

How was Consociational Power-Sharing Designed in Afghanistan and Iraq: A Process-Tracing Approach



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Abstract: *This paper examines how consociational power-sharing systems of governance were designed in Afghanistan and Iraq between the collapse of the Taliban and the Ba'athist regime and the ratification of each state's post-invasion constitution. Using a process tracing approach, the paper reconstructs, institution by institution, how the 2004 Afghan Constitution and the 2005 Iraqi Constitution were designed. The paper presents original data on the ethnic and sectarian composition of each transitional body alongside the referendum data used to test each design. The paper situates its findings against the ten strands of contemporary power-sharing and constitution-making literature and finds that the two design processes of the above constitutions, although textually near-opposite in their treatment of Lijphart's four pillars, shared a common design pathology: proportional representation in the membership of transitional bodies was repeatedly decoupled from proportional decision-making authority within them.*

Keywords: Consociational Power-Sharing, Afghanistan, Iraq, Bonn Agreement, Constitutional Design

Introduction

Between late 2001 and mid-2003, the United States (US) and its coalition partners removed two deep-rooted authoritarian regimes: the Taliban government in Afghanistan and the Ba'athist government of Iraq. In both of them, the resulting vacuum presided over the design of a new constitutional order for a deeply divided society. This paper discusses the design process: which bodies were convened; on what representational formula; under whose supervision; and what the consequences were for the body that followed.

Constitution-making after civil conflict or regime collapse has become a separate subject of study since 2001, and this research is informed throughout by its own literature. Widner's (2008) comparative overview of post-conflict constitution-writing identifies process design --- who drafts, who ratifies, and according to what timetable --- as being at least as consequential as the substantive content of the resulting text. Samuels (2006) and Hart (2001) both argue that participatory, broadly inclusive drafting processes are more likely to produce constitutions that are perceived as legitimate by excluded or marginal groups, a claim tested directly by the Afghan and Iraqi sequences traced below. Ginsburg et al. (2009) review of the constitution-making literature stresses that process characteristics; the sequencing of drafting and ratification; the presence or absence of a public referendum; the inclusiveness of the drafting body are empirically associated with a constitution's subsequent sustainability and rights content, while Lerner (2011) and Horowitz (2008) both note that constitution-making in 'deeply divided societies' carries design trade-offs; between speed and inclusion; between elite bargaining and public participation; that do not arise in the same way in more homogeneous transitions. Benomar et al. (2005) UNDP roundtable on United Nations (UN) constitution-making experience placed Afghanistan explicitly alongside East Timor as a test case for exactly these trade-offs.

Afghanistan and Iraq are unusually well suited to a comparative process-tracing design because they are near-simultaneous cases, separated by roughly eighteen months, in which the same international sponsor (the US, acting with or without UN and coalition partners) confronted similar structural problems (a collapsed authoritarian regime, an ethnically and religiously divided society, an active insurgency) and arrived, as this paper documents, at markedly different institutional designs. Both design processes drew,

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whether explicitly or not, on the consociational model of governance associated with Arend Lijphart (Lijphart, 1977; 2004): i.e., grand coalition, proportionality, mutual veto and segmental autonomy. Both design processes were also shaped by prominent and concerned individuals whose own published accounts form part of the documentary record examined here; most notably, L. Paul Bremer, the head of the Coalition Provisional Authority (CPA), whose memoir *My Year in Iraq* (Bremer & McConnell, 2006) records his own reasoning behind the Iraqi Governing Council's (IGC) ethno-sectarian formula and the CPA's de-Ba'athification and army-dissolution orders; and Zalmay Khalilzad, who served as U.S. Ambassador to both Afghanistan and Iraq and whose memoir *The Envoy* (Khalilzad, 2016) records his direct interventions in the Constitutional Loya Jirga (CLJ) and in the Iraqi Constitutional Drafting Committee's expansion to include Sunni representatives.

This paper's contribution is empirical and comparative rather than purely theoretical. It compiles, from primary conference records, transitional legal texts and the two negotiators' own memoirs, an institution-by-institution tabulation of who was represented in each transitional body; on what formula and with what share of the eventual voting or drafting authority. Section two sets out Lijphart's model and the ten strands of the critical and comparative literature, against which the empirical findings are later read. Section three details the process-tracing method and sourcing strategy. Sections four and five trace institution by institution the design of Afghanistan's 2004 Constitution and Iraq's 2005 Constitution, respectively; Section six presents comparative findings. Section seven discusses the findings against the ten strands of prior literature identified in Section two, and Section eight concludes.

Consociationalism and Post-conflict Peacebuilding

Lijphart's model of consociational democracy (Lijphart, 1977) rests on four institutional pillars: grand coalition (joint governance by the leaders of all significant segments); proportionality (allocation of civil-service posts, public resources, and legislative seats in rough correspondence to demographic weight); mutual veto, or concurrent-majority rule (allowing a minority segment to block existentially threatening decisions) and segmental autonomy (permitting each community to manage its own internal affairs, often through federalism). Lijphart later extended this menu explicitly as constitutional-design advice for divided societies emerging from conflict, citing Bosnia, Northern Ireland and prospectively Iraq (Lijphart, 2004).

A substantial literature treats the process by which such institutions are designed as analytically distinct from their formal content. Horowitz has argued consistently that consociational designs, however carefully drafted, tend to freeze ethnic categories into a state's institutional architecture at the design stage itself, rewarding communal mobilization by political entrepreneurs over cross-cutting or issue-based coalition-building (Horowitz, 1985; 2008). Roeder and Rothchild's (2005) edited volume on post-civil-war settlements argues that power-sharing designs of the kind Lijphart recommends tend to be short-term accommodations reached under the pressure of ending violence, and that the resulting institutions are often those that were needed to end the conflict and once embodied in the body of the design of the constitution can prove difficult to renegotiate even if later they hinder governance; the volume's contributors generally favor 'power-dividing' designs (competing but separated jurisdictions) over Lijphart's 'power-sharing' designs (joint decision-making bodies). Sisk (1996) and Reilly (2001) both examine the menu of institutional choices available to designers of divided-society constitutions; consociational versus 'centripetal' or vote-pooling alternatives and stress that the choice is rarely made by disinterested, egalitarian designers, but by the same elites whose bargaining position the design will subsequently entrench. Hartzell and Hoddie's (2015) large-sample study of post-civil-war power-sharing pacts finds that the specific combination of power-sharing dimensions negotiated at the design stage- political, military, territorial and economic- can predict the durability of a settlement more reliably than any single institutional feature considered alone.

