After uprooting Saddam Hussein from power, establishing democracy in Iraq has been declared among the most important objectives of the U.S.-led Coalition. However, the Coalition has encountered complex ethnic and religious relations and resentment of foreign intervention in Iraq. These reactions reflect decades, even centuries, of divisive and antagonistic policies whose impacts continue to complicate and threaten coexistence and civil peace. The immediate challenge of achieving stability and peace in Iraq, therefore, rests in the ability to foster a genuinely indigenous institutional political structure that can accommodate the different ethnic and sectarian aspirations. This article highlights the major potential shortcomings of the federal model established by the “Law of Administration for the State of Iraq for The Transitional Period.” It also examines the shortcomings of the List Proportional Representation system as presented by the United Nations for Iraq’s transition, and alternatively proposes national electoral reform strategies, with the implementation of an Alternative Vote system with Minority Provision in the election to the National Assembly, as a means to strengthen Iraq’s national unity.

**Keywords:** Iraq, federalism, election reform
mission, however, has run into tremendous obstacles, including persistent insur-
gencies, evidently exceeding any anticipated military and economic challenges. Decades of ethno-religious repression along with a history of colonial occupation have taken a toll on relationships among the country’s social groups. Deep-rooted divisions and antagonizing political processes now have been set in motion, pitting various factions of the Shi‘a, Sunni, and Kurdish communities against each other or against the foreign forces in the country. Former U.S. Administrator for the Coalition Provisional Authority, L. Paul Bremer, has described the situation as follows:

The scars in this country run very deep. The thugs and the torture chambers may be gone, but every day we find new evidence of how bad the regime was that we threw out. And repairing the damage of the last regime, material, human and psychological, is a huge task, and it’s a task that is only going to succeed if we have a real partnership with the Iraqi people.2

The ambiguity of U.S. position on Iraqi democracy, however, has complicated the task of winning Iraqis’ confidence. Fearing dominance by the majority Shiite groups, the U.S. was initially hesitant to authorize quick elections, preferring some form of representational coalition system (even at first considering a caucus system) at least in transition. For many months American efforts centered on some version of the appointed Iraqi Governing Council (GC), including its significant contingent of returned expatriate Iraqis. As this council’s legitimacy was questioned and as Washington was forced to look increasingly to the United Nations for advice and legitimization, the possibility of some transitional authority of Iraqi notables emerged as the U.S.-imposed deadline of June 30, 2004 for Iraqi “sovereignty” approached. Since that time, uneven and heavy-handed American security measures in the midst of increasingly effective and deadly attacks by insurgents and opposition groups have drawn criticism from civil and human rights groups and have further undermined the U.S.-claimed democratic mission in Iraq.

Thus, the “success” of the U.S.-led intervention remains dependent upon Washing-
ton’s ability to help institutionalize a consensual political regime capable of bridging the ethnic-sectarian divides and capable of negating a neo-colonial image. This is a difficult process indeed, in one of the world’s most traditionally anti-colonial areas (note the fate of the British installed Iraqi monarchy in 1958). Failure would certainly deal a blow to the U.S.-led regional effort, including the similar transition process going on slowly in Afghanistan, and leading to internal Iraqi ethnic-religious strife and perhaps disintegration and civil war; such instability could provide compelling reasons for several regional states to intervene directly or indirectly and could spread the threat of terrorism more widely.3 The stakes are high and the question of what is the most effective and appropriate democratic political structure in Iraq awaits urgent answers.

**The November 15 Agreement and the Transfer of Power**

The initial effort to restore political sovereignty to Iraqis began on November 15, 2003 after the Coalition Provisional Authority (CPA) and the Iraqi GC reached an agreement for the transfer of power and the establishment of a Transitional Iraqi Government (TG) by June 2004.4 Inherent in much of the planning

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3Political instability in Iraq may undermine the national security of most bordering states particularly because Iraq’s ethnic and sectarian population stretches in its geopolitical significance throughout the region.

have been notions of federalism, given the ethnic and regional diversity of the country.\(^5\)

In light of controversy over the question of direct elections and the potential emergence of a state dominated by the largest ethnic community, presumably the Shi’a, the election of members to the Transitional National Assembly was to be conducted through a transparent, participatory, democratic process of caucuses in each of Iraq’s 18 governorates under direct supervision by the CPA.

A permanent Iraqi constitution is to be prepared by a constitutional convention directly elected by the Iraqi people. Elections for the convention were set for no later than March 15, 2005. A draft of the constitution will be circulated for public comment and debate, and the final draft will be presented to the public in a referendum. Elections for a new Iraqi government would then be held by December 31, 2005, at which point the Fundamental Law would expire and a new government would take power. The “November 15 Agreement” and its timetable were soon challenged for various reasons by Iraq’s Shi’a majority, by members of the GC, and of course, by implication, in the armed insurgency prevalent in the so-called Sunni triangle. The powerful Iraqi religious authority Grand Ayatollah Sistani rejected the formation of unelected Transitional National Assembly.\(^6\) His opposition was followed by massive street demonstrations throughout Iraq for several days in direct challenge to the GC and the CPA. The growing opposition by the majority Shi’a population and its religious authorities forced the U.S. administration to consider revising the transitional plans. This came after the GC also split on the question of whether its 13 Shi’a members were leaning toward supporting Sistani’s demands.\(^7\) Finally, the GC and CPA’s representatives arrived in New York to break the impasse and to seek an active role for the United Nations in assessing the possibility of early elections. The representatives asked the U.N. to help in this regard.

This early stalemate on Iraqi elections reflects the deep suspicion among Iraqi ethnic groups in building a new political system. Shi’a GC members supporting early elections were confronted with Kurdish, Sunni, and Christian opposition, indicating the potentially antagonistic political aspirations of various ethno-sectarian communities. In this, the situation somewhat resembled the Balkans, but with a more limited scope of civil violence; indeed, in some respects, there was less overt inter-communal conflict during the initial years of occupation than some might have anticipated, as opposition instead was addressed largely to the occupation authorities themselves.\(^8\)

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\(^5\)According to the CIA World Fact Book, Iraq’s population is distributed to 65% Shi’a, 20% Sunni Kurds, 12% Sunnis Arabs, 3% Turkeman, and others.

