Role in the Unification od the Kurdish Princedoms)*. Sulaymaniyah: Chwarchra Print.

Kaufman, S.J. (2006) 'Symbolic politics or rational choice? Testing theories of extreme ethnic violence', *International Security*, 30(4), pp. 45-+.

Kaufmann, C. (2005) 'Rational choice and progress in the study of ethnic conflict: A review essay', *Security Studies*, 14(1), pp. 167-194.

Kay, A. (2005) 'A critique of the use of path dependency in policy studies', *Public Administration*, 83(3), pp. 553-571.

Kayani, Muhammad. (2015) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Kelly, M.J. (2008) *Ghosts of Halabja : Saddam Hussein and the Kurdish genocide*. Westport, Conn.: Praeger Security International.

Khadduri, M. (1951) *Independent Iraq : a study in Iraqi politics since 1932*. London ; New York: Oxford University Press.

Khalifa, Ayad. (1997) *Arabization of Kirkuk, Ultimately Confidential Document No. 17/14707*. Available at: http://www.com140.com/pdf/b14707.pdf (Accessed: 04.11.2015).

Khalilzad, Z. (2005) *U.S. Envoy Welcomes Compromise on Iraq's Draft Constitution*. Available at: http://iraq.usembassy.gov/iraq/101305_compromise.html (Accessed: 04.11.2015).

Khalilzad, Z. (2010) 'Lessons from Afghanistan and Iraq', *Journal of Democracy*, 21(3), pp. 41-49.

King, P.T. (1982) *Federalism and federation*. London: Croom Helm.

Kingdom of Iraq (1925) *The Basic Law of Iraq*. [Online]. Available at: http://www.iraqld.iq/PDF/1925/z0172.pdf (Accessed: 30.09.2015).

KRG UK. (2012) *Swedish Parliament recognises Saddam Hussein's genocide - Justice4Genocide calls on Britain to do the same*. Available at: http://uk.gov.krd/articles/detail.aspx?lngnr=12&anr=36742 (Accessed: 04.11.2015).

KRG Website. (2013c) *British parliament unanimously recognises Kurdish genocide* Available at: http://cabinet.gov.krd/a/d.aspx?l=12&a=46796 (Accessed: 04.11.2015).

KRG Website. (2014b) *Nechirvan Barzani reviews Erbil and Baghdad agreement before the Council of Ministers* Available at: [Online] Available at: http://www.krg.org/a/d.aspx?s=040000&l=14&a=52618 (Accessed: 02.11.2015).

KRG Website. (2014c) *The position of KRG regarding the federal government act of employees' salaries cut* Available at: http://cabinet.gov.krd/a/d.aspx?l=14&a=50957 (Accessed: 02.11.2015).

KRP Website. (2014a) *Kurdistan Region President meets with delegates and ambassadors from the European Union*. Available at: http://www.krp.org/kurdish/nprint.aspx?id=d2wRhqdQz4c (Accessed: 02.11.2015).

Kurdistan Parliament. (2015) *The Federalism Decision Declaration in 1992*. [Online]. Available at: http://www.kurdistan-parliament.org/files/articles/080108073542.pdf (Accessed: 05.11.2015).

Lake, D.A. and Rothchild, D. (1996) 'Containing fear - The origins and management of ethnic conflict', *International Security*, 21(2), pp. 41-75.

Law no. 10 (2008) *The Law of the High Commission of Accountability and Justice*.The Iraqi Gazette no. 4061.

Law no. 13 (2005) *The Law of Terror*.Iraqi Gazette no. 4009.

Law no.13 (2008) *Law of the Executive Procedures regarding the Formation of Regions*. The Iraqi Gazette no.4060.

Law no.15 (2010) *The First Amendment to the Law of the Governorates not Organized in a Region*.The Iraqi Gazette no. 4147.

Law no.20 (2010) *The Law of Untying the Ministry of Works and Municipalities*.The Iraqi Gazette no. 4148.