Two country-specific literatures bear directly on the cases here. On Iraq, Bogaards (2021) argues that the 2005 design amounts to 'consociationalism light': a set of power-sharing conventions reached without the durable, foundational elite pact, like that in Lebanon's 1943 National Pact. That might have made the design

self-enforcing; instead, it left it to ad hoc, electorally contingent bargaining, open to renegotiation after every election. Dodge traces the specific design lineage of Iraq's informal sectarian quota, *Muhasasa Ta'ifia*, to formulas devised by exiled Iraqi opposition parties in the early 1990s and then imported into the CPA-era design process largely intact (Dodge, 2018; 2020). McGarry and O'Leary (2007), by contrast, defend the 2005 design as a genuine instance of 'liberal consociation', Lijphart's four pillars combined with individual rights guarantees, and argue it was the least bad design achievable given the acute time and security constraints under which the Constitutional Drafting Committee worked in mid-2005. Regarding Afghanistan, Adeney (2008) argues that the 2004 design is best understood as an asymmetric hybrid: it is the rhetoric of ethnic inclusion without a matching institutional architecture, layered onto a centralized, directly elected presidency. She attributes these design choices to the deliberate preferences of the Karzai camp and its international backers during the drafting process. Ali and Mushtaq (2017), scoring Afghanistan against Lijphart's own checklist of favorable conditions, arrive at a still harsher verdict: the country satisfies barely half of the nine preconditions, and the record of factional conduct from the Mujaddedi period through the post-Bonn years shows accommodation to be the exception rather than the rule among Afghan elites. Mushtaq (2022) extends this same favorable-conditions framework to Pakistan and reaches a comparable conclusion: of Lijphart's nine conditions, Pakistan satisfies only three, and an original public-opinion survey across six ethnolinguistic groups finds that even minority communities favor territorial autonomy over group-based, consociational power-sharing by a wide margin, average support for the latter running under 40 percent against more than 70 percent for non-consociational alternatives. Rubin (2004), writing as a direct participant-adviser to the Afghan drafting process, offers a first-hand account of how the design departs from the Constitutional Review Commission's original recommendations that were negotiated inside the National Security Council (NSC) in September 2003.

Further comparative literature situates both cases within the broader post-Cold War record of internationally sponsored constitution-making. Paris' (2004) study of post-conflict peacebuilding missions argues that externally led transitions on compressed timetables systematically privilege elite bargaining over the institution-building that is needed to make the resulting bargains durable. This is a dynamic that he terms 'institutionalization before liberalization'. Diamond (2004), reflecting on his own service as a CPA senior adviser, reaches a similar conclusion specifically about Iraq, arguing that the CPA's design choices in 2003 foreclosed design options that might have produced a more broadly legitimate outcome. Chesterman (2004) examines the tension between international trusteeship and local ownership across a wider set of UN and US-led transitions, a tension that was visible at nearly every juncture in the design that is traced in this paper. Dobbins et al. (2003), in a research and development comparative study spanning Germany, Japan, Somalia, Haiti, Bosnia, Kosovo and Afghanistan, find that the resources and time committed to a nation-building mission are empirically a stronger predictor of design success than the specific institutional menu chosen. Together, these ten strands of literature; Lijphart's own model and its extension (Lijphart, 1977; 2004); Horowitz's critique (Horowitz, 1985; 2008); Roeder and Rothchild's power-dividing alternative (2005); Sisk (1996) and Reilly (2001) on institutional menus; Hartzell and Hoddie (2015) on design durability; Bogaards (2021) and Dodge (2018, 2020) on Iraq; Adeney (2008) and Rubin (2004) on Afghanistan; and Paris (2004), Diamond (2004), Chesterman (2004), and Dobbins et al. (2003) on internationally led transitions generally, supply the comparative benchmarks against which Section Seven presents the empirical findings of this paper.

A Process-tracing Method

Process tracing is a within-case method for reconstructing the causal chain of decisions, bargains and critical junctures that connects an initial condition to an outcome (George & Bennett, 2005; Beach & Pedersen, 2013). Rather than testing a cross-case statistical association, process tracing asks how and why a particular sequence of design choices produced a particular institutional outcome in a given case, using the documentary and archival record to establish at each transitional stage: who was represented and under what formula; which of Lijphart's four pillars was at stake and what the resolution of that stage implied for bargaining at the next.

This paper applies that method to two parallel design sequences. The Afghan sequence runs from the Bonn Agreement (Dec. 2001), through the Afghan Interim Authority (AIA), the Emergency Loya Jirga (ELJ), the Afghan Transitional Administration (ATA), the Constitutional Drafting and Review Commissions and the CLJ, to the promulgation of the 2004 Constitution. The Iraqi sequence runs from the CPA (May 2003) through the IGC, the TAL, the Iraqi Interim Government, the Transitional National Assembly (TNA) and the permanent Constitutional Drafting Committee, to the October 2005 referendum.

Sourcing follows a documentary hierarchy. Primary legal texts, the Bonn Agreement, UN Security Council (UNSC) resolutions, CPA Orders 1 and 2, the TAL and the two constitutions themselves, are treated as the most authoritative record of what was formally agreed and are cited with their original public archive locations (chiefly UN Peacemaker and the CPA's official archive) wherever available. The relevant memoirs of Bremer (Bremer & McConnell, 2006) and Khalilzad (2016) are used as first-person process-tracing sources for the internal bargaining behind each formal text, preferably after being cross-checked wherever possible against the contemporary reports of reliable wire services (Reuters, AP), major outlets (The New York Times, The Washington Post, NBC News, the BBC) and specialist trackers (RFE/RL, GlobalSecurity.org/USIA transcripts, IRIN/The New Humanitarian). Retrospective institutional accounts include the US Institute of Peace's two Iraq special reports (USIP 2005) and Congressional Research Service reports (Katzman, 2010). Also, Chatham House's Iraq volume (Al-Ali, 2023) supplies analytical framing and cross-checks, as does Marina Omar's (2024) dedicated process-tracing study of the Afghan constitution, itself grounded in Barnett Rubin's contemporaneous correspondence with the drafting process.

Designing Power-sharing in Afghanistan, 2001–2004

Bonn: Designing the First Transitional Body

The design sequence began at a UN-convened conference, not a drafting table. As the Taliban government collapsed under the US air attacks, delegations from the Northern Alliance, the Rome Group (associated with the exiled former king, Zahir Shah), and the smaller Cyprus and Peshawar groups met in Bonn, Germany, from 27 November to 5 December 2001, chaired by UN Special Representative Lakhdar Brahimi. The Taliban, as the militarily defeated party, were not invited, and the agreement that resulted, formally called the 'Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions', was published by the UN and endorsed unanimously in Security Council Resolution 1383 (2001) (UN Peacemaker, 2001; UNSC 2001). The Bonn Agreement's design specification was itself a consociational sequence: a six-month AIA, to be followed by an ELJ that would select an ATA, which would in turn convene a CLJ to approve a permanent constitution, all within roughly two years. Annex I of the Agreement specified that the AIA's composition should give 'due attention... to the ethnic, geographic and religious composition of Afghanistan,' the earliest textual expression of a proportionality principle in the design sequence (UN Peacemaker, 2001).

