



## ANALYSES

# Iraq must compromise between majoritarianism and consensus government formation



\* Timothy Liptrot

3 July 2022



**The two-thirds quorum rule allows a minority to prevent government formation by halting the selection of a president. [Reuters]**

On Sunday, 12 June 2022, Iraq's largest political party resigned from parliament, ceding most of their seats to their rivals. The unusual move reflects the failure of an eight-month project to move Iraq from a consensus political system to a majoritarian system. But the peculiar design of Iraq's constitution prevented either side from winning or making a stable compromise. The resignation of Iraq's largest party, the pro-majoritarian Sadrist Movement, shows the failure of the current government formation process, and portends future protests and violence.

This analysis explain why majority government is so controversial, and how the Iraqi constitution prevents any compromise on the issue. I then argue for a redesign of Iraq's constitution that allows violence-reducing compromise over the issue of majoritarian government formation.

Currently, Iraq's de-facto government-formation mechanism is the Muhasasa Ta'ifeya. (Muhasasa means "quota".) Under the Muhasasa, the government is divided, with ministries and rents distributed to each faction in parliament roughly following their vote share and armed strength. [\(1\)](#) Proponents

argue that Muhasasa reduces inter-factional violence by dividing the state among each party in government, such that none prefers fighting to compromise. But reformers argue that Muhasasa reduces the incentives to provide public goods. [\(2\)](#)

The constitution effectively requires a two-thirds majority to start government formation. [\(3\)](#) The problem is that all subsequent measures and confidence votes require simple majorities, so the 17% of extra parliamentarians needed for quorum become unnecessary afterward. [\(4\)](#) The constitution offers weak protections to the opposition once the president is selected, so the opposition may turn to the threat of violence to protect their interests.

Now that the Sadrists have entered opposition, Iraq is caught between two unpalatable options. Forming a consensus government is unacceptable to the majority of Shiites that voted for pro-majority candidates, but forming a majority government inevitably requires the consent of the excluded. A new election would likely return a similar balance of power to 2021 election, creating the same gridlock without a change to the rules.

Iraq should resolve this impasse by altering the constitution in a deal between the two coalitions that removes the quorum rule for service ministries while increasing the opposition's protections on critical security and rent-sharing issues. The majority leader would appoint ministers responsible for public-goods ministries like electricity and transport, subject to a simple-majority appointment and removal. Meanwhile, ministries such as Defence, Interior and Foreign Affairs have the potential to destabilise the balance of power, and would be selected by a prime minister with a super-majority confidence threshold. The scheme offers enough consensus protections to avoid destabilising exclusion from rent distribution, foreign policy and military policy while introducing meaningful competition and accountability to service provision.

## **Consociation in Iraq**

Iraq's current Muhasasa Ta'fiya system is effective at controlling violence because it makes the state budget and power divisible. Each armed group can initiate violence and impose costs on the others, but fighting is costly and risky. As a result, there usually exists some division of power and rents which every faction prefers over fighting. The Muhasasa matches any distribution of violence power with a distribution of the state power. Super-majority governments also prevent coalitions from using the state to damage rival groups or upset the balance of power. While the Muhasasa has become unpopular in Iraq, that ability to reduce violence is a highly valuable.

At the same time, consociation is rare globally because it gives weak incentives to provide public goods. [\(5\)](#) When a faction controls a ministry or agency, it faces trade-offs between public goods and club goods for their own supporters. Public goods, like roads, economic growth and education, are not excludable for other factions. Club goods and private goods can be targeted only at the faction base and include high-pay low-effort government jobs, money stolen from contracting, or excludable services like healthcare.

Since club goods benefit just the supporters and do not "waste" resources on the entire people, they are more efficient for rewarding the faction base. Embezzling money for road construction and paying it to supporters gives your faction 100% of the value, while actually providing high quality roads would disperse the value across the entire Iraqi people. For a faction with a 10% share of citizens, road construction must be 10 times as effective as cash handouts to be worthwhile. Any politician who declines to mismanage his ministry for his supporters' exclusive benefit will face an internal challenger who offers more to those supporters.

Meanwhile, the signalling value of public goods is low. Normally, politicians provide public goods to signal their ability and benevolence to voters. But under Muhasasa, attracting new voters brings new mouths to feed in exact proportion. A growing vote share offers more opportunities to skim off the

top, a modest gain. In the German bundestag, for example, the ruling CDU/CSU party declined by a few percentage points and found itself completely excluded from federal power. [\(6\)](#)

### **The immediate situation**

Perhaps unsurprisingly, Muhasasa has proven unpopular. In 2019, Iraq began its largest non-violent protest movement since 2003, the Tishreen movement. [\(7\)](#) The Tishreen movement is a cross-sect coalition of young people opposed to the poor public services and consensus government. Their protests were met with violence, including 600 extra-judicial killings, but they eventually forced early elections.

