

**Governance in Post-2003 Kirkuk: Power-Sharing in a
Divided Society and Prospects for Consociational
Democracy**

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A Thesis submitted for the degree of Doctor of Philosophy

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June 2016

Abstract

This thesis explores how the problem of governance should be solved in the divided city of Kirkuk. As a microcosm of Iraq, Kirkuk has invariably refracted the overall climate of the country. Accordingly, one of the main problems of Kirkuk is its unresolved governance model that, if solved, could positively affect the political stability in the city. To solve this problem, this research suggests the adoption of a specific form of a consociational power-sharing arrangement. In the literature, a contrast is often drawn between ‘corporate’ and ‘liberal’ forms of consociations. However, this study argues that the adoption of a combination of both the corporate and the liberal forms of consociational power-sharing is crucial to addressing the demands of each ethnic group in the city and for maintaining political stability and diversity. But it also argues that building a lasting peace in Kirkuk cannot be achieved only by focusing on a top-down elite-level solution, rather bottom-up initiatives through creating bridging social capital at the grassroots level are necessary. In other words, it argues that the problem of governance can be solved in Kirkuk by taking advantage of the elements of two main theories of conflict management, accommodation (consociationalism) and integration (bridging social capital). This conclusion is based on two sources of evidence. First, the Iraqi legal documents such as the constitution and the laws issued by the Iraqi Council of Representatives, and secondly, empirical evidence collected from the political elites of Kirkuk, the Kurdistan Region and Baghdad.

Dedication

This thesis is dedicated to the memory of my father who, along with more than 100,000 other people, lost his life in 1988 during the campaigns of Anfal against the Kurds by Saddam's regime. His tragic loss in my early childhood has been a source of countless questions of why civilians are targeted in conflicts and how violent conflicts can be prevented, and if started, how they can be managed and eventually solved. Growing up as a victim of violent ethnic conflicts in a conflict-ridden region was one of the major motivations to undertake this work. May my father's soul and the souls of all the victims of Anfal campaigns rest in their unknown mass graves.

Acknowledgments

First and foremost, I would like to express my deepest gratitude to my supervisor, Dr. Ian O’Flynn, who has been a constant source of excellent support and advice throughout the writing of this PhD thesis. Ian was an amazing supervisor who guided me through the ups and downs of my study with insightful suggestions, constructive criticisms and encouraging comments. I am deeply indebted to his proficient supervision. I should also like to take this opportunity of expressing my gratitude to both Dr. Roman David and Dr. Emily Clough for serving on my supervisory team at different times. I greatly appreciate their concise comments and profound contributions in my research.

Completing this research would not have been possible without the help of various academics, political elites and friends. I would like to especially thank Professor Anthony Zito and Dr. Kyle Grayson for their help and support during some difficult times of my PhD. I also thank all my interviewees who agreed to be interviewed. Special thanks go to Ibrahim Khalil, a member of Kirkuk Provincial Council, who was very supportive during the conducting of my interviews in Kirkuk. My sincere thanks are also due to Professor Liam Anderson who generously shared with me his wide knowledge on the case of Kirkuk and Professor Dalwer Ala’Aldeen who provided me with crucial reports released by Middle East Research Institute (MERI) on Kirkuk and the Kurdistan Region in 2015. During his tenure as Minister of Higher Education and Scientific Research, Professor Ala’Aldeen led a major scholarship program which funded thousands of Masters and PhDs, including my PhD. He, therefore, deserves a special gratitude.

There are so many people to whom I extend thanks. Among them, my supportive friends Jalal Mistaffa, Sarwar Abdullah and Twana Hamid at Newcastle University. I would like to especially thank my cousin and close friend, Fatih Sangawy, who initially encouraged me to work on the case of Kirkuk and remained supportive until the end. I am also grateful to the participants in several conferences and summer schools for their feedbacks on my presentations and papers in different countries, such as UK (Newcastle University), Switzerland (Fribourg University), Slovenia (Ljubljana University), Egypt (American University in Cairo) and Jordan (a conference organized by ‘Arab Centre for Research and Policy Studies’ in Amman) in the last four years. I am also grateful to the School of Geography, Politics and Sociology for their help and assistance.

I owe a very special thanks to my two brothers ‘Othman and Hasan’ and four sisters ‘Kazhall, Bekhall, Sairan and Hairan’ for their love, support and encouragement. I am grateful to my wife Maryam for all her love, help and patience throughout all stages of my PhD. My sweet Bahasht, who was born nine months after starting my PhD, has been an abundant source of inspiration and joy throughout my PhD. Finally, and most importantly, I would like to thank my mother. It has not been an easy four years for her with my being away in the UK. No words can express my gratitude for all of your selfless and endless support throughout all of my life.