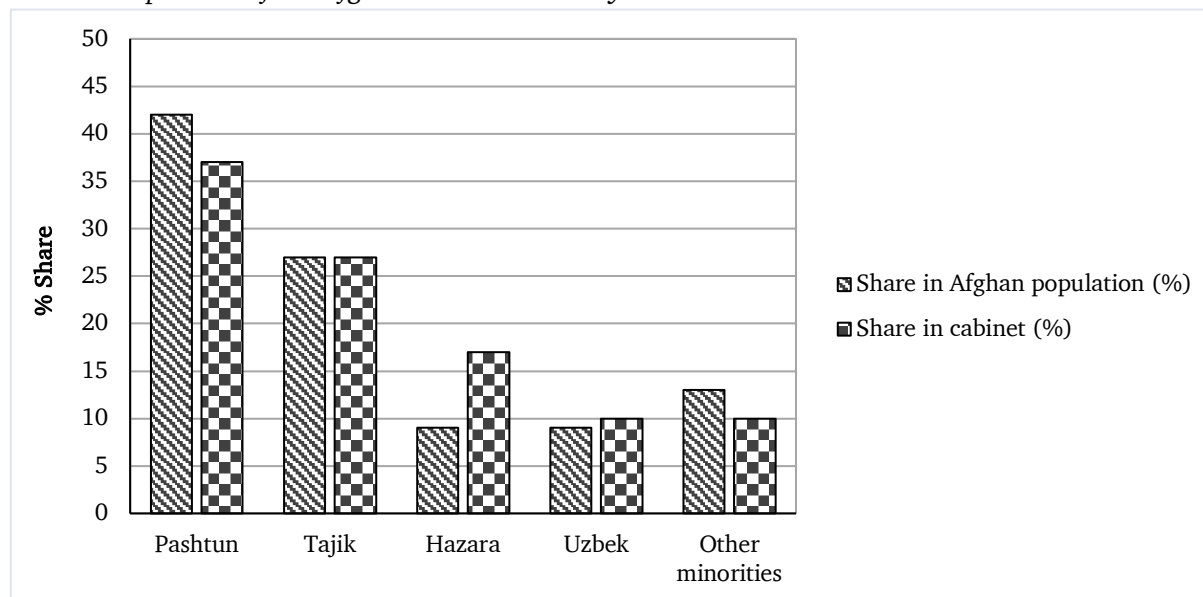
The Afghan Interim Authority: Grand Coalition by Formula

The AIA was inaugurated on 22 December 2001 under the chairmanship of Hamid Karzai. He was a Pashtun leader whom, according to contemporaneous Public Broadcasting Service (PBS) Frontline reporting and later supported by Khalilzad's own memoir, US officials were actively promoting as a candidate acceptable to the Northern Alliance and the international community alike (Haass, 2002; Khalilzad, 2016). The ATA distributed thirty cabinet-equivalent posts. Independent tabulations converge on there being 11 Pashtun, 8 Tajik, 5 Hazara, 3 Uzbek, and 3 other-minority appointees (Siddique, 2012). The Northern Alliance, whose delegation had arrived at Bonn as the *de facto* powerholder in Kabul, received roughly half of all thirty posts; the Rome Group received eight. In its literal composition, the AIA represented Lijphart's grand-coalition pillar. Yet the design choice that mattered for the sequence's later trajectory was procedural rather than numerical. The coalition was negotiated ad hoc in Bonn, not written into any binding legal instrument requiring its continuation, so that nothing in the design restricted Karzai's freedom to alter the formula at each following transitional stage. The drafting sequence traced below shows him repeatedly exercising this freedom. Figure

1 visualizes the design sequence's first grand-coalition attempt, in the distribution of 30 cabinet-equivalent posts in the AIA, that was negotiated at the Bonn Conference and inception on 22 Dec. 2001. The Northern Alliance received roughly half of all posts; the Rome Group (associated with the former king, Zahir Shah) received eight.

Figure 1

Ethnic Composition of the Afghan Interim Authority Cabinet



The Emergency Loya Jirga: Designing a Broad-based Selectorate

The ELJ of June 2002 was the Bonn design's mechanism for broadening AIA's narrow, conference-negotiated mandate into one with a wider domestic selectorate. Roughly 1,650 delegates were selected through a mix of indirect district elections and reserved seats for women, refugees and religious minorities (NPS, 2002). The ELJ's explicit design purpose, according to Brahimi's own account of the process, was to 'remedy some of the defects of the interim government originally chosen at Bonn, specifically its imperfect demographic correspondence' (NPS, 2002). In practice, the design of the selection procedure again proved more consequential than its breadth: US and UN intermediaries persuaded the former king, Zahir Shah, to withdraw his own candidacy in Karzai's favor before formal balloting concluded, a sequencing later criticized by Human Rights Watch's (2002) one-year review of the Bonn process, as being descriptive of a broader pattern in which a wide-based selection procedure was designed to produce, rather than just ratify, a fixed outcome.

The Constitutional Drafting and Review Commissions: Designing the Text

The nine-member Constitutional Drafting Commission (CDC), appointed by presidential verdict in October 2002 and inaugurated in November 2002, and its successor, the 32-member Constitutional Review Commission (CRC), appointed in April 2003 and chaired by Vice President Nematullah Shahrani, were the design sequence's technical drafting stage. The CDC's initial two-month drafting deadline was impractical, and its first draft relied mostly on the 1964 monarchical constitution, replacing 'king' with 'president' in many provisions (Omar, 2024).

The CRC's design mandate then added an open participatory element: a public consultation conducted in all 32 provinces and also among Afghan refugee communities in Iran and Pakistan, which reportedly comprised more than five hundred meetings and ten thousand recorded comments. Yet the commission never published its consultation report, and Omar's (2024) interviews with commission members, including Fazel Ahmad Manavi, indicate that a majority of respondents favored a parliamentary system. However, this design preference went unconsidered once it became clear that Karzai and his cabinet preferred a pure presidential

system. When the draft passed to the NSC in September 2003, the NSC replaced the CRC's proposed mixed presidential-parliamentary design, which had retained a prime ministerial post, with a pure presidential system. This system was stripped of the safeguards- a geographically distributed vote-share requirement and a two-term limit- that international legal advisers Yash Pal Ghai and Barnett Rubin had recommended in memoranda to the drafting process (Rubin, 2004; Omar, 2024).

The Constitutional Loya Jirga: Ratification at a Design Stage

The CLJ, convened 14 December 2003 to 4 January 2004, was designed as a 502-delegate ratifying body: 344 elected by district representatives, 42 for refugees and minorities, 64 women elected provincially, and 50 presidential appointees (Omar, 2024). Khalilzad, by his own account, deliberately timed presenting his credentials as US Ambassador to Afghanistan in late November 2003, in order to allow him to oversee the CLJ directly (Khalilzad, 2016). Together with Brahimi, he took an active hand in the CLJ's internal bargaining. Process-tracing of the CLJ's negotiations, reconstructed from Barnett Rubin's contemporaneous correspondence and from Thomas Ruttig's (2014) first-hand account as an EU representative who was present throughout this period, shows the design of the final text catering to individually negotiated side payments. Qasim Fahim, the most significant militarily *Shura-yi Nazar* leader, secured support for the presidential design in exchange for an elected vice-presidency. Karzai also added a second vice-presidential post during the CLJ itself that was awarded to Karim Khalili in exchange for the Hazara delegation's votes (Omar, 2024). The final text was approved not by recorded vote but by the Jirga's chairman asking delegates to stand for collective prayer, after which he declared the constitution 'approved' (Omar, 2024; Ruttig, 2014). Ruttig (2014) later cross-checked the ratified text against the version debated in the CLJ and found at least three provisions altered after the fact, in each case restoring the presidential authority to the National Assembly that delegates had voted for during the Jirga itself.

The Afghan Design Outcome

Read as a single design sequence, the Afghan process between Bonn and the January 2004 constitution shows consociational elements: a grand coalition at the AIA; broad selection at the EL; participatory consultation at the CRC; mixed representation at the CLJ; and, though this was introduced at every transitional stage, it was substantially unwound at the final drafting and ratification stage. The promulgated text (signed 26 January 2004) declared Afghanistan a centralized, unitary state and subordinated provincial governance to a stated 'principle of centralism' (Article 137) and rejected the mutual-veto and segmental-autonomy pillars outright, while leaving grand coalition and proportionality to the ordinary discretion of the president and to an unentrenched Single Non-Transferable Vote electoral law, respectively.