\(^6\)Ayatollah Sistani is a main religious authority emulated by millions of Shi’as around the world. He declared his opposition to the November 15 Agreement on January 16, 2004. See BBC Monitoring International Reports, January 16, 2004

\(^7\)The International Herald Tribune, January 26, 2004, p. 5.

\(^8\)It must be noted that underlying the inter-ethnic divide are both issues of insecurity (e.g., prior poison gas warfare) and competition for wealth and resources, especially in territorial control of petroleum deposits.
religious figures received the document with either reservation or total rejection. The Shi’a concerns focused primarily on three issues: the Islamic identity of the state; Kurdish power and potential vetoes; and the legal foundation of transitional laws drafted under foreign occupation and supervision. Most Shi’a religious authorities, such as Ayatollah Anajafy and Ayatollah Al-Moudarissy, in addition to GC member Al-Sayyed Hakim, particularly objected to Article 61 (C), which posits that “the general referendum will be successful and the draft constitution ratified if a majority of the voters in Iraq approve and if two-thirds of the voters in three or more governorates do not reject it.” This article was perceived to lay the foundation of a divisive federalism that provides the Kurdish minority with what is viewed as disproportionate power relative to the Shi’a majority. In other words, it afforded the three Kurdish provinces (Dahuk, Erbil, Sulaymaniyah) the ability to obstruct any constitutional ratification. Article 53 (a) further recognizes a form of Kurdish self-rule, and thus establishes potential dual sovereignties in Iraq:

The Kurdistan Regional Government is recognized as the official government of the territories that were administered by that government on 19 March 2003 in the governorates of Dohuk, Arbil, Sulaimaniya, Kirkuk, Diyala and Neneveh. The term “Kurdistan Regional Government” shall refer to the Kurdistan National Assembly, the Kurdistan Council of Ministers, and the regional judicial authority in the Kurdistan region.

The transitional laws were seen to further prepare the ground for national fragmentation by allowing any three administrative governorates in Iraq to establish a federal “region.” Article 53 (c) declares that, “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.” This can be established after an elected national assembly and a regional referendum. This implied that, in addition to a Kurdistan region in the north, Shi’a concentrated governorates in the south (e.g., Basrah, Missan, Thi-Qar, Najaf, Karbala, Wassis, Mthanna) could establish two regions while the Sunni in the Center and East might also establish a separate region (see Table 1).

In addition to the transitional laws’ implications for the unity of Iraq, Article 7 of the administrative laws provided another source of tension and uncertainty in stating that:

Islam is the official religion of the State and is to be considered a source of legislation. No law that contradicts the universally agreed tenets of Islam, the principles of democracy, or the rights cited in Chapter Two of this Law may be enacted during the transitional period. This Law respects the Islamic identity of the majority of the Iraqi people and guarantees the full religious rights of all individuals to freedom of religious belief and practice.

This article represented a major concern both for the Islamic religious authorities, since it established Islam as “a” source rather than “the” source of legislation, and for the traditionally secular Iraqi power structure and non-Islamic minorities. Shi’a religious authorities have sensed a potential clash between its teachings and that of “other” secular and “western”-oriented sources of legislation being enacted in future laws.

The more conservative Shi’a and Sunni religious elements, along with former Ba’athist elements, also have challenged the laws’ authenticity. Sayed Al-Sadr and various Arab Sunni figures rejected the laws outright as having been imposed by the occupying authority rather than formulated by the Iraqi people and their

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legitimate representatives. These tensions and opposition were manifested in demonstra-
tions and violent clashes with CPA forces throughout Iraq, and in effective and persistent armed insurrections among the Sunnis (supposedly including former armed forces and tribal clans, although no official insurgent group has been identified) and among Shi’a supporters of Al-Sadr, wanted for arrest in prior incidents of political violence. Although previously little known and minutely supported, Al-Sadr came to notoriety if not prominence with the emergence of his militia, hence setting an unfortunate example for other would-be leaders.

While an in-depth examination of Iraq’s ethnic and sectarian geo-demographic division can help explain these sentiments and reveal the shortcomings and potentially explosive consequences of the proposed U.S. and even U.N. political plans, the nature of political solutions applicable in so-called “divided societies” can be revealing. Thus, we examine the scholarly research regarding alternative political arrangements for states such as Iraq, in light of its ethno-sectarian divisions, social structure and resource distribution, and international environment.

### What Political System?

The question of the best political arrangement for Iraq to satisfy its multi ethnic-religious constituents is as old as modern Iraq itself, and can be seen especially reflected in the rise of the Kurdish “national question.”¹⁰ Since Iraq’s independence, Iraqi Kurds have continued to demand various forms of separate national status, in relation to their brethren in neighboring states. Some Kurdish movements, reflecting clan as well as political aspirations, have fought for the total

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¹⁰See Iliya F. Harik’s work *The Ethnic Revolution and Political Integration in the Middle East* (Cambridge: Cambridge University Press, 1972) which provides important backgrounds about the inspiration of major ethnic groups in the Middle East including the Kurds.
national independence of Kurdistan while others have demanded various forms of autonomy. Some have made temporary arrangements with authorities in Baghdad or Tehran, while others have suffered direct attacks, Turkish harassment, and the withdrawal of outside assistance. Thus, ethnic drives represent a direct challenge to the multi-ethnic fabric of the country and the surrounding regional states.

The victory of Iran’s Islamic revolution in 1979 and the beginning radicalization of the Shiite Islamic movements in the Middle East presented a new challenge to the ethno-religious fabric of the entire post-World War II Middle Eastern nation-state system. Like Syria, Lebanon, Jordan, and some other multi-ethnic states in the region, Iraq had operated with a regime based primarily in a minority ethnic community (in this case the Arab Sunni community). Iraqi Shi’a retained their Arab as opposed to Persian identity, allowing for a distinction from their Iranian neighbors that held during the Iran–Iraq war of the 1980s. Various analysts also noted nationalist Sunni-dominated states’ support for Iraq in that war, stemming from fear of the emerging Iranian sectarian model.

Following the first Gulf War in 1991, and the nascent deterioration of the Iraqi regime, with the establishment of no-fly zones for example, both the Kurds in the north and the Shi’a in the South began to realize greater ethno-religious assertiveness and separatist momentum, although the U.S. clearly permitted Baghdad to forcefully reassert control in the South. The final collapse of the Ba’ath nationalist Iraqi regime in the second Gulf War has finally brought Iraq’s ethnicities to the possible realization of their liberation aspirations, but also has generated an evident ethnic insecurity dilemma similar to the one being played out in Afghanistan. What ethno-political system, if any, can maintain the national integrity of Iraq, curb ethnic separatism, relieve fears, jealousies and tensions, and reassure the neighboring nations?