Law no.21 (2008) *The Law of the Governorates not Organized in a Region*.The Iraqi Gazette no. 4070

League of Nations (1925) *The Question of the Frontier between Turkey and Iraq. Report submitted to the Council by the Commission instituted by the Council Resolution of September 30th, 1924*. [Online]. Available at: http://www.solami.com/1925.pdf (Accessed: 04.11.2015).

League of Nations (1932) *Request of the Kingdom of Iraq for Admission to the League*. [Online]. Available at: www.marshimun.com/new/pdfs/ME25.pdf (Accessed: 04.11.2015).

Leff, C.S. (1999) 'Democratization and disintegration in multinational states - The breakup of communist federations', *World Politics*, 51(2), pp. 205-+.

Letayf, P. (2011) 'An Ethnic Tug-of-War? The Struggle Over the Status of Kirkuk.', *NIMEP Insights*, pp. 65-86 [Online].

Levi, M., Sacks, A. and Tyler, T. (2009) 'Conceptualizing Legitimacy, Measuring Legitimating Beliefs', *American Behavioral Scientist*, 53(3), pp. 354-375.

Lewis-Beck, M.S., Bryman, A., Liao, T.F. and Sage Publications. (2003) *The SAGE encyclopedia of social science research methods*. SAGE,. Available at: http://srmo.sagepub.com/view/the-sage-encyclopedia-of-social-science-research-methods/SAGE.xml.

Lijphart, A. (1968) *The politics of accommodation : pluralism and democracy in the Netherlands*. Berkeley: University of California Press.

Lijphart, A. (1996) 'The puzzle of Indian democracy: A consociational interpretation', *American Political Science Review*, 90(2), pp. 258-268.

Lijphart, A. (1999) *Patterns of democracy : government forms and performance in thirty-six countries*. New Haven: Yale University Press.

Lijphart, A. (2004) 'Constitutional design for divided societies', *Journal of Democracy*, 15(2), pp. 96-109.

Lilleker, D.G. (2003) 'Interviewing the Political Elite: Navigating a Potential Minefield', *Politics*, 23(3), pp. 207-214.

Lukitz, L. (1995) *Iraq the search for national identity*. F. Cass,. Available at: http://site.ebrary.com/lib/princeton/Doc?id=10094409.

Mahdi, A. (2015) *Waleed al-Kaytan affirms Basra heading towards regionalisation*. Available at: http://www.basrahcouncil.com/index.php/2012-09-13-22-11-28/3981-2015-01-04-06-36-43.html (Accessed: 02.11.2015).

Makiya, K. (1991) *Republic of fear : Saddam's Iraq*. New edition edn. London: Hutchinson Radius.

Makiya, K. (2003) 'A model for post-Saddam Iraq', *Journal of Democracy*, 14(3), pp. 5-12.

Makki, Alaa. (2013) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Margolis, E. (2010) 'Understanding Political Stability and Instability', *Civil Wars*, 12(3), pp. 326-345.

Margolis, E. (2012) 'On State Instability', *Studies in Intelligence*, 56(1), pp. 13-24.

Marr, P. (1985) *The modern history of Iraq*. Boulder, Colo.

Marr, P. (2012) *The modern history of Iraq*. 3rd edn. Boulder, CO: Westview Press.

Ma'sum, F. (2014) *MERI Forum 2014* Erbil, Iraq. Available at: http://www.meri-k.org/multimedia/meri-forum-2014-s7-dialogue-and-reconciliation-part-4/ (Accessed: 02.11.2015).

McDowall, D. (2000) *A modern history of the Kurds*. 2nd rev. & updated edn. London: I.B. Tauris.

McDowall, D. (2004) *A modern history of the Kurds*. 3rd rev. and updated edn. London ; New York: I.B. Tauris.

McDowall, D. (2005) 'The Kurdish question: a historical review', in Sperl, P.G.K.a.S. (ed.) *The Kurds: A Contemporary Overview*. Taylor & Francis e-Library.

McGarry, J. (2005a) 'Can federalism help to manage ethnic and national diversity?', *Federations*, 5, A-1.