Designing Power-sharing in Iraq, 2003–2005

The Coalition Provisional Authority: Designing from Occupation

Where the Afghan design sequence began with a conference among competing Afghan factions, the Iraqi sequence began with direct occupation. Following the fall of Baghdad on 9 April 2003, the CPA, established under UNSC Resolution 1483 (UNSC 2003) and headed by L. Paul Bremer from 12 May 2003, held legislative, executive, and judicial authority in the absence of any serving Iraqi government (Middle East Forum 2006, review of Bremer and McConnell 2006). Bremer's memoir records his own view of the position: 'I would be the only paramount authority figure, other than dictator Saddam Hussein, that most Iraqis had ever known' (Bremer & McConnell, 2006).

Two of the CPA's initial design decisions affected every later stage of the sequence. CPA Order 1, issued 16 May 2003, stopped senior Ba'ath Party members from the new civil service; CPA Order 2, issued 23 May 2003, dissolved the Iraqi army completely (Pfiffner, 2010; Cornell, 2016). Pfiffner's (2010) process-tracing account of the second decision, verified by Bremer's own memoir, records that Bremer secured President Bush's agreement by video teleconference without asking Secretary of State Colin Powell or National Security

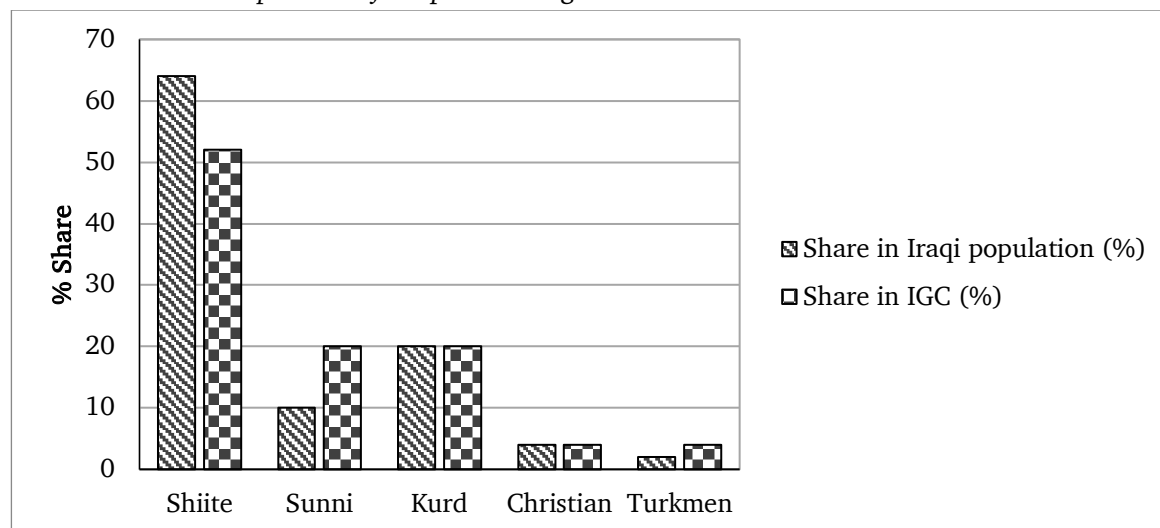
Adviser Condoleezza Rice. This was a sequencing Powell later described as leaving him ‘stunned’ (Pfiffner, 2010). The CPA's third initial design decision was its early acceptance of an informal ethno-sectarian quota, summarized as a 60:20:20 Shiite-Sunni-Kurdish split. This formula had been devised by the exiled Iraqi opposition parties for years before 2003 and was introduced as a mainly integral part of the new state's transitional design (Dodge, 2018).

The Iraqi Governing Council: Proportional Membership, not Proportional Authority

The IGC, formed on 13 July 2003, comprised twenty-five members and was selected directly by Bremer: thirteen Shiite, five Sunni, five Kurd, one Christian/Assyrian and one Turkmen. Bremer explained this composition in a television address to Iraqis two days after the Council's establishment. He claimed that it guaranteed that ‘whether you are Shiite or Sunni, Arab or Kurd, Baghdadi or Basrawi, man or woman, you will see yourself represented in this council’ (Bremer, 2003). Yet the design gap that persisted during the Iraqi sequence is still noticeable even after the IGC's commencement. The fact is that the Council's formal proportionality did not extend to practical decision-making authority, which the CPA retained throughout the Council's existence. This was a gap that later Iraqi and American accounts admit to honestly (Goodreads review summary of Bremer and McConnell 2006). Figure 2 visualizes the IGC's composition. It was the Iraqi design sequence's analogous first attempt at proportional representation, built through direct appointment rather than negotiated conference bargaining. The IGC was appointed directly by CPA Administrator L. Paul Bremer on 13 Jul. 2003. The 13:5:5:1:1 ratio approximates the 60:20:20 formula devised by exiled Iraqi opposition parties before 2003.

Figure 2

Ethno-sectarian Composition of Iraqi Governing Council



The Transitional Administrative Law (TAL): Formalizing All Four Pillars Simultaneously

The TAL, negotiated over roughly three months and signed by the IGC on 8 March 2004, is the first Iraqi design document to formalize, rather than simply practice, all four of Lijphart's pillars together. Kurdish negotiators insisted on constitutional protection for the autonomy the Kurdistan Regional Government (KRG) had exercised since 1991. It secured a hard-won minority veto: under TAL Article 61(c), any three governorates could block ratification of the eventual permanent constitution with a two-thirds ‘No’ vote (Katzman, 2010). The TAL further designed a triple Presidency Council requiring unanimous decision-making among its three members; a 25 percent gender quota for the National Assembly and formal recognition of the KRG's continued authority within a federal Iraqi state. The TAL's first chapter was substantially drafted by the Sunni Iraqi politician Adnan Pachachi to give the document an Iraqi authorial flavor. However, the

main document is noticeably designed by American legal advisers operating with a small circle of Iraqi panelists, and it never enjoyed the popular ratification that applied to the permanent constitution later.

The Transitional National Assembly: A Design Gap Made Visible

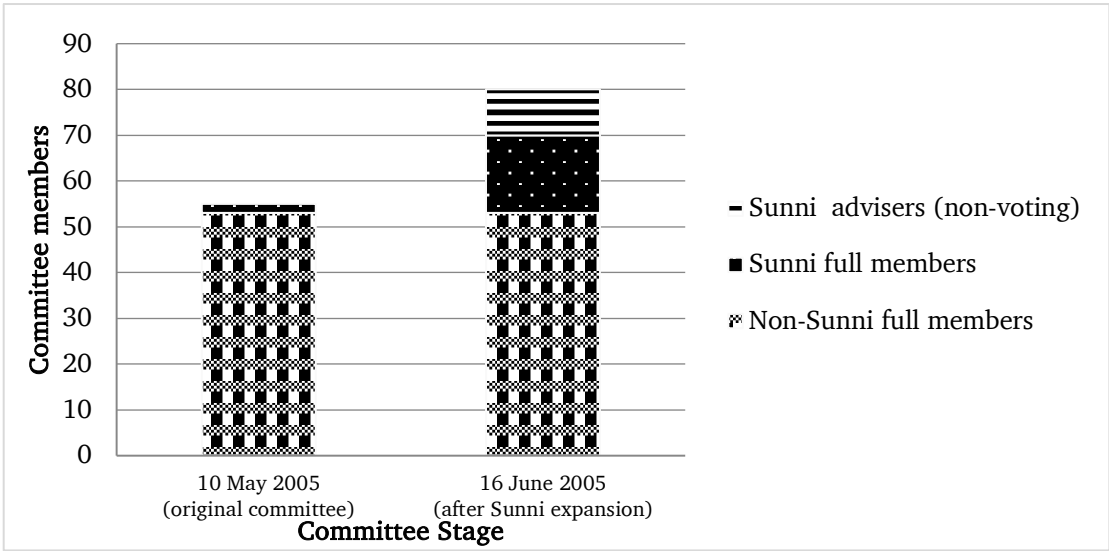
The gap between formal proportionality and substantive representation showed its effect by the Sunni community in the 30 January 2005 election to the TNA. Held under a single-national-constituency list-PR system, the election produced a 275-seat Assembly ruled by three blocs: the United Iraqi Alliance won 140 seats (51 percent), the Kurdistan Alliance 75 seats (27 percent), and Ayad Allawi's Iraqi List 40 seats (15 percent) (Katzman, 2010). Most organized Sunni parties, including the Iraqi Islamic Party, boycotted the election outright; the resulting Assembly seated only about seventeen self-identifying Sunni members, most through other parties' lists (RFE/RL 2005; USIP 2005).