This movement quickly attracted the attention of Moqtada Sadr, a powerful faction leader and religious figure, with a base in poor Shia neighbourhoods. Like the other factions, the Sadrist movement combines a political party, patronage network, business community and armed group (currently inactive) into one organisation. After the Tishreen movement, Sadr capitalised on public anger to launch a pro-majority campaign in the 2021 elections. [\(8\)](#)

Sadr's strategy succeeded, and he won his greatest victory yet with 73 seats for his bloc alone. [\(9\)](#) The Tishreen movement received less than 30 seats due to poor organisation, although they received over a million votes. [\(10\)](#) Pro-Iran Shiite parties underperformed partly due to voters defecting for independent Tishreen candidates.

The Sadrist victory allowed them to form a new simple-majority coalition called the "Saving the Homeland Alliance" (SHA). [\(11\)](#) The SHA is a coalition of Shiite, Sunni and Kurdish political parties, satisfying the traditional Iraqi convention that the president be Kurdish and the speaker be Sunni. The coalition excludes several Shiite parties, particularly those most associated with Iran.

However, despite possessing a simple majority, Sadr failed to form a government. The SHA was opposed by the Coordination Framework (CF), a coalition of Shia parties opposed to majoritarian

government. Like the Sadrist Movement, the parties in the CF combine an armed wing with a political party.

The CF noted that the constitution requires a president before any government is formed. Once elected, the president must nominate the head of the largest bloc to form a government. (Oddly, the president is needed but has no choice over who to nominate.) For 8 months, they convinced just over a third of MPs not to attend sessions to elect the president. [\(12\)](#) With no quorum, no president was elected, so no new prime ministers could propose a government. This left the previous government in place, which contained ministers from CF parties.

At one point, Sadr gave the CF 40 days to form their own government. [\(13\)](#) The CF refused this offer because the structure of the constitution made it a poison pill: once they attend a presidential selection, whichever president the CF selects must nominate Sadr as formatter due to his party size. Then, Sadr could have formed his most preferred majority government because all subsequent motions require a simple majority.

### **The Sadrists resign**

On 12 June, Sadr requested his MPs resign from parliament. [\(14\)](#) He argued that it is better to withdraw than to participate in a corrupt government, and that continued gridlock was hurting Iraq. (They cannot form a budget without a government.) Most of his seats will go to his rivals in the CF, who are now in talks to form a consensus government.

However, the remaining parties will struggle to rule the country without Sadr. Sadr possesses the strongest base for non-violent protest and has a powerful armed group, which has restarted recruiting for its militia. [\(14\)](#) The returning possibility of violence is a clear condemnation of the current constitution.

Meanwhile, the resignation will appeal to the Tishreen movement's millions of Shiite voters, who disdain the Muhasasa. So far, the Tishreen movement has been restrained by their lack of political organisation and militia power, but an alliance with Sadr would give them enough protection to organise for the next election. If a consensus government invites political violence, the CF may have no choice but to call for elections once again.

### **The problem with the 2005 constitution**

Even with a new election, it is difficult to see a majority government forming under Iraq's current constitution. This is true even assuming each actor follows the constitution explicitly and none resort to violence. The two-thirds quorum rule allows a minority to prevent government formation by halting the selection of a president. To overcome this, the formateur must convince 17% of MPs to attend the session, even though those MPs will not be needed in any future motions under the government. After the president is selected, the simple majority coalition will be free to give themselves every ministry and give none to that 17%. But if no extra 17% attends, the previous governments ministers continue to serve, so they retain access to resources for their patronage networks. Effectively, a large group of MPs must voluntarily vote themselves out of power on the basis of an unenforceable promise from the formateur. No wonder members of the CF have declined to nominate the president these past 7 months.

Allowing government formation is only rational if a 17% bloc prefers the formateur's promise (and an updated budget) to the status quo. The only plausible scenario is for the Tishreen movement to provide that extra bloc, as it currently has no ministries to lose. But that outcome leaves the Tishreen bloc no leverage over the government afterwards.