McGarry, J. (2007) 'Asymmetry in Federations, Federacies and Unitary States', *Ethnopolitics: Formerly Global Review of Ethnopolitics*, 6(1), pp. 105-116.

McGarry, J., and O'Leary, B. (2005b) 'Federation as a Method of Ethnic Conflict-Regulation ', in Noel, S. (ed.) *From Power-Sharing to Democracy: Post-Conflict Institutions in Ethnically Divided Societies* Toronto: McGill-Queens University Press, pp. 263-96.

McGarry, J., and O'Leary, B. (2009) 'Must Pluri-national Federations Fail?', *Ethnopolitics: Formerly Global Review of Ethnopolitics*, 8(1), pp. 5-25.

ME Forum (2009) *A New Era for the Iraqi Opposition?* . Available at: http://www.meforum.org/meib/articles/9911_me1.htm (Accessed: 05.11.2015).

Meadwell, H. (2009) 'The Political Dynamics of Secession and Institutional Accommodation', *Regional & Federal Studies*, 19 (2), pp. 221-235.

Mehretu, A. (2012) 'Ethnic federalism and its potential to dismember the Ethiopian state', *Progress in Development Studies*, 12(2-3), pp. 113-133.

Meiloud, A. (2015) *Iraq's tragedy of errors: Why the Sunnis are revolting*. Available at: http://www.middleeasteye.net/essays/iraq-s-tragedy-errors-why-sunnis-are-revolting-19934314 (Accessed: 16 May 2016).

Mikecz, R. (2012) 'Interviewing Elites: Addressing Methodological Issues', *Qualitative Inquiry*, 18(6), pp. 482-493.

Moaddel, M., Inglehart, Ronald., and Tessler, Mark. (2004) 'Comparative Values Surveys of Islamic Countries' Study, M.E.V. Available at: http://www.mevs.org/files/data/CVSIC_FinalDataCollection_Dataset.sav (Accessed: 04.11.2015).

Morrow, J. (2005) *Iraq's Constitutional Process II: An Opportunity Lost*. [Online]. Available at: http://www.usip.org/publications/iraqs-constitutional-process-ii-opportunity-lost (Accessed: 04.11.2015).

Mufti, M. (1996) *Sovereign creations : pan-Arabism and political order in Syria and Iraq*. Ithaca ; London: Cornell University Press.

Mustafa, Abdurrahman. (2013) 'PhD Dissertation' Mistaffa, J.H.

Nakash, Y. (2003) 'The Shi'ites and the future of Iraq', *Foreign Affairs*, 82(4), pp. 17-26.

Natali, D. (2008) 'The Kirkuk Conundrum', *Ethnopolitics: Formerly Global Review of Ethnopolitics*, 7(4), pp. 433-443.

NCAJ Website. (2014d) *In a meeting with Chairman of the amendments of the Accountability and Justice Law, Mr. Jabbar Hardan*. Available at: http://ncajustice.iq/index.php?option=com_content&view=article&id=418:2014-10-30-09-21-53&catid=82:2014-02-13-17-15-13&Itemid=199 (Accessed: 02.11.2015).

Needler, M.C. (1968) *Political development in Latin America; instability, violence, and evolutionary change*. New York,: Random House.

Neuman, W.L. (2007) *Basics of social research : qualitative and quantitative approaches*. 2nd edn. Boston ; London: Pearson/A&B.

Norton, P. (2007) 'Adding Value? The Role of Second Chambers', *Asia Pacific Law Review*, 15 (1), pp. 3-18.

O'Ballance, E. (1996) *The Kurdish struggle 1920-94*. Basingstoke: Macmillan.

Oberschall, A. (2007) *Conflict and peace building in divided societies : responses to ethnic violence*. Milton Park, Abingdon, Oxon ; New York: Routledge.

O'Flynn, I. (2006) *Deliberative democracy and divided societies*. Edinburgh: Edinburgh University Press.

O'Leary, B. (2001) 'An Iron Law of Nationalism and Federation? A (neo-Diceyian) theory of the Necessity of a Federal Staatsvolk, and of Consociational Rescue', *Nations and Nationalism*, 7 (3), pp. 273-96.