The Constitutional Drafting Committee: Correcting a Design Gap Under Time Pressure

The TNA appointed a 55-member Constitutional Drafting Committee on 10 May 2005 comprising of a parliamentary bloc of 28 United Iraqi Alliance, 15 Kurdistan Alliance, 8 Iraqi List and one each from the Communist Party, the Iraqi Turkmen Front, and the (Christian) National Rafidain List, plus a single Sunni nominee, leaving the Committee, according to the reports of multiple contemporaneous and retrospective sources, with 'only two Sunnis' among fifty-five members, (USIP 2005; IJRAR 2019). Sunni leaders, led by Adnan Pachachi, rejected an initial Shiite-Kurdish offer confining Sunni participants to a purely advisory role, demanding a minimum of twenty-five full committee seats (GlobalSecurity.org/RFE-RL, 2005). The negotiated outcome, reached 16 June 2005, added fifteen Sunni full members plus ten non-voting Sunni advisers (GlobalSecurity.org/RFE-RL, 2005; USIP 2005, 2). Khalilzad's own account frames this intervention as central to his ambassadorship (Khalilzad, 2016); US ambassador-level engagement continued through the drafting process itself. Khalilzad attended National Assembly sessions in person on 15 and 22 August 2005 when deadline extensions were debated. This was an unusual step that domestic Iraqi television broadcast, and it drew criticism from Iraqi nationalists (Rhem 2005, American Forces Press Service). Even so, USIP's (2005, 3) process-tracing account of the committee's work found that substantive negotiations were removed from the Committee itself after 8 August 2005 regarding a series of private meetings between Kurdish and Shiite party leaders from which Sunni negotiators were often excluded, meaning the June expansion corrected the Committee's membership without fully correcting its subsequent bargaining dynamics. One Shiite committee member later told reporters, 'We haven't played much of a role in drafting the constitution. We have not been consulted on important issues,' while a Sunni negotiator concluded, 'This constitution was cooked up in an American kitchen, not an Iraqi one' (FPIF 2013, reporting 2005 remarks). Figure 3 visualizes the design correction to Sunni representation on Iraq's Constitutional Drafting Committee between its formation on 10 May 2005 and its expansion on 16 June 2005. It may be considered as the single clearest instance, in both sequences, of a proportionality gap being explicitly renegotiated mid-process.

Figure 3

Sunni Representation in Iraq's Constitutional Drafting Committee



The

Permanent Constitution: Testing the Veto Design

The permanent Iraqi constitution, approved by national referendum on 15 October 2005, formalized federalism and carried forward the TAL's qualified mutual veto (the three-governorate, two-thirds threshold), but dropped the TAL's requirement of unanimous Presidency Council decision-making. Thereby it left the grand-coalition government almost entirely uncoded in the constitutional text. Following the sequence traced above, this paper attributes a design gap to Shiite negotiators' preference for majoritarian government, once their electoral dominance in the Assembly was secured. According to the results from the Independent Electoral Commission of Iraq (IECI), nationally, out of 63 percent of the voter turnout, 78 percent accepted the constitution (Katzman, 2010). The vote was overwhelmingly along communal lines, with the province of Anbar rejecting the constitution by a margin of 96-97 percent, and the province of Salah ad-Din 81-82 percent 'No'. While Nineveh was the only mixed province to fall just short, 55-56 percent 'No'. The vote was overwhelmingly along communal lines: Anbar voted 'No' by about 96 percent, Salah ad-Din by 81 percent, and Nineveh just short, 55 percent 'No' (thus the margin was well short of the two-thirds 'No' from three governates, which was needed to block ratification). In the case of the design, the mutual veto mechanism actually worked the way that the TAL's drafters had intended, but it failed by just one governorate.

Comparative findings

The two design sequences employed side by side have been summarized in Table 1. Afghanistan built its transitional order around a broad-grounded, indigenous consultative body (the Loya Jirga) effective without a compulsory transitional constitution. Iraq was controlled for thirteen months under direct occupation and then adopted a written transitional constitution (the TAL) that categorized all four of Lijphart's pillars before the permanent constitution was even outlined.

Table 1
Comparative Institutional Timeline: Designing Afghanistan's and Iraq's Constitutions

Stage of design	Afghanistan (2001–2004)	Iraq (2003–2005)
International framework	Bonn Agreement 5 Dec. 2001) endorsed by UNSC Res. 1383	CPA established under UNSC Res. 1483 (22 May 2003)
First transitional executive	AIA, 22 Dec. 2001 (30 posts)	IGC, 13 Jul. 2003 (25 seats)
Broad consultative body	ELJ, Jun. 2002 (Approximately1,650 delegates)	No direct equivalent under CPA rule
Transitional constitution	1964 Constitution applied on an interim basis	TAL, signed 8 Mar. 2004
Restoration of sovereignty	ATA, Jun. 2002	IIG, 28 Jun. 2004

Elected transitional legislature	No direct equivalent (Loya Jirga) model used)	TNA elected 30 Jan. 2005 (275 seats)
Constitution-drafting body	Constitutional Drafting Commission (Oct. 2002, 9 members) and Constitutional Review Commission (Apr. 2003, 32 members)	Constitutional Drafting Committee, formed 10 May 2005 (55 members), expanded to 82 (incl. advisers) on 16 Jun. 2005
Ratification mechanism	CLJ, 14 Dec. 2003 – 4 Jan. 2004 (502 delegates); approved by acclamation	National referendum, 15 Oct. 2005; 63% turnout, 78% approval
Promulgation	Signed 26 Jan. 2004	Published in Official Gazette (28 Dec. 2005)

Note: Compiled by the authors

Once each constitution's text was finalized, the four pillars of Lijphart's initial theory coped unequally in balancing power. The subsequent pattern is not just one of two designs pointed in contradictory directions. It is a mix, within each text, of pillars that were clearly upheld; others that were clearly rejected; and some that the constitutional text is simply silent on, leaving them to regular law or informal convention. In Afghanistan, Articles 1 and 137 of the constitution are clear textual rejections of two pillars together, i.e., mutual veto and segmental autonomy, stating the state to be unitary and federal in explicit terms. In contrast, Article 64 neither confirms nor prohibits grand coalitions, but simply leaves cabinet composition to the president's discretion, which is a lapse rather than a rejection; and there is no constitutional reference regarding proportional representation. It is left completely to the ordinary Single Non-Transferable Vote electoral law. In Iraq, the pattern is nearer to the model of Lijphart's pillars: Articles 113–121 favorably establish segmental autonomy through federalism, and the carried-over TAL Article 61(c) favorably establishes a qualified mutual veto; two pillars are given clear textual force that Afghanistan's constitution openly denies. Although again grand coalitions find no support in the constitution itself, and they remain only as the unwritten, informal, power-sharing framework, the *Muhasasa Convention*, and proportionality is left to ordinary electoral law rather than constitutional guarantees. Table 2 sets out this pillar-by-pillar pattern for both texts; the recurrent verdict is that in neither country did all four pillars receive the same textual treatment, as each constitution supports some, rejects others, and is silent on at least one.