With Allah, everything is possible.

List of Abbreviations

ARDP:	Accelerated Reconstruction and Development Program
AV:	Alternative Vote
CKRO:	Center for Kirkuk Referendum Operations
CoM:	Council of Ministers
CoR:	Council of Representatives
CPA:	Coalition Provisional Authority
CSO:	Civil Society Organization
FPTP:	First Past the Post
ICG:	International Crisis Group
IDP:	Internally Displaced Person
IFES:	International Foundation for Electoral System
IGC:	Iraqi Governing Council
IPC:	Iraq Petroleum Company
IRA:	Iraqi Republican Assembly
ISIS:	Islamic State of Iraq and Syria
ITF:	Iraqi Turkmen Front
KBL:	Kurdish Brotherhood List
KDP:	Kurdistan Democratic Party
KIG:	Kurdistan Islamic Group

KIU:	Kurdistan Islamic Union
KPC:	Kirkuk Provincial Council
KRG:	Kurdistan Regional Government
MERI:	Middle East Research Institute
MHS:	Mutually Hurting Stalemate
NDI:	National Democratic Institute
NGO:	Non-governmental Organization
PLPR:	Party-List Proportional Representation
PR:	Proportional Representation
PUK:	Patriotic United of Kurdistan
SDLP:	Social Democratic and Labour Party
STV:	Single Transferrable Vote
TAL:	Transitional Administrative Law
TIC:	Turkmen Islamic Coalition
TNA:	Transitional National Assembly
TPC:	Turkish Petroleum Company
UN:	United Nations
UNAMI:	United Nations Assistance Mission for Iraq
USAID:	United States Agency for International Development
VNI:	Vital National Interest

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Introduction

If they [the political leaders of plural societies] wish to establish or strengthen democratic institutions in their countries, they must become consociational engineers.

Lijphart (1977: 223)

The American-led coalition forces began the invasion of Iraq on 20 March 2003 and ended the twenty-four year reign of Saddam Hussein on 10 April 2003. Kirkuk fell on 10 April 2003 and thus a new chapter in the history of the city began. The post-2003 period can be characterized as a point of contention among Kirkuk's groups to gain more power and hold significant political positions within the city to exercise their agendas. Each of the three main groups in the city – Kurds, Arabs and Turkmen – maintains its own history that lays claim to the origins of the city and thus their right to control over it.¹ The identity of the city is contested, but the question of *how to govern the city and governorate of Kirkuk* has also remained unresolved. Kirkuk governorate is the only governorate that has experienced only one election since 2005 and thus the Kirkuk Provincial Council (KPC) is now the longest-serving provincial council in Iraq. Other governorates have held three elections by now. Currently there is an interim and an informal power-sharing arrangement in the city, but it is unlikely to remain stable. The Islamic State of Iraq and Syria (ISIS) captured Mosul, Iraq's second largest city, on June 9, 2014. This event changed the political landscape in Kirkuk by putting the Kurds in a stronger position relative to the other groups. This has had the effect of changing the balance of power in that the current temporary political arrangement may not endure in the governorate. Therefore, the central claim of this dissertation is that a formal and permanent power-sharing system is necessary to be adopted to resolve the governance problem. More especially, it seeks to defend the view that consociation offers an appropriate institutional mechanism for managing conflict and building a stable government in the city.

This introduction is divided into four sections. In the first section, I present the problem of Kirkuk by placing emphasis on its disputed status between its local communities on the one hand and the Kurds and the central government in Baghdad on the other. In the second section, I deal with the problem of governance in Kirkuk which is the primary focus of this

¹ Christians also live in the city, but they are too small to have any effective political and military impact in the city and governorate of Kirkuk.

dissertation. In this section, I present a background on how the city has been governed since 2003. This sets the stage for my main proposal in section three. In this section, I present my own proposal to solve the problem of governance in Kirkuk and how political stability could be realized and sustained in the long run. Several concepts and terms pertinent to the central research question will also be defined in section three. Section four explores the methods that are employed in this research. A particular emphasis will be put on my interviews as my primary source in this study along with a brief discussion on my secondary data. Finally, I present the structure of my thesis by explaining the content of each chapter briefly and clearly.