O'Leary, B. (2010) 'Thinking about Asymmetry and Symmetry in the Remaking of Iraq', in Weller, M. and Nobbs, K. (eds.) *Asymmetric autonomy and the settlement of ethnic conflicts*. Philadelphia: University of Pennsylvania Press, pp. viii, 318 p.

O'Leary, B. (2014) 'Macro-political Approaches to Ethnic Conflict Resolution'. 01.05.2015. Tom Lantos Institute. Available at: https://www.youtube.com/watch?v=O76ilgnaaOE.

Osman, Mahmud. (2013a) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Osman, Narmin. (2013b) 'PhD Dissertation ' Mistaffa, J.H. *PhD Dissertation*.

Ottaway, M.a.K., D. (2010) *De-Baathification As A Political Tool: Commission Ruling Bans Political Parties and Leaders*. [Online]. Available at: http://carnegieendowment.org/2010/01/26/de-baathification-as-political-tool-commission-ruling-bans-political-parties-and-leaders/7mt

Otterman, S. (2004) *Iraq: Iraq's Governing Council*. Available at: http://www.cfr.org/iraq/iraq-iraqs-governing-council/p7665

Otterman, S. (2005) 'Q&A: Drafting Iraq's Constitution', *NewYork Times*edn). [Online] Available at: http://www.nytimes.com/cfr/international/slot2_051205.html?_r=2&.

Özoğlu, H. (2004) *Kurdish notables and the Ottoman state : evolving identities, competing loyalties, and shifting boundaries*. Albany: State University of New York Press.

Parkinson, J. (2003) 'Legitimacy problems in deliberative democracy', *Political Studies*, 51(1), pp. 180-196.

Patterson, S.C. and Mughan, A. (1999) *Senates : bicameralism in the contemporary world*. Columbus: Ohio State University Press.

Peabody, R.L., Hammond, S.W., Torcom, J., Brown, L.P., Thompson, C. and Kolodny, R. (1990) 'Interviewing Political Elites', *Ps-Political Science & Politics*, 23(3), pp. 451-455.

Petersen, R.D. (2002) *Understanding ethnic violence : fear, hatred, and resentment in twentieth-century Eastern Europe*. Cambridge: Cambridge University Press.

Pfiffner, J. (2010) 'US Blunders in Iraq: De-Baathification and Disbanding the Army', *Intelligence and National Security*, 25(1), pp. 76-85.

Presidency of Iraq (1976) *Republican Decree no. 608*.Iraqi Gazette no. 2503.

Presidency of Iraq (2001) *Decision no. 199*.Iraqi Gazette No 3896.

Radio Free Europe. (2007) *Sunnis May Return To Iraqi Constitutional Processl*. Available at: http://www.rferl.org/content/article/1060126.htm (Accessed: 04.11.2015).

Report, I. (2005) *Unmaking Iraq: A Constitutional Process Gone Awry. Middle East Briefing N°19* [Online]. Available at: http://www.crisisgroup.org/en/regions/middle-east-north-africa/iraq-iran-gulf/iraq/B019-unmaking-iraq-a-constitutional-process-gone-awry.aspx (Accessed: 04.11.2015).

Report, I. (2007) *Iraq and the Kurds: Resolving the Kirkuk Crisis*. [Online]. Available at: http://www.crisisgroup.org/en/regions/middle-east-north-africa/iraq-iran-gulf/iraq/064-iraq-and-the-kurds-resolving-the-kirkuk-crisis.aspx (Accessed: 02.11.2015).

Republic of Iraq (1958) *Temporary Constitution of Iraq*.Iraqi Legal Database. [Online]. Available at: http://www.iraqld.iq/PDF/1958/t1215.pdf (Accessed: 30.09.2015).

Republic of Iraq (1964) *Temporary Constitution of Iraq*.Iraq Legal Database. [Online]. Available at: http://www.iraqld.iq/PDF/1964/m3015.pdf (Accessed: 30.09.2015).