Table 2

Consociational design outcomes in Afghanistan (2004) and Iraq (2005)

Lijphart Pillar	Afghanistan (2004 Constitution)	Iraq (2005 Constitution)
Grand coalition	Not constitutionally required; cabinet appointments are a discretionary presidential power (Art. 64)	Not codified in the constitutional text; institutionalized informally as Muhasasa Ta'ifia (presidency/ premiership/ speakership convention)
Proportionality	Left to ordinary electoral law (Single Non-Transferable Vote)	Governed by electoral law (list-PR); inherited the CPA-era 60:20:20 quota logic
Mutual veto	Rejected outright; unitary, centralized state (Art. 1)	Qualified minority veto retained from TAL Art. 61(c): 3 governorates can block ratification with a two-thirds 'No'
Segmental autonomy	Explicitly rejected; provincial governors are presidential appointees under a 'principle of centralism' (Art. 137)	Federalism constitutionally entrenched; Kurdistan Region recognized (Arts. 113–121)

Note: Compiled by the author

In Afghanistan, the pattern is one of a near-total overturn. The constitution rejected the mutual veto and segmental autonomy openly and left grand coalition and proportionality to informal practice and regular electoral law. On the other hand, Iraq did the opposite; establishing federalism and a qualified minority veto in binding text, while leaving grand coalition to unwritten sectarian convention.

Table 3 tabulates the ethnic composition of Afghanistan's four principal design bodies from primary and secondary sources. The Pashtuns, Afghanistan's largest ethnic group, estimated at around 40–42 percent of the population, got only 37 percent of AIA cabinet seats in December 2001, a gap that formed Karzai's following negotiating policy at later design stages.

Table 3

Ethnic Composition of Afghanistan's Transitional Design Bodies, 2001–2004

Body (date)	Total seats/ delegates	Composition
AIA cabinet (22 Dec. 2001)	30	11 Pashtun (37%), 8 Tajik (27%), 5 Hazara (17%), 3 Uzbek (10%), 3 other minorities (10%). Northern Alliance $\approx$ half of posts; Rome Group 8 posts.
ELJ (Jun. 2002)	$\sim$ 1,650	Indirectly elected district representatives plus reserved seats for women, refugees, Kuchis, and religious minorities; balanced regionally and ethnically per Bonn Annex I.
Constitutional Review Commission (23 Apr. 2003)	32	6 members carried over from the 9-member Drafting Commission; remainder drawn from legal experts, journalists, tribal leaders, and religious scholars, chaired by Vice President Nematullah Shahrani.
CLJ (14 Dec. 2003 – 4 Jan. 2004)	502	344 elected by district representatives; 42 for refugees/IDPs/Kuchis/minorities; 64 women elected provincially; 50 presidential appointees (25 women, 25 legal/constitutional experts); 2 for the disabled community.

Note: Compiled by the authors

Table 4 tabulates the sectarian composition of Iraq's four principal design bodies. The trajectory from the original Constitutional Drafting Committee (2 of 55 Sunni full members, or roughly 4 percent, against a Sunni population share generally estimated at 15–20 percent) to the expanded Committee (17 of roughly 65 voting seats, or roughly 26 percent) is the clearest quantitative record, in either case, of a design gap being identified and partially corrected.

Table 4

Sectarian Composition of Iraq's Transitional Design Bodies, 2003–2005

Body (date)	Total seats	Composition
IGC (13 Jul. 2003)	25	13 Shiite (52%), 5 Sunni (20%), 5 Kurd (20%), 1 Christian/Assyrian (4%), 1 Turkmen (4%); a Bremer-appointed approximation of the pre-invasion 60:20:20 formula.
TNA (30 Jan. 2005)	275	United Iraqi Alliance 140 (51%), Kurdistan Alliance 75 (27%), Iraqi List 40 (15%), other lists 20 (7%). Sunni parties largely boycotted; only $\sim$ 17 self-identified Sunni members were seated, mainly via other lists.
Original CDC (10 May 2005)	55	United Iraqi Alliance 28 (51%), Kurdistan Alliance 15 (27%), Iraqi List 8 (15%), Communist Party 1, Turkmen Front 1, Rafidain (Christian) List 1, Sunni nominee 1 (2%).

Expanded CDC (16 Jun. 2005)	82 (65 voting + 7 leadership/other + 10 non-voting)	15 additional Sunni full members and 10 non-voting Sunni advisers added; Sunni full-member share rose from ≈ 2 of 55 (4%) to ≈ 17 of 65 voting seats (26%), still after the substantive framework had been shaped by UIA–Kurdish negotiations.
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Note: Compiled by the authors

Discussion: Reading Design Evidence against Prior Studies

We have identified ten strands of prior literature against which the empirical design evidence was assembled. First, against Lijphart's own model (Lijphart, 1977; 2004): the evidence shows both states' designers openly reached for Lijphart's points; grand coalition at the AIA and the IGC; proportionality in cabinet and committee seats; a mutual veto written into the TAL; segmental autonomy debated (and, in Afghanistan, rejected), but in doing so this factor was brokered completely outside the official drafting and finally, time-compressed negotiating rather than the kind of progressively bargained elite settlement that was exhibited by Lijphart's original European cases. The design evidence is consistent with Lijphart's own points being theoretically available and technically implemented in part, whereas the political conditions indicate that Lijphart's theory presumes that the menu's self-implementation was mostly absent from the design process itself.

Second, comparing against Horowitz (Horowitz, 1985; 2008): the Afghan and Iraqi evidence openly supports his fundamental claim that designing institutions around static ethnic or sectarian groups (i.e., the AIA's Pashtun/Tajik/Hazara/Uzbek quota, the IGC's Shiite/Sunni/Kurd quota) fixes those groups into the design itself. Table 3 and Table 4 show the groupings persisting and remaining fundamentally unaffected from the first transitional body to the last drafting committee in both cases, demonstrating the freezing effect Horowitz's design critique predicted.

Third, against Roeder and Rothchild (2005): their predilection for power-dividing over power-sharing designs finds support in the Afghanistan case, where the 2004 constitution's rejection of segmental autonomy shaped a design nearer to their ideal model. On the other hand, in the Iraqi Constitution, power-dividing federalism was combined with power-sharing quotas; this indicates that the two design logics are not always mutually exclusive options in practice and may conflict with the general framing.