This question has invited the attention of scholars and analysts who have presented various plans for a post-Hussein Iraq. Peter W. Galbraith, a former U.S. Ambassador to Croatia and an expert on Iraqi Kurdistan, suggested that considering the separate geo-ethnic groups that almost unanimously do not want to be part of the same country, a loose federation is the only hope for holding Iraq together. Similarly, Alon Ben-Meir proposed the federalization of Iraq into three constituent states: Kurdish, Sunni, and Shi’ite. According to Ben-Meir’s plan, the three states would be joined in a bicameral parliamentary system providing equal power to the states in its upper chamber and proportional representation in its lower body. The lower chamber would operate on the European parliamentary model, yielding a “ministerially” styled coalition government.

In his “Multi-National Federalism, Federacy, Power Sharing and the Kurds of Iraq,” Brendan O’Leary provides a comprehensive analysis of Iraq’s ethno-demographic momentum and alternative systems of federalism. O’Leary, who exam-
ined the question of Iraq from a “Kurdish prism,” advocates multi-national federalism as the best political structure, proposing that Iraq be divided along ethnic lines. In stressing an ethnic distribution of power, he dismissed federalism as implemented in the U.S. as being inappropriate for Iraq, and foresees an ethnodemocratic federation whose future must remain “bi-national, multi-ethnic, tolerantly multi-religious, and multi-regional.”

O’Leary thus rejects the notion of “territorial and constitutional federalism” proposed by Adeed Dawisha and Karen Dawisha. The Drs. Dawisha considered ethnic-based federalism “a mistake,” leading potentially to depredations such as ethnic cleansing. They proposed instead a territorially based federalism that would preserve Iraq’s present administrative structure of 18 governorates, each maintaining a mixed ethnic and sectarian population. Such a system would purportedly defuse ethnic polarization and begin to move beyond identity-based politics.

Advocates of federalism share a common point of departure: that ethnic, regional, and religious “identity” cleavages drive the essence of contemporary politics in states such as Iraq, and that their future fundamentally depends on management designed for ethnic pluralism. They propose that the political manifestation of these cleavages in any future state must be recognized, partially through a territorial federation or fully through an ethno-national federation.

While these propositions have provided valuable insights and potential remedies, there is as yet no credible method for evaluating which approach is most appropriate given various political circumstances. Political experiences derived from the U.S., Europe, or other states with a history of democratic traditions and higher levels of economic development can be misleading when applied to divided societies in the developing world. The citizens of these developing states must themselves accept the democratic transition rather than have it imposed from the outside; indeed, it must be remembered that Iraq itself, although less than 100 years old in its present form, reflects a 3000-year-old civilization that has been the cradle of modern law. Iraq retains elements of the traditional society, some of which appear to be reasserted in calls for religious law, for example, alongside secularization and modernization attained over the past 50 years. It therefore seems evident that the governance model for a specific country must take into account circumstances in the inter-ethnic demographic mix: the history of inter-ethnic tension and conflict; the extent of ethnic cross-border linkages and interventions; the degree of economic development and resource distribution; and the existing democratic tradition.

The Problems of Federalism in Iraq

Most plans for the new political regime in Iraq, including the “November 15 agreement” and the “Transitional Administrative Laws,” prepare the ground for an Iraqi federal system divided into two ethnically distinct regions: Kurdish in the North and Arabic in the South. This system would consist of 18 regional districts, states, or cities, divided along ethnic lines. This approach is controversial and has been debated extensively by experts and policymakers.

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19Note though that some authors indeed see the U.S. constitution as an ethnically brokered pluralist bargain. See, e.g., David Hackett Fisher, *Albion’s Seed* (Oxford: Oxford University Press, 1991).
22Recently, a spate of literature has emerged arguing for the feasibility of imposing democracy and freedom by force, especially in pressure for “free and fair elections,” as was done in Germany and Japan (see Mark Peceny “Democracy at the Point of Bayonets.” Pennsylvania State University, 1999). Careful evaluation, however (Frederic Pearson and Scott Walker, “Should We Really Force Them To Be Free: An Empirical Examination of Peceny’s Liberalizing Intervention Hypothesis.” Paper presented at the Annual Meeting of the Peace Science Society, Ann Arbor, MI, November 2003), has shown these claims to be overdrawn, as the former Axis powers appear to have been special cases and as other supposedly democratic transitions have had dubious outcomes in the areas of human rights and judicial integrity.
and providing any three the ability to form a single region. The plans also allow for maintaining a separate Kurdish self-government in the Iraqi northern provinces with the ability to revise federal laws within its jurisdiction.

The proposed transitional laws also provide for a Majlis Watani (National Assembly), to be elected no later than January 2005. The National Assembly of the new republic would be a unicameral legislature with 275 elected members based on proportional representation in multi-seat constituencies. The assembly will elect the President, who along with two deputies, will form a “Presidency Council” to “represent the sovereignty of Iraq and oversee the higher affairs of the country.” The Presidency Council appoints the Prime Minister and cabinet, all of whom must be approved by the Assembly. Kurdish areas would remain a self-governing region, formally a parliamentary democratic entity, but de facto divided into two parts each governed by one of the dominant Kurdish political parties.

Thus a form of “power sharing” has been worked into this federal plan. Power sharing often is posited as an alternative to federalism, allowing various contending groups and ethnicities to share power in a centralized state, as for example in arrangements for a joint or “revolving” presidency or the parceling of governmental offices in quotas to the various contenders. Lebanon has long used this approach to its diversity challenges, designating the presidency for a Maronite Christian, the prime minister office for a Sunni Muslim, the Speaker of the Assembly for a Shi’a, the chief judicial justice for a Druze, etc. Obviously, the results do not always preclude continued conflict, violence, and even civil war, but Lebanon’s case can also be considered unique in the degree of external intervention it has traditionally suffered. Still the particular forms and extent of power sharing envisioned for Iraq have not been clearly spelled out, and the ability to sustain consensus amid divided or weak governments, local autonomy or separatist movements, demands for minority rights and veto power, secular-religious legal contention, uncertain civil-military relations, potential for extreme rejectionists, and foreign intervention (as potentially by Turkey in the North) remain to be seen.