Republic of Iraq (1968) *Temporary Constitution of Iraq* Iraq Legal Database. [Online]. Available at: http://www.iraqld.iq/PDF/1968/m4960.pdf (Accessed: 30.09.2015).

Republic of Iraq (1970) *The Temporary Constitution of Iraq*.Iraq Legal Database. [Online]. Available at: http://www.iraqld.iq/PDF/1970/a1500.pdf (Accessed: 30.09.2015).

Republic of Iraq (2004) *Transitional Adminstrative Law (TAL)*.Iraq Legal Database. [Online]. Available at: http://www.iraqld.iq/PDF/2004/r2349.pdf (Accessed: 30.09.2015).

Republic of Iraq (2005) *The Constitution of Iraq*. Iraq Legal Database. [Online]. Available at: http://www.iraqld.iq/PDF/2005/e0068.pdf (Accessed: 30.09.2015).

Requejo Coll, F. (2005) *Multinational federalism and value pluralism : the Spanish case*. London ; New York: Routledge.

Riker, W.H. (1964) *Federalism: origin, operation, significance*. Boston,: Little.

Roeder, G.P. (2009) 'Ethnofederalism and the Mismanagement of Conflicting Nationalisms', *Regional & Federal Studies*, 19(2), pp. 203-219.

Roeder, P. (2010a) 'Ethnofederalism and the Mismanagement of Conflicting Nationalisms', in Erk, J. and Anderson, L. (ed.) *The paradox of federalism: does self-rule accommodate or exacerbate ethnic divisions?* London: Routledge.

Roeder, P. (2010b) 'Asking the Right Questions about Alien Rule', *Ethnopolitics: Formerly Global Review of Ethnopolitics*, 9(3-4), pp. 411-414.

Romano, D. (2010) *Article 140: Time to talk details*. Available at: http://www.ekurd.net/mismas/articles/misc2010/10/kirkuk638.htm (Accessed: 02.11.2015).

Russell, M. (2001) 'The Territorial Role of Second Chambers', *The Journal of Legislative Studies*, 7(1), pp. 105-118.

Russell, M. (2003) *A Second Chamber for a Modern Democracy: a comparative study*. Middlesex University [Online]. Available at: http://eprints.mdx.ac.uk/10788/ (Accessed: 02.11.2015).

Ryan, M. and Abbas, M. (2009) *Shi'ite Maliki calls for majority rule in Iraq*. Available at: http://www.reuters.com/article/2009/05/15/idUSLF624378 (Accessed: 05.11.2015).

Salih, Amer. (1999) *Ultimately Confidential Document no. 25/363*. Khanqin District. Available at: http://www.com140.com/pdf/b958.pdf (Accessed: 04.11.2015).
Salih, Salim. (2013) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Sdiq, Abdurrahman. (2013) 'PhD Dissertation ' Mistaffa, J.H. *PhD Dissertation*

Security Head of Erbil (1988) *Confidential and Instant Dispatch.*

Seidman, I. (2006) *Interviewing as qualitative research : a guide for researchers in education and the social sciences*. 3rd edn. New York, N.Y. London: Teachers College Press.

Selassie, A.G. (2003) 'Ethnic Federalism: Its Promise and Pitfalls for Africa', *Journal of International Law*, 28(51), pp. 51-107.

Sevim, T.c.e. (2014) 'Rethinking Past, Today and Future of Kirkuk and its Black Gold', *European Journal of Research on Education*, Special Issue: International Relations, pp. 12-16.

Shwani, Khalid. (2013) 'PhD Dissertation ' Mistaffa, J.H. *PhD Dissertation*.

Sissons, M.a.A.-S., A. (2013) *A Bitter Legacy: Lessons of De-Baathification in Iraq*. New York and Brussels. [Online]. Available at: https://www.ictj.org/sites/default/files/ICTJ-Report-Iraq-De-Baathification-2013-ENG.pdf (Accessed: 02.11.2015).

Sluglett, M.a.S.P. (2001) *Iraq since 1958: from revolution to dictatorship*. London; New York: I.B. Tauris.