The Problem of Kirkuk

Kirkuk is an oil-rich city. Today, it is the epicentre of an area where control is hotly contested by its ethnic groups on one hand, and the central government of Baghdad and the Kurdistan regional government (KRG) on the other. The city can be seen as a microcosm of Iraq, and is known throughout the region for its distinctive ethnic, linguistic, religious, and cultural diversity. As Liam Anderson (2013: 365) notes ‘it is seemingly impossible for a journalist to write an account of Kirkuk that does not include the terms “oil rich” and “ethnically divided”.’ The city’s diverse ethnic and religious groups include Kurds, Turkmen, Arabs and Assyro-Chaldeans, all of who have lived peacefully together for centuries. Currently, the status of the city in terms of both administration and governance remains unsettled, endangering the historic peaceful coexistence of the groups and posing the threat of communal violence. In this section, I present an overview of the problem of Kirkuk by locating it in the broader context of disputed territories in Iraq between the Kurds and the central government. The multidimensional nature of the problem of Kirkuk with reference to some other case studies will also be dealt with in this section. Finally, I will briefly examine how Kirkuk was dealt with in the legal documents in the post-2003 Iraq under the interim and the permanent constitution.

At the outset, it is worth noting that numerous factors such as ethnicity, religion, language and race can be the defining features of deeply divided societies or places.² Divided society,

² O’Leary (2013: 5-6) argues that the term ‘deeply divided places’ is more accurate than ‘deeply divided societies,’ for all moderate societies are divided that may matter politically, for example, by income, wealth, class, status, etc. However, these divisions within deeply divided places are further reinforced by divisions of ethnicity, nationality, language, race, or religion. For him, it is the ‘deeply divided places’ that are sites for actual or potential civil or intergovernmental wars. However, many other scholars use ‘deeply divided

as Benjamin Reilly (2001: 4) puts it, is a ‘society which is both ethnically diverse and where ethnicity is a politically salient cleavage around which interests are organized for political purposes, such as elections’. In this sense, therefore, Kirkuk is a divided place. For Anderson and Stansfield (2009: 9), Kirkuk is ‘a place in which groups are rivals for power and resources’ (and indeed they conclude that Kirkuk is ‘the divided city par excellence’). One, however, can go further and consider Kirkuk not only a ‘divided’ place, but also a ‘deeply divided’ one. For example, Lijphart (1995: 276) defines a deeply divided society as ‘a society that is sharply divided along religious, ideological, linguistic, cultural, ethnic, or racial lines into virtually separate subsocieties with their own political parties, interest groups, and media of communication.’³In line with Lijphart’s definition, Adrian Guelke (2012: 32) remarks that deeply divided societies are characterized by ‘a lack of consensus on the framework for the making of decisions and a contested political process in which the legitimacy of outcomes is commonly challenged by political representatives of one of the segments.’ Or, alternatively, as Allison McCulloch puts it, when membership in an ethnic group becomes ‘overtly politicized and relations between segments continue in antagonistic and potentially violent fashion, a polity can be considered as deeply divided’ (McCulloch, 2014: 3). Considering the above definition and remarks by Lijphart, Guelke and McCulloch, one can consider Kirkuk as a deeply divided place. Moreover, ethnicity has been strongly politicized, particularly in the post-2003 period. In addition, Kirkuk can also be characterized as a polarized city around ethnicity, language and religion. As such, the city falls well within the definition of a polarized urban centre, where ‘two or more ethnically conscious groups—divided by religion, language, and/or culture and perceived history—coexist in a situation where neither group is willing to concede supremacy to the other’ (Bollens, 2013: 328). Thus, Kirkuk can be considered to be a polarized deeply divided city where ethnic and national cleavages can be seen as reinforcing rather than cross-cutting. One clear indication of reinforcing cleavages in Kirkuk is that the elections are very competitive and the triumph of an ethnic group is usually seen to have been achieved at the expense of other groups.

The Kirkuk question is an integral part of the disputed territories between Baghdad, the country’s official capital city, and Erbil, the capital of the Kurdish region. As Peter Bartu

societies’ rather than ‘deeply divided places’ (See, for example, Lijphart 2004, Guelke 2012 and McCulloch 2014). To avoid confusion, I will stick to using ‘divided societies’ in this dissertation.

³ Lijphart uses the terms ‘deeply divided society’ and ‘plural society’ as synonyms.