The major initial danger of such an envisioned federation plan would be the emergence of a struggle over resources between as well as within the provinces. Antagonism between oil- and water-rich provinces versus poor regions could be established. Areas south of the Tigris and Euphrates would continue to demand greater flow of water from the Northern provinces. Regions with water outlets to the Arabian–Persian Gulf would presumably have greater leverage on the process of oil export delivered via the sea or future pipelines from the inland provinces. Historic and territorial claims would only fuel tensions. For example, the city of Kirkuk could represent a disputed area between the Kurds and the Arabs. Territorial demarcations would therefore potentially represent sources of conflict and reasons for ongoing power struggle between the provinces. All of this would require intricate bargaining and brokering among the contending forces, a phenomenon not unknown in Iraqi history, but one seldom undertaken before in a Western democratic context.23

Another concern in a polarized federal system would be an ethno-sectarian power struggle: Arab–Kurdish, Muslim–Christian, Sunni–Shi’a social cleavages with parties struggling to obtain greater access to power or to blunt the power advantages of others. Such tensions could emerge either in provinces dominated by one group or in provinces that lack an ethnic–sectarian “purity,” as in Ninewa.

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23Indeed, the very definition of “democracy” in the Middle East is in contention. Islamic scholars have been quick to argue that there are significant democratic elements within Islam and Islamic law, citing such elements as the long-standing tradition of shura or consultative decision-making. Still the compatibility of such practices and liberal democracy as practiced in the West remains in debate. See for example “Islam and Democracy,” United States Institute of Peace, Special Report 83, online 2004 at USIP.org.
Tameem, and Baghdad. Of course, other federal systems have struggled with similar dilemmas, as in India’s ethnic minority patterns at the local, regional, and national levels. Such federal unions amidst hostile and suspicious ethnic communities are always tenuous and require a delicate balance of diplomacy and enforcement, in Iraq’s case further complicated by the concentration of oil and resources in certain “ethnic” provinces with sub-groups feeling threatened or excluded from power and wealth. Indeed, no province can be ethnically “pure,” and there could be resistance among those whose insecurity is heightened by the control of the dominant local ethnicity.

Ethno-sectarian antagonism would also impact the relationship governing the provinces and the central government. Minorities in one province could seek the support of their fellow group members in another province, or across a border. Kurds in the Arab province of Tameem, for example, might lean on the support of the Iraqi Kurdish provinces of Arbil and Sulaymaniyah regarding their status and rights. Potentially, this can reach an explosive point, including moves toward “ethnic cleansing” and communal conflicts within and between the provinces.

The remedies of the transitional laws provide additional dangers for fueling this potentially explosive situation. Article 58 states that “The Iraqi Transitional Government, and especially the Iraqi Property Claims Commission and other relevant bodies, shall act expeditiously to take measures to remedy the injustice caused by the previous regime’s practices in altering the demographic character of certain regions, including Kirkuk, by deporting and expelling individuals from their places of residence, forcing migration in and out of the region, settling individuals alien to the region, depriving the inhabitants of work, and correcting nationality.” Reacting to the prior Ba’athist regime, the laws propose the formation of various commissions to relocate and compensate ethnic populations as well as to redraw administrative boundaries. The resolution of these matters has already alarmed the various Iraqi ethnic groups and brought them closer to the verge of civil war.24

The political identity of each province and the federation as a whole would also represent a source of instability. Religious authorities seeking a greater role in any future province would, for example, present a serious challenge to the formation of a political and national identity. Although Sunni and Shi’a militia have pledged common struggle against the excesses of the occupation authority, Ayatollah Sistani and other Shi’a clerics have insisted that the federation must institutionalize Islamic laws and traditions, thus affording the Shi’a religious authority a direct role in the framing of provisional and federal identity. The Sunni Kurds in the North, on the other hand, have been led by secular nationalist parties seeking a secularly oriented federation. They fear that the Islamization of Kurdistan would undermine their authority. Some Sunni Arabs, on the other hand, have demanded an active role for their own religious authorities in defining the provinces and the federation, while other Sunnis, perhaps reflecting Ba’athist traditions, remain in the secular camp. Such a religious–sectarian–secular struggle was manifested in the early inability of the Iraqi religious sects to determine the end of Ramadan in the year 2003 after four different religious authorities approved four different monthly calendars.

Federalism in Iraq would crucially impact the bordering states as well. Kanan Makiya, a leading Iraqi dissident intellectual and author of the Democratic Principles Working Group report for the State Department’s Future of Iraq Project, concluded that the ethnic-based federalization of Iraq would lead only to the

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24 Immediately following the signing of the interim agreement, violence broke out in Kirkuk between the Kurds on one side and Arabs and Turkomen on the other. See “Constitution celebrations turn violent in north Iraq” Agence France Presse, March 8, 2004. See the Turkomen opposition to the interim agreement and their threat to declare Kirkuk as the capital of their Turkomenistan: Hussein Hindawi “Turkmen also reject Iraqi constitution.” United Press International, March 23, 2004. The Kurds are claiming Kirkuk to be the capital of their Kurdistan, see William Safire, “Resolute in Iraq” The International Herald Tribune, April 8, 2004.
country’s distress. He maintained that such a plan not only would establish eco-
nomic and social barriers between the federated states but also would further invite 
regional meddling in Iraq’s internal affairs.25 It would boost ethnic and religious 
identities and intensify separatist drives26 among the Kurds in the North and the 
Shi’a in the South, who would discover new power and self-government they never 
attained before. This would alarm every state bordering Iraq that maintains a 
substantial Kurdish or Shi’a minority, or even other ethnic mixes. As a direct result 
Turkey, Syria, Saudi Arabia, Kuwait, Bahrain, and Iran might be “forced” to take an 
active involvement in Iraq so as to curb (or encourage) either Kurdish or Shi’a 
aspirations and to use this leverage against the Iraqi state.