If we relax the assumption of rule-of-law, the situation is bleaker for majoritarianism. Since 2005, Iraq has had supermajority governments not because the constitution required them, but because the

heads of state feared the violence that excluded factions would enact. To convince them not to fight, the opposition must have some policy areas and rent streams protected from the majority.

### **Toward a new constitution**

Under the current constitution, forming a majority government gives no constitutional protections to the excluded factions; but forming a consensus government cannot satisfy the Iraqi people's demand for accountable service provision. Any compromise between the two extremes depends on either the formateur's personal commitment or strength of arms, not constitutional protection. Moreover, any subsequent election under the same rules would face the same problem of needing a disposable super-majority. Instead, Iraq should alter its constitution to give enforceable protections for minority parties on key security and distributive issues, while transferring control over most service ministries to a majority government.

Such a reform would require Iraq to elect two sets of leadership by different mechanisms. First, the prime minister is approved via a two-thirds supermajority rule. He would then follow the legacy Muhasasa system in distributing appointments to a certain subset of consensus ministries and their revenue. The no-confidence threshold for the prime minister should be reduced to one-third, so that smaller coalitions like the CF or the Sunnis and Kurds have leverage. This creates minority protections over the consensus ministries.

In separate sessions, the same parliament would elect a majority leader. As Iraq already has a prime minister, president and speaker, only the title "majority leader" is left for a new position. The majority speaker would propose a cabinet to their ministries for approval by a simple majority vote with a simple majority quorum rule. Majorities can be withdrawn with no-confidence votes following Iraq's current no-confidence mechanism. A constructive vote of no-confidence rule could be inserted if government collapse becomes too frequent.



The key here is that consensus ministries are revocable by even small factions; and this is constant over the course of a government, unlike the current quorum. Meanwhile, majority ministries are stable within elections, but only the winning coalition can control them. Power in majority ministries is now highly responsive to changes in vote share.

By keeping a single parliament, this solution ensures a more stable alignment of policy power and violence capacity. If Iraq instead elected a separate upper and lower house, voters may split their votes between programmatic candidates to one, and factional candidates to the others. This would leave the more programmatic house weak in violence capacity because factional candidates have better access to armed groups. An aggressive faction could then use the threat of violence to unravel the constitutional order. By keeping a single parliament, Iraq ensures the majority leader maintains roughly half the violence capacity.

### **1. Powers of the majority government**

If too few powers are devolved to the majority leader, then the majority leader no longer has an incentive to provide public goods. The incentive for public goods comes from an increased probability of being in coalition in the next election cycle: if only small minority of ministries are competitive, why forego valuable rents today? Also, if the prize is too small, voters may not distinguish the majority ministries from consensus ministries.

The optimal ministries for the majority government have high visibility of outcomes, few opportunities for corruption, and provide valuable public goods. The ministries of electricity and communications are good options because citizens can easily observe the consistency of power generation and the expansion of cellular service.

The majority leader would also require the ability to fire public sector workers in their ministries. This could be a sticking point in negotiations as the minority fears a purge of their appointees. One solution

is to set a limit on the absolute number of firings per ministry of 1% of employees. Since each employee is at risk, they have an incentive to perform until the limit is reached, but a factional purge would be impossible.

## **2. Powers of the consensus government**

The division of powers between the consensus and majority governments must convince the opposition that their power base and rents are safe. At the same time, the majority leader must be powerful enough to induce parties to compete for the majority leader position. Each must also operate independently. It is a difficult tightrope to walk.

Those ministries that can disrupt the balance of power should be consensus ministries. A majority leader could use the ministries of Defence, Interior and Foreign Affairs to shift the balance of power, and therefore must be part of the consensus government. The consensus government should continue a mutual veto over defence and foreign policies.

The CF is unlikely to agree to any revision unless their access to rents is assured by more than just the word of the majority leader. The majority leader will inevitably possess a significant chunk of rents through their policy control, from directing contracts to friends to setting tariffs to reward interest groups. To balance the majority coalition's rents, the consensus government should receive significant rent production mechanisms.

One option is to give the consensus government control over those ministries with corruption opportunities like the Ministry of Oil or the Ministry of Health, but this increases policy distortions from corruption. A second possible mechanism is community development funds (CDFs), which are moneys distributed at the discretion of parliamentarians. This is a popular trend in Sub-Saharan Africa, [\(15\)](#) but may invite misuse. Either method guarantees a share of rents for the opposition, which increases their willingness to agree to the reform and refrain from violence.