(2010: 1330) observes, the disputed areas ‘cross Iraq in a north-west–south-east line from Sinjar on the Iraq–Syria border to Khanaqin and Mandali on the Iraq–Iran border, with Kirkuk governorate at the dispute’s epicentre.’ He rightly argues that the disputed territories have been a persistent fault-line in Iraq and rapidly emerged as a core dispute between the Kurds and the Arabs in post-2003 Iraq with Kirkuk governorate at the dispute’s epicentre. Historically, Kirkuk’s status has been disputed between Kurds and the successive Iraqi governments since the creation of the country in 1920. For example, the Kurds and Ba’ath Party concluded the March Manifesto or ‘Autonomy Accord’ in 1970 which was an agreement that granted many of the rights that the Kurdish revolutions were trying to achieve at the time including autonomy. However, this agreement was not implemented and the main reason for its failure was the problem of the status of Kirkuk and its administrative boundaries (Romano, 2007; Bolden and Fussnecker, 2008). Today, 48% of the Kurdistan region’s land is still disputed between Baghdad and Erbil (Ihsan, 2014). Marwan Ali (2014), director of political affairs of the United Nations Assistant Mission for Iraq (UNAMI), argues that if the problem of these disputed areas had been settled, ISIS would not be able to control Mosul in June 2014. This is because these areas have become a grey area that made the involved parties unwilling to defend them like other areas and thus a space created which was exploited by ISIS. In the same line of argument, Stansfield (2014) argues that ‘there will be no resolution of the threat of the Islamic State without a resolution of the problem of the disputed territories’. Thus, looking at a solution for Kirkuk can simultaneously be seen as finding a solution for the country as a whole. Indeed, the conflict over Kirkuk has multiple dimensions besides.

The problem of Kirkuk is a multi-level and a multidimensional dispute. It has not only local and national dimensions but also regional and international ones. Locally, the dispute is among the three main communities (Kurds, Arabs and Turkmen) and to a lesser degree Christians. Within each community there is a severe competition among political parties to take the lead of their community. Nationally, the dispute is between Baghdad and Erbil (the capital of the Kurdistan Region) over the city. Regionally, the neighbouring countries engage with Kirkuk issue, especially Turkey. Internationally, both the US and UNAMI are actively involved in the problem of Kirkuk. The problem of Kirkuk, as Stefan Wolff (2010:1364) notes, has two dimensions which are ‘the territorial–political status of Kirkuk in Iraq and the internal governance arrangements’ in the city. Anderson (2013: 368) also states that three elements constitute the problem of Kirkuk, namely: oil, future

administrative status and future governance. Although the territorial control of Kirkuk and its internal governance are at the heart of disputes over the city, the role of oil cannot be overlooked. The discovery of vast amount of oil was the main reason for annexing Kirkuk to the Iraqi kingdom in 1925 as part of Mosul Vilayet (Galleti, 2005: 22). The Kirkuk oil field alone is estimated to be 10 billion barrels (Sevim, 2014: 14). It is the second-largest oilfield in the country, containing 20 percent of Iraq’s known oil reserves (Stansfield and Anderson, 2009: 137). Kirkuk is potentially one of the richest cities of the world and its wealth of resources- estimated by some to near 4 per cent of the world’s known oil and gas reserves (Bilson et al, 2011). Thus, oil makes Kirkuk quite unique in comparison to other contested cities around the world. In short, the historical, political and economic dimensions of the problem of Kirkuk makes it a unique and fascinating, but at the same time a difficult and complicated case study.

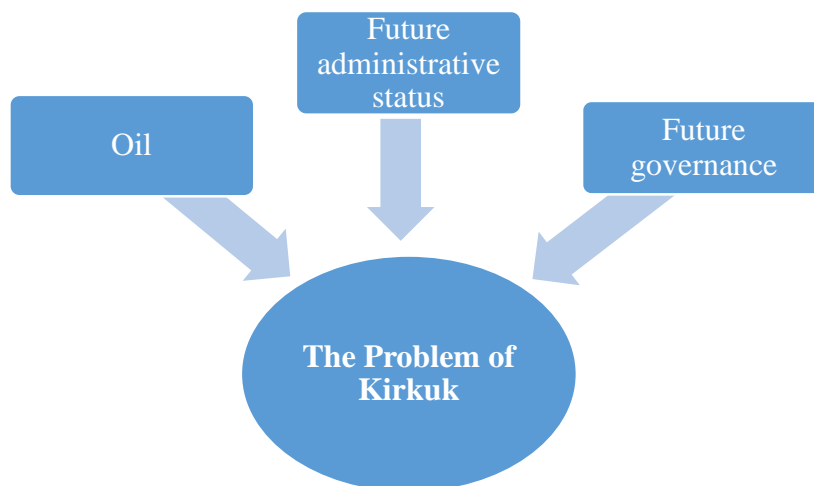


Figure 1 A figure showing three factors that constitute the problem of Kirkuk

The polarized city of Kirkuk has an effect on reconciliation, stability, and enduring peace at the national level. This is common to many other polarized places. For example, in a comparative analysis of seven polarized cities (Brussels, Johannesburg, Belfast, Sarajevo, Jerusalem, Baghdad, and Kirkuk) Scott Bollens (2013) classifies these cities into three categories: (1) sustainable cities which includes Brussels (Belgium) and Johannesburg (South Africa) where there is power-sharing and stability of the local and national state; (2) fragile cities covering Belfast (Northern Ireland) and Sarajevo (Bosnia and Herzegovina), where although there has been some progress, local governance