Depending upon how it is administered, therefore, Iraqi federalism could prove 
to be an active ingredient in regional instability and ethno-religious fragmentation. 
Ethnic and sectarian groups in the Middle East might be encouraged by the Iraqi 
example to seek the intervention of outside powers in demanding autonomous 
regions of their own. For a multi-ethnic multi-sectarian Middle East, this would 
implicate a widespread geopolitical upheaval leading toward greater fragmentation 
and instability and potentially toward more governmental repression and police 
states. As yet none of the federalist advocates have provided satisfactory answers 
and implemental plans. As Kanan Makiya observed, “neither the Kurdish parlia-
ment nor the INC [Iraqi National Congress] have specified what they mean by 
‘federalism,’ nor have they worked out its practical implications, especially with 
regard to the mechanics of power sharing and resource distribution.”27

The Way Forward

The political and ethnic fragility existing today in Iraq requires plans to further 
unify and strengthen the country’s multi-ethnic, religious, and secular fabric. It 
requires transitional mechanisms that can guarantee smooth system changes, pro-
vide a nurturing environment for indigenous and imported democratic forms, and 
save the country from shocking and radical changes that may cost it and the entire 
region years of social, economic, and political upheavals. As a first premise, given 
Iraq’s deeply engrained anti-colonial sentiment, this transition should be accom-
plished as much as possible under the auspices of international and especially 
Middle Eastern authorities, rather than individual major powers. Furthermore, 
such authorities should ideally be largely Arabic in nature. Even the United Nations 
is suspected of Western domination, and while regional organizations such as the 
Arab League have credibility and integrity problems of their own, certain regional 
states might be acceptable as mediators, peacekeepers, and brokers in the complex 
inter-ethnic and inter-regional negotiations necessary to render a pending agree-
ment practicable. Among such relatively trusted states, given past involvements in 
the region, might be Jordan, the United Arab Emirates (U.A.E.), and conceivably 
Egypt or some of the North African states.

A survey conducted in early 2004 by the Oxford Research International group 
found that Iraqis overwhelmingly (79% of 2,737 respondents) want their country to 
remain united and centralized, and that oddly enough the country most frequently 
cited as a potential governance model was the U.A.E. (although a larger percentage

26That raises a further set of issues—how to assemble a multi-ethnic and reliable security force, both police and 
army. In the April, 2004 Al-Sadar uprising against CPA in the South many local Shi’a police forces joined the rank of 
the insurgents.
of respondents indicated that Iraq “needs no model”). The vast majority of Arab respondents (90%) preferred the unity of Iraq while fewer Kurdish interviewees (26%) shared such a sentiment. Only a small majority of the Kurds (58% of Kurdish respondents) wanted either a system of regional states with a federal government (as the transitional laws provide) or to have Iraq divided along independent states (12%). Even allowing for the Kurdish sentiments, the survey reveals a substantial public opposition to plans that lead to the country’s dismemberment or undermine its unity and centralism.

Still the question to be asked is the following: in a country of both mixed and segregated ethnic groups, with a history of inter-ethnic tensions and semi-advanced and resource based economic sectors, whose ethnic communities stretch beyond its borders, and that possesses a limited democratic tradition, what political system can manage to maintain such national unity and hopefully harmony? More specifically, what form of decision-making could lead to an effective framework of governance: traditional forums and councils; more modern constitutional conventions; informal brokering; U.N. or international trusteeship variants?

Beyond the procedural question come the issues of political substance. Do territorial federalism, ethnic federalism, small district proportional representation, large-district proportional representation, or mixed representative models combining elements of various systems constitute the best contextual approach to democratization? Should “consociational” or power-sharing norms be part of the mix (as in Lebanon or Belgium)? How can procedural safeguards most effectively assure minority rights and assuage insecurity in the state?

It is our inclination to suggest that there is no final and ready formula; Iraq will have to live through one of the most challenging historic experiences of modern political system formation, namely state formation under duress. The international community and the provisional government might be able to ease the transition somewhat, or indeed make it more difficult and controversial to adopt decidedly Western practices. Perhaps federalism or the nurturing of sectarian bargains is not, after all, a means to stabilize Iraq or the Middle East. Alternatives to federalism that can help maintain the unity and national integrity of Iraq, while taking into consideration the political aspirations of its many ethno-religious groups, must be carefully considered. We can only suggest that the extreme of either federalism or centralism in less developed societies, with deep ethnic and religious divisions stretching beyond national borders, may prove to be an ingredient for recurrent internal conflict and external intervention.

What is essential, however, is to arrive at resolution to political representation in ethnically divided societies, such as Iraq, and thereby strengthen national representative institutions against the background of potential federal pitfalls. This may be found in revising the electoral process as to yield fair distribution of power without endangering national unity. Parliamentary electoral reforms, for instance, may be found to strengthen national harmony by providing effective multiethnic representation, with potential set-aside of specific numbers of seats, as used especially during transitions in South Africa, Fiji, Jordan, Mali, India, and Sri Lanka. Indeed, parliamentary electoral reform is emerging among the top priorities needed to provide representative and legitimate national institutions capable of retaining national integrity.

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28Oxford Research International, “National Survey of Iraq: February, 2004” (Oxford: England, 2004). The survey also showed that Iraqis preferred and trusted the fledgling indigenous security apparatus, police and armed forces, over foreign troops to establish and maintain order. In the interest of furthering democratic participation and removing the impetus for insurrection, this sentiment, counter-intuitive though it may be, along with the hostile reaction to forceful U.S. counterinsurgency methods, would seem to argue for the earliest possible exit of American coalition forces from the country, including from planned military bases.
Such transitional electoral reforms and permanent proportional representation in Iraq need to be undertaken apart from and less controversially than the introduction of broad scale radical changes such as the institutionalization of a federal system. Effective implementation would be smooth and not require radical administrative changes, or an immediate national census. Such reforms should anticipate the emerging changes in Iraq, such as the likely formation of ethnic and sectarian parties (the Oxford Research survey showed no extant political parties and indeed no leaders able to garner even as much as 10% of the popular support; even the transitional “sovereign” Iraqi government is questionable in terms of its perceived public legitimacy).