### 3. Budget setting

Control of the budget is difficult because any party could use it to defund their rival's government sectors, rendering the power sharing mechanism irrelevant. At the same time, Iraq's budget badly needs to be updated regularly given fluctuations in the price of oil. A simple solution would be for budgets to require a two-thirds majority for approval.

### Conclusion

Iraq's current institutions offer no enforceable compromise between consensus rule and majority rule. The popularity of Sadr's current farming shows that many Iraqis oppose the consensus system. With no path to compromise, violence between these two groups is difficult to avoid.

Some will object that Iraq should keep its constitution constant. If every election leads to a new constitution, the constitution has no enforcement power. While this argument is reasonable, it wrongly assumes that Iraq has abided by the 2005 constitution. In reality, control over laws, appointments and budgets has been distributed by customs and norms enforced through the threat of violence, like Muhasasa. In 2022, Iraq bravely experimented with actually following the constitution, but that experiment has failed. Reforming the constitution is the only way to make it relevant.

Finally, this proposal allows Iraqi citizens to observe and compare the performance of competitive and consensus ministries. If competitive ministries like the Ministry of Transportation, for example, outperform their peers and previous selves, this will build consensus in Iraq on a path toward development. Furthermore, Iraqis can observe the difference in performance between majority and consensus ministries, which would inform future institutional design.

---

\***Timothy Liptrot** is a PhD student at Georgetown University.

## References

- (1) Arwa Ibrahim, "Muhasasa, the political system reviled by Iraqi protesters," Al Jazeera, 4 December 2019, <https://bit.ly/39XWlva> (accessed 25 June 2022).
- (2) Samir Sumaida'ie, "The Hijacking of Democracy," Wilson Center, 8 April 2021, <https://bit.ly/3a2EPvm> (accessed 23 June 2022).
- (3) Ahmed Rasheed and Amina Ismail, "Iraq parliament fails to elect new state president over lack of quorum," Reuters, 26 March 2022, <https://reut.rs/39XL5of> (accessed 23 June 2022)
- (4) Transitional National Assembly of Iraq, "Iraqi Constitution," Iraqi Council of Representatives, 28 June 2022, <https://bit.ly/3bE2AKI> (accessed 23 June 2022).
- (5) Mamdouh Shouman, "Consociationalism and Corruption: An Exploration of the Consociational System's Susceptibility to Corruption" (Thesis), University of Central Oklahoma, 2013, <https://bit.ly/3yuFgbm> (accessed 24 June 2022).
- (6) Ivana Kottasova, "Olaf Scholz appointed as Germany's new chancellor, replacing Angela Merkel after 16 years," CNN, 8 December 2021, <https://cnn.it/3OLkPMv> (accessed 26 June 2022).
- (7) "Iraq's Tishreen Uprising: From Barricades to Ballot Box," International Crisis Group, 26 July 2021, <https://bit.ly/3QUpJZm> (accessed 21 June 2022).
- (8) Renad Mansour and Benedict Robin-D'Cruz, "Why Muqtada al-Sadr Failed to Reform Iraq," Foreign Policy, 10 March 2022, <https://bit.ly/3Nv3KFF> (accessed 22 June 2022).
- (9) "Muqtada al-Sadr set to win Iraq vote, former PM al-Maliki second," Al Jazeera, 11 October 2021, <https://bit.ly/3AcQRwE> (accessed 24 June 2022).
- (10) Lahib Higel, "Iraq's Surprise Election Results," International Crisis Group, 16 November 2021, <https://bit.ly/3nnYPeK> (accessed 22 June 2022).
- (11) "Iraq: "Save the Homeland" coalition formed to nominate candidates for presidency and prime minister," Shafaqna, 24 March 2022, <https://bit.ly/3nqcZMM> (accessed 24 June 2022).
- (12) "Iraq MPs fail for third time to elect new president," Al Jazeera, 30 March 2022, <https://bit.ly/3u9vZmu> (accessed 24 June 2022).
- (13) Ali Mamouri, "Iraqi coalitions look to break political deadlock," Al-Monitor, 4 May 2022, <https://bit.ly/3nmRP23> (accessed 23 June 2022).
- (14) "Iraqi MPs from Muqtada al-Sadr's bloc resign," Al Jazeera, 12 June 2022, <https://bit.ly/3yuFEqk> (accessed 23 June 2022).
- (15) Machiko Tsubura, "The Politics of Constituency Development Funds (CDFs) in Comparative Perspective," APSA 2013 Annual Meeting Paper, <https://bit.ly/3uaMTAR> (accessed 27 June 2022).