Sluglett, P. (1988) 'The Kurds', in Iraq, C.A.R.a.f.D.R.i. (ed.) *Saddam's Iraq: revolution or reaction?* 2nd edn. Atlantic Highlands, London; N.J.: Zed Books.

Smith, A.D. (2009) *Ethno-symbolism and nationalism : a cultural approach*. London ; New York: Routledge.

Smith, A.M. (2005) ' Fractured Federalism: Nigeria's Lessons for Today's Nation Builders in Iraq', *The Round Table: The Commonwealth Journal of International Affairs*, 94(378), pp. 129-144.

Smith, G. (1995) *Federalism : the multiethnic challenge*. London: Longman.

Stansfield, G.R.V. (2007) *Iraq : people, history, politics*. Cambridge: Polity.

Steiner, J. and Dorff, R.H. (1985) 'Structure and Process in Consociationalism and Federalism', *Publius-the Journal of Federalism*, 15(2), pp. 49-55.

Steinmo, S. (2001) 'New Institutionalism', in Clark, B. and Foweraker, J.(ed.) *The Encyclopedia of Democratic Thought,* London: Routlege.

Steinmo, S., Thelen, K.A. and Longstreth, F. (1992) *Structuring politics : historical institutionalism in comparative analysis*. Cambridge ; New York: Cambridge University Press.

Stepan, A. (1999) 'Federalism and democracy: Beyond the US model', *Journal of Democracy*, 10(4), pp. 19-34.

Stover, E., Megally, H. and Mufti, H. (2005) 'Bremer's "Gordian knot": Transitional justice and the US occupation of Iraq', *Human Rights Quarterly*, 27(3), pp. 830-857.

Suberu, R. (2009) 'Federalism in Africa: The Nigerian Experience in Comparative Perspective', *Ethnopolitics*, 8(1), pp. 67-86.

Suberu, R. (2010) 'The Nigerian Federal System: Performance, Problems and Prospects', *Journal of Contemporary African Studies*, 28(4), pp. 459-477.

TAL (2004) *Transitional Administrative Law, Law of Administration for the state of Iraq for the Transitional Period*.

Talabani, Rebwar. (2013) 'PhD Dissertation ' Mistaffa, J.H. *PhD Dissertation*

Tarlton , C. (1965) 'Symmetry and Asymmetry as Elements of Federalism: A Theoretical Speculation', *The Journal of Politics*, 27(04), pp. 861-874.

Telegraph, T. (2010) 'Saddam Hussein's henchman 'Chemical Ali' executed', *The Telegraph*edn). [Online] Available at: http://www.telegraph.co.uk/news/worldnews/middleeast/iraq/7072155/Saddam-Husseins-henchman-Chemical-Ali-executed.html (Accessed: 01.10.2015).

Thelen, K.a.S., S. (1992) 'Historical Institutionalism in Comparative Politics: State, Society and Economy', in S.Steinmo, K.T.a.F.L. (ed.) *Structuring Politics: Historical Institutionalism in Comparative Analysis*. New York: Cambridge University Press.

Times, N.Y. (2015) *Areas Under ISIS Control*. Available at: http://www.nytimes.com/interactive/2014/06/12/world/middleeast/the-iraq-isis-conflict-in-maps-photos-and-video.html?_r=0 (Accessed: 02.11.2015).

Treaty, S. (1920) *The Peace Treaty of Sèvres*. [Online]. Available at: http://www.hri.org/docs/sevres/ (Accessed: 04.11.2015).

Tripp, C. (2007) *A history of Iraq*. 3rd edn. Cambridge. UK ; New York: Cambridge University Press.

Tyler, T.R. (2006) 'Psychological perspectives on legitimacy and legitimation', *Annual Review of Psychology*, 57, pp. 375-400.

UN (2003) *Security Council resolution 1438, The situation between Iraq and Kuwait, S/RES/1483*.

Varshney, A. (2009) 'Ethnicity and Ethnic Conflict', in Boix, C.a.S.C.S. (ed.) *The Oxford handbook of comparative politics*. Oxford University Press.