Since the collapse of the Hussein’s regime, over 100 political groups have emerged in a fragmented patchwork. Among them are at least five major ethnic/sectarian parties (Table 2). In addition to Al-Saddar’s Mahdi Army, two other major groups have drawn substantial support among the Shi’a: the Da’wa party and the

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TABLE 2. Political Parties in Iraq

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<th>Major parties</th>
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<td>Iraqi National Congress (ADDED December 2003)</td>
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<tr>
<td>Partiya Demokrata Kurdistane (Democratic Kurdistan Party)</td>
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<tr>
<td>Yekiti Nistimani Kurdistan (Patriotic Union of Kurdistan)</td>
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<tr>
<td>Supreme Council for Islamic Revolution in Iraq (ADDED December 2003)</td>
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<tr>
<td>Islamic Dawa Party ARA-Shi‘i Islamic party</td>
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<td>Jaysh Al-Mahdi (Al-Mahdi Army)</td>
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<th>Minor parties</th>
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<td>Bet-Nahrain Democratic Party</td>
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<td>Constitutional Monarchy Movement</td>
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<tr>
<td>Al-Hizb al-Shuyu‘i al-Iraqi (Iraqi Communist Party)</td>
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<tr>
<td>Iraqi Democratic Union</td>
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<tr>
<td>Party of the New Republic</td>
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<tr>
<td>Party of the New Rise</td>
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<tr>
<td>Worker Communist Party of Iraq</td>
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<tr>
<td>Iraqi Forum for Democracy—a non-profit political action group.</td>
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<th>Minor Kurdish parties</th>
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<tr>
<td>Kurdistan Communist Party</td>
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<tr>
<td>Kurdistan Toilers Party (ADDED December 2003)</td>
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<tr>
<td>Parti Rizgari Kurdistan/Hizb al-Tahrir al-Kurdistani (Kurdistan Liberation Party)</td>
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<tr>
<td>Parti Sosialisti Dimukrati Kurdistan (Democratic Socialist Party of Kurdistan)</td>
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<tr>
<td>Partiya Demokrata Kurdistane (Democratic Kurdistan Party)</td>
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<td>Yekiti Nistimani Kurdistan (Patriotic Union of Kurdistan)</td>
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<td>Yekitiya Netewayi Dëmokratii Kurdistan (Kurdistan National Democratic Union)</td>
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<td>Kurdistan Islamic Union</td>
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<th>Minor Turkmen parties</th>
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<tr>
<td>Türkmen Halk Partisi (Turkmenian People’s Party)</td>
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<td>Irak Türkmen Cephesi (Iraq Turkmen Front) (ADDED December 2003)</td>
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<th>Minor Assyrian parties</th>
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<tr>
<td>Assyrian Democratic Organization (ADDED December 2003)</td>
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<td>Assyrian Patriotic Party (ADDED December 2003)</td>
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<td>Progressive Nationalist Party</td>
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<td>Assyrian Universal Alliance (ADDED December 2003)</td>
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<tr>
<td>Gaba Shawtaphaya Atouraya (Assyrian Socialist Party) (ADDED December 2003)</td>
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<tr>
<td>Zowaa Assyrian Democratic Movement (ADDED December 2003)</td>
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Sources: http://www.electionworld.org/election/parties.htm#iraq, The Middle East International Network Center, and Author.

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Thus electoral system reform must provide a trusted leadership along with a nurturing environment for a multi-party tradition where women and ethnic minorities are clearly recognized. Such a system must also moderate ethno-sectarian interests and enhance national integration by fostering accommodation and national alliance formation. Larry Diamond proposes that election reform must help maintain the plurality of Iraq and its territorial integrity through the establishment of a deep-rooted democratic multi-ethnic party tradition.\footnote{Larry Diamond, “Democracy and Post-War Iraq” an essay adapted from remarks given at the Nixon Center, May 16, 2003. \textit{The National Interest}, May 23, 2003, Vol. 2 (20).} The question becomes what national electoral and constitutional reform structure can simultaneously foster strong leadership, ethnic representation, accommodation, and multi-party traditions?

### What Electoral Options?

The transitional administrative laws envision a National Assembly of 275 members divided along 18 administrative governorates (Article 31). Election of the National Assembly would take place by December 31, 2004. Toward that end, the head of electoral mission in Iraq and the director of U.N. global programs of electoral assistance, Ms. Carina Perelli, was finally able to broker an agreement on the electoral modalities for Iraq. The agreement establishes a framework and an electoral commission to oversee the upcoming election. Ms. Perelli and the U.N. electoral commission established that the best electoral system for the National Assembly that could be implemented under the current circumstances is List Proportional Representation (LPR). “It was determined,” Perelli announced “that the best system for these elections to the National Assembly of Iraq, and only for these elections, would be the system of proportional representation, using the whole country as a single national district.” Under LPR, parties would be able to run their national lists that may consist up to 275 candidates, but shorter lists of 12 candidates could also be established. Each candidate would have to gather 500 valid signatures to be placed on the ballot and may require a 26,000–27,000 threshold vote to win a seat in the National Assembly. Votes would be counted in a ranked order as the highest ranked candidate wins. Independent candidates may establish individual lists.\footnote{See Department of Defense Briefing “Coalition Authority Briefing RE: Election Preparation in Iraq.” Briefers: Carina Perelli, U.N. Electoral Assistance Division (Baghdad: Iraq, June 4, 2004).}

LPR has been championed for its potential to provide representation based on regional and ethnic consociationalism, which “entails a power-sharing agreement within government, brokered between clearly defined segments of society divided by ethnicity, religion and language”\footnote{Harris, Peter and Ben Reilly, eds. \textit{Democracy and Deep-Rooted Conflict: Options for Negotiators} (Stockholm, Sweden: International Institute for Democracy and Electoral Assistance, 1998).} (e.g. Belgium, the Netherlands, Austria, and Switzerland). Because seats often are allocated within regionally based multi-member districts (as in PR systems in Germany, Namibia, Netherlands, Denmark, South Africa, and New Zealand), minority interests are thus protected through segmental autonomy and provided with mutual vetoes.

It appears that the U.N. decision to implement LPR was also inspired by the success of the system in the Iraqi Kurdistan region where in 1992 a Kurdish elec-
tion under LPR established a Parliament and led to the formation of a stable autonomous coalition government. The Kurdish Parliament consisted of 105 seats (five allocated to Assyrian/Christians minority) that were contested along three major party-lists led by major Kurdish and Assyrian parties and included minor parties and independent candidates: the Kurdistan Democratic Party List (KDP), the Patriotic Union of Kurdistan (PUK), and the Christians/Assyrians lists. The parliamentary election resulted in a draw between the KDP and the PUK and seats were divided between them leaving the Christians/Assyrians five seats. All minor parties failed to win the necessary threshold vote of 7%. An inclusive coalition government was then established led by the two Kurdish parties with few ministerial seats allocated to independents and minor parties.\textsuperscript{35}

However, and contrary to the success achieved in Kurdistan, implementing LPR in the election for the National Assembly in Iraq, taking the country as a whole as a single electoral national district (as implemented in Israel and Namibia), may not achieve the intended coaltional remedies to Iraq’s ethnic representation dilemma. The national diversity of polarized cleavages and parties combined with the existing security breaches in today’s Iraq do not mirror the peculiarity of 1992 Kurdistan. Applying LPR in Iraq while the country is undergoing transition entails serious shortcomings and potential dangers. These deficiencies in the implementation of the LPR in a divided society must be carefully and adequately examined.