Fourth, against Sisk (1996) and Reilly (2001): both scholars' common opinion that institutional menus are selected by interested rather than disinterested designers appears to be strongly apparent from the process-tracing evidence. The NSC September 2003 substitution of pure presidentialism for the CRC's mixed design, and the CPA's direct authorship of the IGC's quota formula, are both cases of direct implementation of a design choice and also the choice of its authors.

Fifth, against Hartzell and Hoddie (2015): their hypothesis that multidimensional power-sharing pacts (political, military, territorial, economic combined) survive better than single-dimension pacts is generally consistent with the comparative pattern of these two constitutions. Iraq's combination of political quotas with regional federalism questionably constitutes a more multidimensional design than Afghanistan's political-only, informally practiced grand coalition, a difference that maps roughly onto the two states' different post-ratification courses.

Sixth and seventh, against Bogaards (2021) and Dodge (2018, 2020) on Iraq specifically: the Constitutional Drafting Committee's origin as a 55-member, bloc-allotted body with only two Sunni members offers straight documentary provision for both scholars' collective claim that Iraq's power-sharing design was built as an ad hoc quota system inherited from the CPA period rather than bargained as a foundational national pact of the kind Bogaards used in Lebanon 1943, which is their benchmark.

Eighth, against McGarry and O'Leary's (2007) more sympathetic attitude to the Iraqi process: the process-tracing evidence is compatible with their view that the 2005 design was a rational achievement given the

acute time pressure. The June 2005 Sunni expansion is precisely the kind of counteractive, liberal-consociational adjustment their account credits the process with making. However, it also shows, via USIP's (2005) account of discussions being excluded from the Committee to private Shiite-Kurdish meetings after 8 August 2005, that the correction was fractional and came too late, leaving Sunni representatives deprived in the final drafting weeks. Apparently McGarry and O'Leary's more institutionally focused account does not fully register this factor.

Ninth, against Adeney (2008) and Rubin (2004) on Afghanistan: the NSC's September 2003 rejection of the CRC's mixed system in favor of pure presidentialism validates Adeney's claim that Afghanistan's asymmetric design (ethnic rhetoric without ethnic institutions) was a careful design choice made at a perceptible, dateable juncture, rather than an unintentional gap in the constitutional text.

Tenth, against the broader internationally led transition literature; Paris (2004), Diamond (2004), Chesterman (2004) and Dobbins et al. (2003): the design evidence gathered here is consistent with Paris's 'institutionalization before framing liberalization in both cases, and with Diamond's first-hand account of CPA-era design choices. Dobbins et al.'s verdict that supply and time commitment (rather than an institutional menu) drive design consequences receives mixed support here, since Afghanistan and Iraq clearly got different levels of international resourcing and time, even as their formal design menus diverged in the opposite direction that one might expect from that finding. Iraq, which got greater resource and attention than Afghanistan by most measures, produced the more procedurally deliberate transitional constitution (the TAL), but subsequently, according to the committee's own account, the permanent constitution was drafted under greater time pressure than Afghanistan's CLJ.

Taken together, these ten comparisons suggest that the Afghan and Iraqi design processes are best read not as confirming or disconfirming any single strand of the prior literature, but as practically demonstrating two different mechanisms from that literature: Horowitz's ethnic-freezing critique, and Sisk's and Reilly's interested-designer critique, simultaneously and in the same eighteen-month period, using a nearly identical set of international personnel and institutional building blocks.

Conclusion

This paper has traced, through primary conference records, transitional legal texts, direct participant memoirs, and contemporary reporting, how consociational power-sharing was designed in Afghanistan between 2001 and 2004 and in Iraq between 2003 and 2005. The two design processes arrived at nearly contradictory constitutional texts: a central, unofficially ethnically balanced presidential system in Afghanistan, and a clear federal, quota-based, veto-protected system in Iraq. Yet the institution-by-institution evidence compiled in Tables 3 and 4 displays a strategic pathology shared by both cases: proportional representation in the association of a transitional body- the AIA cabinet, the IGC, the original Constitutional Drafting Committee- was frequently dissociated from the proportional decision-making authority in that body. In both cases, this is a gap that its own contributors (Bremer, Khalilzad, Rubin, and the Iraqi and Afghan negotiators) acknowledged in real time and struggled, with only limited success. Comparing the processes against the ten strands of previous literature, the Afghan and Iraqi design sequences probably evince the sharpest documented design to date of Horowitz's (1985, 2008) claim that consociational design freezes ethnic groups into a state's institutional planning structure. It also affirms Sisk's (1996) and Reilly's (2001) collective opinion that the choice of institutional tariff is hardly made by designers separated from its consequences. They also suggest, more specifically than either strand of literature establishes on its own, that the moment of greatest vulnerability in a consociational design sequence is not the initial allocation of seats, which both countries managed, at least nominally, to make broadly proportional; but the subsequent allocation of drafting and decision-making authority within nominally proportional bodies. This gap between formal representation and substantive power in both Kabul and Baghdad has proved to be too hard to design away.

References

- Adeney, K. (2008). Constitutional design and the political salience of “community” identity in Afghanistan: Prospects for the emergence of ethnic conflicts in the post-Taliban era. *Asian Survey*, 48(4), 535–557. <https://doi.org/10.1525/as.2008.48.4.535>
- Ali, A., & Mushtaq, M. (2017). Peacebuilding Process and Consociational Model of Power Sharing: The Case of Afghanistan. *The Pakistan Journal of Social Issues*, 8(1), 63-72.
- Al-Ali, Z. (2023). *Flawed by design: Ethno-sectarian power-sharing and Iraq's constitutional development*. Chatham House. <https://www.chathamhouse.org>
- Beach, D., & Pedersen, R. B. (2013). *Process-tracing methods: Foundations and guidelines*. University of Michigan Press. <https://doi.org/10.3998/mpub.10072208>
- Benomar, J., Samuels, K., & Kim, Y. (2005). *Constitution making and peacebuilding: Lessons learned from UN constitution-making experience: East Timor, Afghanistan* [Roundtable report]. United Nations Development Programme.
- Bogaards, M. (2021). Iraq's constitution of 2005: The case against consociationalism “light.” *Ethnopolitics*, 20(2), 186–202. <https://doi.org/10.1080/17449057.2019.1654200>
- Bremer, L. P., & McConnell, M. (2006). *My year in Iraq: The struggle to build a future of hope*. Simon & Schuster/Threshold Editions.
- Chesterman, S. (2004). *You, the people: The United Nations, transitional administration, and state-building*. Oxford University Press.
- Coalition Provisional Authority. (2003). *Order number 1: De-Ba'athification of Iraqi society; Order number 2: Dissolution of entities*. <https://pfiffner.schar.gmu.edu/files/pdfs/Articles/CPA%20Orders%2C%20Iraq%20PDF.pdf>
- Constitution of the Islamic Republic of Afghanistan. (2004). *Official Gazette*, No. 818. https://www.constituteproject.org/constitution/Afghanistan_2004
- Constitution of the Republic of Iraq. (2005). *Official Iraqi Gazette*, No. 4012. https://www.constituteproject.org/constitution/Iraq_2005
- Diamond, L. (2004). What went wrong in Iraq. *Foreign Affairs*, 83(5), 34–56. <https://doi.org/10.2307/20034066>
- Dobbins, J., McGinn, J. G., Crane, K., Jones, S. G., Lal, R., Rathmell, A., Swanger, R., & Timilsina, A. (2003). *America's role in nation-building: From Germany to Iraq* (MR-1753). RAND Corporation.
- Dodge, T. (2018, November 12). *Iraq and muhasasa ta'ifia: The external imposition of sectarian politics*. The Foreign Policy Centre/SEPAD.
- Dodge, T. (2020). Iraq's informal consociationalism and its problems. *Studies in Ethnicity and Nationalism*, 20(2), 145–152. <https://doi.org/10.1111/sena.12330>