Wahid, A. (2012) *Basra, Iraq's Economic Capital, Wants Southern Federal Region*. Available at: http://www.al-monitor.com/pulse/tr/politics/2012/09/basra-federal-region.html# (Accessed: 02.11.2015).

Walliman, N. (2006) *Social research methods*. London: Sage.

Wardi, A. (1965) *Dirastun fi Tabi'atil Mujtama'i Iraqi (A Study in the Nature of the Iraqi Society)*. Baghdad: National Library.

Watman, Ali. (2013) 'PhD Dissertation' Mistaffa, J.H. *PhD Dissertation*.

Watts, R.L. (1997) *Federalism : the Canadian experience*. Pretoria: HSRC.

Watts, R.L. (1999) *Comparing federal systems*. 2nd edn. Montreal ; London: Published for the School of Policy Studies, Queen's University by McGill-Queen's University Press.

Watts, R.L. (2008) *Federal Second Chambers Compared*. Institute of Intergovernmental Relations, School of Policy Studies, Queen's University.

Williams, U.D. (2015) 'How Useful are the Main Existing Theories of Ethnic Conflict?', *Academic Journal of Interdisciplinary Studies*, 4(1), pp. 147-152.

Wimmer, A. (2003) 'Democracy and ethno-religious conflict in Iraq', *Survival*, 45(4), pp. 111-+.

Wippman, D. (2004) 'Sharing Power in Iraq', *New England Law Review*, 39(29), pp. 29-39.

Wolff, S. (2006) *Ethnic conflict : a global perspective*. Oxford: Oxford University Press.

Wolff, S. (2009) 'Complex Power Sharing and the Centrality of Territorial Self-governance in Contemporary Conflict Settlements', *Ethnopolitics: Formerly Global Review of Ethnopolitics*, 8(1), pp. 27-45.

Wolff, S. (2010a) 'Approaches to Conflict Resolution in Divided Societies: The Many Uses of Territorial Self-Governance'. Ethnopolitics Papers. Available at: https://centres.exeter.ac.uk/exceps/downloads/Ethnopolitics_Papers_No5_Wolff.pdf.

Wolff, S. (2010b) 'Governing (in) Kirkuk: resolving the status of a disputed territory in post-American Iraq', *International Affairs*, 86(6), pp. 1361-+.

Wolff, S. (2011) 'Post-Conflict State Building: the debate on institutional choice', *Third World Quarterly*, 32(10), pp. 1777-1802.

Wolff, S. (2013) 'Conflict Management in Divided Societies: The Many Uses of Territorial Self-governance', *International Journal on Minority and Group Rights*, 20(1), pp. 27–50.

X, MP. (2013) 'PhD Dissertation' Mistaffa, J.H.

Yahia, L. (2012) '(العراق خونة يقتل ١٩٧٩ الخلد قاعة في حسين صدام الراحل الرئيس) Saddam Hussein in Khuld Hall executes the traitors'. 01.10.2015. Available at: https://www.youtube.com/watch?v=c1-f-A3Pgcs.

Yang, Q. (2000) *Ethnic Studies: Issues and Approaches*. State University of New York Press.

Yazbak, M. (1998) *Haifa in the late Ottoman period, 1864-1914 : a Muslim town in transition*. Leiden: Brill.

Yildiz, K. (2007) *The Kurds in Iraq : the past, present and future*. Rev. edn. London ; Ann Arbor, MI: Pluto Press in association with Kurdish Human Rights Project.

Younis, N. (2011) 'Set up to fail: consociational political structures in post-war Iraq, 2003-2010', *Contemporary Arab Affairs*, 4(1), pp. 1-18.

Zaher, U. (1986) 'Political Development in Iraq 1963-1980', in Iraq, C.A.R.a.f.D.R.i. (ed.) *Saddam's Iraq: revolution or reaction?* London Totowa, N.J., USA: Zed Books

Zuber, C.I. (2011) 'Understanding the Multinational Game: Toward a Theory of Asymmetrical Federalism', *Comparative Political Studies*, 44(5), pp. 546-571.