One of the shortfalls of LPR in Iraq, as proposed by the U.N., is the long party candidate lists that add to voters’ confusion and frustrations. A full party list can include 275 candidates. Each candidate has to win approximately 26,000–27,000 votes in order to win a seat in the National Assembly. Party candidates have better chances than independents to gather votes due to both the simpler and closed list voting as well as the ranked votes required to win. As a consequence, the LPR would ideally establish strong party tradition and undermine local interest as the candidates’ connection with the constituency weakens\textsuperscript{36} (in Kurdistan, party tradition was further strengthened by establishing a high quota for party lists—7%).

In order to avoid the strong Kurdish partisanship experience, the U.N. has leaned to removing the high quota threshold to win a seat, allowing independent candidates and smaller parties, particularly ethnic parties and candidates, better chances to form lists (suggesting 27,000 votes or less than 2% of legal voters). This U.N. remedy, however, might prove explosive in Iraqi society. Small parties, local groups, and individual candidates might be able to mobilize votes and win seats by resorting to extreme local agendas or single interest issues that cannot be adopted by major mainstream parties (see the Israeli example), thus boosting the potential of factional, extremist, sectarian, and ethnic politics in many regions of Iraq.

This U.N. electoral formula further creates internal party competition and fragmentation. While this may have not been proven to be a major problem in two- or three-party systems, such as in Ireland, which implements a similar version of the PR known as Single Transferable Vote or in Kurdistan where only two dominant parties exist, its consequences cannot be predicted in ethnically based multi-party democracy where a large number of seats are being contested (275) among many parties (see Table 2). Considering the large number of contested seats, party discipline is difficult to attain. Candidates within parties may advocate extreme positions in order to win and maintain ethnic or sectarian segments against other opponent party moderates (particularly to win votes from ethnically/sectarian closed regions), and thus parties might fragment into many opposing small factions.

(a phenomenon seen at times for different reasons in Israel), thus undermining the system’s national centripetal momentum.

Therefore, among the most troubling defects of the LPR system in Iraq is the ability of small extreme sectarian or ethnic groups to mobilize and win substantial representation, through parties, factions, or individual candidates. This is particularly alarming when considering the large number of ethnic, religious, sectarian, secular, and tribal cleavages existing in the country. While LPR may resolve the dilemma of small ethnic minorities and female representation in Iraq, it has the potential to spawn ethnic and sectarian fragmentation, undermine local interests, and provide extremists access to power.

During this critical transitional period, Iraq is in immense need of a political system that provides fair national and minority political representation, including interests represented by the various insurgencies. Yet, representation also must allow accommodative and moderate political momentum so as to strengthen the unity of the country. A proper representative institutional environment that undermines fragmentation and encourages stability is thus very crucial. Unfortunately, LPR could fail to achieve such goals. The system appears primed to fragment and polarize the voters rather than unite them. Considering the many existing ethnic, sectarian, regional, and tribal cleavages and the large number of contested seats in the National Assembly, and basic distrust of an electoral process in the midst of occupation and insurgency, with many parts of the country potentially left out of the vote even temporarily, LPR seems likely to yield a system of numerous polarized small and medium-sized parties.

At the same time, since transitional Prime Minister Iyad Alawi is perhaps emerging as the most recognized, for better or worse, new Iraqi “mainstream” politician, he is likely to score highly in electoral influence. His original base of support came from Iraqi military, intelligence, and political defectors, and he has utilized the support of the American coalition to foster relations with various ethnic communities. Even so, the establishment of a post-election coalition government could turn to be a nightmare process. With many interests pulling in different directions, severe opposition and division will confront small or medium-sized coalitions. Grand National alliance, the more likely scenario for a country undergoing transition, would not accomplish a better result. With the absence of a large stabilizing national dominant party—contrary to the Kurdistan situation and Israel—such an alliance would have to endure persistent conditions of instability and defection instigated by economic, political, and ethnic insecurity and polarization. It might frequently fall back on military ties for its ultimate support.

LPR, although notably successful in some countries that underwent transitions similar to Iraq (e.g. Namibia), may confront still other difficulties in the Iraqi polity. The absence of a large dominant party, the lack of a strong national Iraqi party tradition (with the exception of the Baath Party), the large number of contested seats for its National Assembly, the formation of the country as a single national electoral district, the existence of deep ethnic and sectarian divisions, and the immense security requirement confronting the country have the potential to render the LPR a major failure in Iraq.  

A survey of electoral systems implemented around the world reveals that at least two other system types in addition to LPR would have been suited for a divided society such as Iraq: (a) the Alternative Vote (AV) system and (b) Mixed system

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37Yet, we should note that the ability of a strong national leader at the head of the executive branch may help undermine coalition instability as has been the case in Israel under the various strong national leaders (Sharon, Begin, Ben Gurion, etc.). However, most executive national leaders who emerged in countries like Iraq and were able to unify the country (e.g., Attaturk, Nassir, Mandela, etc.) came amid their assertion of national identity against “foreign” dominance. Therefore, it is highly unlikely that the Iraqi executive branch will be able to win large popular support and would most likely remain subject to U.S. protection (e.g., Afghanistan), a situation that would not help the emergence of a strong national leader to curb coalition defection and opposition.
where strategies that explicitly recognize the presence of communal groups are implemented.38

Technically, the AV system is very similar to LPR in providing the voter with choice between the party list and individual choice for candidates. Yet, the major difference is that the AV generally is implemented in Parliamentary elections based on single-member districts. Thus, it is considered ‘majoritarian’ rather than ‘proportional,’ whereby a single candidate requires a majority of the votes in each district. Very crucial to the AV is having the voter rank candidates by an order of preference (e.g., Papua New Guinea 1964–1975, Fiji 1997, Australia). If no candidate obtains a majority at the first count, the last-place candidate is eliminated and second-choice votes are added to the totals. This process is repeated until a single candidate secures the district’s majority. By running the election contests in small district levels, the AV system resolves the problem of competition and the potential of inter-party fragmentation that the LPR may produce. Parties need to nominate only one candidate for each electoral district and candidates are held accountable to their local constituency. Such a factor, plus the local district arrangement, strengthens the all-important voter–candidate identification in an evolving democratic environment such as Iraq’s.