- Foreign Policy in Focus. (2013). *Iraq's neoliberal constitution*. FPIF. https://fpif.org/iraqs_neoliberal_constitution/
- George, A. L., & Bennett, A. (2005). *Case studies and theory development in the social sciences*. MIT Press.
- Ginsburg, T., Elkins, Z., & Blount, J. (2009). Does the process of constitution-making matter? *Annual Review of Law and Social Science*, 5, 201–223. <https://doi.org/10.1146/annurev.lawsocsci.4.110707.172247>
- GlobalSecurity.org/U.S. Information Agency. (2003). *New governing council a huge step forward, Bremer tells Iraqis*. <https://www.globalsecurity.org/wmd/library/news/iraq/2003/07/iraq-030714-usia05.htm>
- GlobalSecurity.org/RFE/RL Iraq Report. (2005). *Sunnis agree to join Iraq's constitutional drafting committee* (Vol. 8, No. 20). <https://www.globalsecurity.org/wmd/library/news/iraq/2005/06/20-200605.htm>
- Haass, R. (2002). *After the Taliban: The race for a new Afghanistan*. PBS Frontline. <https://www.pbs.org/wgbh/pages/frontline/shows/campaign/withus/caftertaliban.html>
- Hart, V. (2001). Constitution-making and the transformation of conflict. *Peace & Change*, 26(2), 153–176. <https://doi.org/10.1111/0149-0508.00185>
- Hartzell, C. A., & Hoddie, M. (2015). The art of the possible: Power sharing and post-civil war democracy. *World Politics*, 67(1), 37–71. <https://doi.org/10.1017/S0043887114000306>
- Horowitz, D. L. (1985). *Ethnic groups in conflict*. University of California Press.
- Horowitz, D. L. (2008). Conciliatory institutions and constitutional processes in post-conflict states. *William & Mary Law Review*, 49(4), 1213–1248. https://scholarship.law.duke.edu/faculty_scholarship/1868/
- Human Rights Watch. (2002). *Afghanistan's Bonn agreement one year later: A catalog of missed opportunities*. <https://www.hrw.org/news/2002/12/05/afghanistans-bonn-agreement-one-year-later>
- International Journal of Research and Analytical Reviews. (2019). *Constitution of Iraq: Process, issues and pitfalls*. <https://ijrar.org/papers/IJRAR19J5719.pdf>
- Katzman, K. (2010). *Iraq: Politics, elections, and benchmarks* [Congressional Research Service report]. <https://apps.dtic.mil/sti/pdfs/ADA468566.pdf>
- Khalilzad, Z. (2016). *The envoy: From Kabul to the White House, my journey through a turbulent world*. St. Martin's Press.
- Lerner, H. (2011). *Making constitutions in deeply divided societies*. Cambridge University Press. <https://doi.org/10.1017/CBO9780511793394>
- Lijphart, A. (1977). *Democracy in plural societies: A comparative exploration*. Yale University Press.
- Lijphart, A. (2004). Constitutional design for divided societies. *Journal of Democracy*, 15(2), 96–109. <https://doi.org/10.1353/jod.2004.0029>
- McGarry, J., & O'Leary, B. (2007). Iraq's constitution of 2005: Liberal consociation as political prescription. *International Journal of Constitutional Law*, 5(4), 670–698. <https://doi.org/10.1093/icon/mom026>
- Middle East Forum. (2006). *My year in Iraq* [Book review]. *Middle East Quarterly*. <https://www.meforum.org/middle-east-quarterly/book-reviews/my-year-in-iraq>
- Mushtaq, M. (2022). Managing diversity: Why is consociationalism not an optimal solution for Pakistan? *Nationalism and Ethnic Politics*, 28(4), 371–392. <https://doi.org/10.1080/13537113.2022.2122685>
- Naval Postgraduate School (NPS). (2002). *Strategic insight: The Loya Jirga, ethnic rivalries and future Afghan stability*. <https://nps.edu/documents/105988371/107571254/Loya+Jirga+Strategic+Insights.pdf>
- Omar, M. (2024). Constitutional choice in emerging democracies: Adoption of the 2004 Afghan constitution. *British Journal of Middle Eastern Studies*, 51(4), 711–729. <https://doi.org/10.1080/13530194.2022.2156847>
- Paris, R. (2004). *At war's end: Building peace after civil conflict*. Cambridge University Press.
- Pfiffner, J. P. (2010). US blunders in Iraq: De-Baathification and disbanding the army. *Intelligence and National Security*, 25(1), 76–85. <https://doi.org/10.1080/02684521003588120>
- Reilly, B. (2001). *Democracy in divided societies: Electoral engineering for conflict management*. Cambridge University Press.

- Rhem, K. T. (2005). *U.S. ambassador details negotiations for Iraqi constitution*. American Forces Press Service. <https://www.globalsecurity.org/wmd/library/news/iraq/2005/08/iraq-050816-afps02.htm>
- Roeder, P. G., & Rothchild, D. (Eds.). (2005). *Sustainable peace: Power and democracy after civil wars*. Cornell University Press.
- Rubin, B. R. (2004). Crafting a constitution for Afghanistan. *Journal of Democracy*, 15(3), 5–19. <https://www.journalofdemocracy.org/articles/crafting-a-constitution-for-afghanistan/>
- Ruttig, T. (2014). *Flash from the past: Long live consensus—A look back at the 2003 Constitutional Loya Jirga*. Afghanistan Analysts Network.
- Samuels, K. (2006). Post-conflict peace-building and constitution-making. *Chicago Journal of International Law*, 6(2), 663–682. <https://chicagounbound.uchicago.edu/cjil/vol6/iss2/10>
- Siddique, A. (2012). *Afghanistan's ethnic divides*. CIDOB/Observatori. https://www.observatori.org/paises/pais_87/documentos/ABUBAKAR_SIDDIQUE.pdf
- Sisk, T. D. (1996). *Power sharing and international mediation in ethnic conflicts*. United States Institute of Peace Press.
- Transitional Administrative Law. (2004). *Law of administration for the state of Iraq for the transitional period*.
- UK Home Office, Country Information and Policy Unit. (2004). *Afghanistan country report*. https://www.ecoi.net/en/file/local/1218775/1329_1200398772_2004-04-afghanistan-country-report-april-2004.pdf
- United Nations Peacemaker. (2001). *Agreement on provisional arrangements in Afghanistan pending the re-establishment of permanent government institutions (Bonn Agreement)*. <https://peacemaker.un.org/afghanistan-bonnagreement2001>
- United Nations Security Council. (2001). *Resolution 1383 (2001)*.
- United Nations Security Council. (2003). *Resolution 1483 (2003)*.
- United States Institute of Peace. (2005). *Iraq's constitutional process II: An opportunity lost* (Special Report No. 155). <https://www.usip.org/sites/default/files/sr155.pdf>
- Widner, J. (2008). Constitution writing in post-conflict settings: An overview. *William & Mary Law Review*, 49(4), 1513–1541. <https://scholarship.law.wm.edu/wmlr/vol49/iss4/16>