The implementation of AV in Papua New Guinea (1964–1975) is credited with helping undermine clan divisions and achieving unity and accommodation in mixed districts while preserving parties’ unity.39 The AV option maintains most LPR advantages, yet its vote, based on ranked preferences, introduces additional complexity for voters. Another disadvantage of the AV over the LPR is the inability of AV to cluster the vote of small and geographically dispersed regions. Otherwise, and considering Iraq’s pre-existing and numerous small single-member districts division, AV would appear to be more historically appropriate to the country.

The transitional administrative laws establish the need for electoral law “to achieve the goal of having women constitute no less than one-quarter of the members of the National Assembly and of having fair representation for all communities in Iraq, including the Turcomans, ChaldoAssyrians, and others.” Thus, the transitional laws introduce a minority provision (MP) system while leaving the means to be specified by an electoral law.

Strategies that explicitly recognize the presence of communal groups have been implemented in different ethnically divided countries with various degrees of success (e.g., Iraqi Kurdistan, Jordan, India, Pakistan, Colombia, Croatia, Slovenia, Taiwan, Western Samoa, Niger, the Palestinian Authority, and Lebanon). In Lebanon, and despite its various failures, the allocation of confessional seats to various religious sects has been viewed as responsible for maintaining the fragile unity of the country for over a half century. Such approaches could also have been implemented in Iraq, as in partial implementation in the Kurdistan Parliament since 1992.

Achieving both proportionality and, at the same time, incentives for inter-ethnic and sectarian accommodation and power sharing would constitute the greatest challenge for the drafting and the implementation of any future Iraqi electoral law. Considering Iraq’s existing administrative division (18), pre-existing parliamentary small single-member electoral districts, and multi-ethnic and sectarian constituencies, its lack of strong partisan national democratic tradition, the most appealing electoral system would have been one that institutionalizes the advantages of the AV system with ethnic and minority set-aside provisions (MP).40

40This would provide Iraq a mixed electoral system where the advantages of both AV and MP are implemented.
Aspects of AV could have helped achieve an accommodative politics through enhancing the electoral chances of moderate representatives. By implementing AV in most of Iraq’s ethnically mixed districts, the majority threshold would have led to strong incentives for parties and candidates to gain the support of other local groups (in most districts within the Central and Northern provinces). The centrality of local single-member majoritarian-based elections would have driven the parties to establish Grand National alliances and to propose moderate national platforms in order to allow local districts candidates on the party or bloc lists the ability to reach out to the largest possible constituency. This could have enhanced the electoral chances of parties with inter/multi-ethnic appeals and undermined otherwise extreme sectarian and separatist groups.

In most southern solid Shi’a districts (e.g., in Muthanna, Qadissiya, Najaf, Thi-Qar, Karbala, and Missana governorates) and the northern Kurdish districts (in Erbil, Sulaymaniyah, and Dahuk governorates), the AV system may not appear to achieve such an immediate outcome. However, because parties would most likely need to form a post-election coalition government, and since there are various major competing political parties, parties would have to appeal to common national interests to win access to ruling alliances. This fact would have further undermined the incentives for parties to play to religious and ethnic extremism. As a result, smaller localized extremist parties would have been less rewarded and unable to maintain constituent support.

The advantages of the AV in regard to Iraq can be recognized in its flexibility, integrating strategies of various electoral systems. For example, aspects of Minority Provisions can be included within the AV framework as the transitional laws require. Parties or Bloc candidate lists for the districts could be required to include 25% or more women candidates, thus making female political inclusion not only a parliamentary but a party tradition as well. The same could be applied to smaller ethnic and sectarian minorities whose geographic dispersion in particular governorates make their representation difficult to be achieved (e.g., Turkomans and Assyrians in the north). The implementation of AV is also suitable for the transitional period in Iraq since it does not require major or radical electoral transformation, where national census or referendum may otherwise be required. It maintains the single-majority member district while being applied within the pre-existing administrative governorate division.

What remains to be resolved, however, is the AV complexity to voters and to Iraq’s large semi-literate population. Intensive voter education projects would have been required, perhaps on the remarkable example of ANC action in the early days of South African transition. Alternatives to voter ranking requirements (where the voter must number candidate preferences) also would have to be explored. One solution might be to have the voters vote two or three pre-ranked voting cards (distinguished by color) instead of ranking the candidate on one card.

In post-election Iraq more aggressive parliamentary electoral reform may be implemented and explored. An elected Iraqi National Assembly will have wider authority to enact far-reaching electoral laws and establish more balanced and ethnically sensitive electoral districts. Implementing aspects of the AV along with MP should continue to be seriously considered as electoral strategies for the future.

Conclusion

Whether or not federalism in its Arab–Kurdish or loose sectarian forms is finally implemented in Iraq, strengthening Iraqi national institutions and particularly the National Assembly and the judiciary would prove to be the only safeguard that guarantees national integrity from division and fragmentation. The ability of the National Assembly to represent the diverse Iraqi political, ethno-sectarian, and gender cleavages, i.e., to achieve political stability, will determine to a large extent
Iraq’s national unity and democratic future. Much depends as well on the presidential balloting to produce a leader trusted as both “strong” and “democratic,” and to assure that this applies to the prime minister’s post as well. Devising means toward establishing an accommodative and representative National Assembly, together with party integrity and workable coalition governments, would be the condition for achieving such an end.

LPR entails serious shortcomings that may weaken rather than strengthen stability and national harmony. In this paper, we have proposed that the Alternative Vote system with Minority Provision offers an alternative for Iraq whose feasibility must continue to be explored in future electoral reforms. In addition, the preferred combination of “strong” and “democratic” leadership presents hazards as seen during Russia’s reaction to challenges of ethno-terrorism and separatist struggles. The role of the courts and the civil loyalty and discipline of the armed forces and police are keys to maintaining democratic pluralism in the midst of insecurity and the temptations of executive power.