arrangements are not sufficiently stable and are vulnerable to relapse; and (3) the combustible cities of Jerusalem (Palestine), Baghdad and Kirkuk, where it is not only the cities but also power-sharing itself which is contested and has the potential for further instability. He concludes that these combustible cities can be major obstacles to national peace agreements or conflict management. This is a fair and a convincing conclusion in the case of Kirkuk, because whether the contested lands of Kirkuk will join the Kurdistan region or remain with the rest of Iraq 'positions Kirkuk as a flashpoint of ethnic and sectarian conflict and a key element of national negotiations over the future status of the country' (Bollens, 2013: 355). In short, Kirkuk has been and still is in the heart of the conflicts between the Kurds and the successive Iraqi governments that has invariably been seen as a threat to the integrity of Iraq. This has been noted repeatedly by scholars and researchers. Anderson and Stansfield (2009: 4) go so far as to say that 'it is no exaggeration to assert that the future of Iraq hinges on finding a resolution to the problem of Kirkuk's status,' while Sevim (2014: 16) argues that 'Kirkuk is the last castle for the Baghdad government for the protection of Iraqi territorial integrity and the high-energy capacity of the country.' Bearing this in mind, solving the problem of Kirkuk means solving one of the most intractable problems in the country. Therefore, this thesis, which attempts to find an appropriate solution for one part of that problem (i.e. the problem of governance), can contribute in finding a way to stability and enduring peace not only in the governorate but also in the country as the whole.

In terms of similarity, Kirkuk seems most like the Brčko district in Bosnia. As Wolff (2010: 1364) points out, both areas are disputed between groups within a sovereign state. While Kirkuk is contested by the central government of Baghdad and the KRG in Iraq, Brčko is claimed by the Muslim-Croat Federation and Republica Srpska in Bosnia. Both cases are flashpoints within their respective countries; Brčko remained so divisive that the issue of governance was left unresolved in the Dayton Peace Accord (Dahlman and Tuathail, 2005). However, while the future of Kirkuk has not yet been settled, that of Brčko, thanks to international arbitrators, has been granted a special status. Another relevant example is the case of Mostar (Bosnia), which is similar to Kirkuk in its pre-war diversity and post-war division. While these provide insightful comparison, Kirkuk has more stakeholders and a greater ethnic and religious diversity than any of the cities or regions under consideration. Even more important, it is the only one of the cities with abundant natural resources, making it unique among disputes over territorial 'ownership' (Anderson and Stansfield,

2009: 9). The above mentioned-factors make Kirkuk so special that it warrants, at least, a PhD dissertation.

Particular attention was paid to Kirkuk by the Iraqi and non-Iraqi policy makers in the post-2003 period. This was mainly due to the fact that the city has been the point of disputes between the Kurds and the successive Iraqi governments for more than seventy years in the twentieth century. After the collapse of Saddam Hussein's regime, for example, the U.S. coalition established the Coalition Provisional Authority (CPA) in May 2003 to govern Iraq under the leadership of Paul Bremer. The CPA established the Iraqi Governing Council (IGC) on 13 July 2003. The IGC was an interim Iraqi government composed of 25 members from Iraq's main religious and ethnic groups: thirteen Shi'ite Arabs, five Sunni Arabs and five Kurds, one Turcoman and one Assyrian (Yildiz, 2004: 119-21). The IGC adopted the Transitional Administrative Law (TAL) in March 2004 which served as Iraq's provisional constitution until the adoption of Iraq's current and permanent constitution on October 15 2005 (Bolden and Fussnecker, 2008: 4). Article 58 of the TAL committed the Iraqi government to 'act expeditiously to remedy the injustice caused by the previous regime's practices in altering the demographic character of certain regions, including Kirkuk' (TAL, 2004). In 2005, the new Iraqi Constitution was adopted and ratified. Article 140 replaced the TAL's Article 58, calling for a three-step process in Kirkuk and other disputed territories involving 'normalization,' to be followed by a census, and finally a referendum to determine whether or not the citizens of Kirkuk want to join the Kurdistan region.⁴ According to Article 140 of the Iraq constitution, the executive authority was to undertake the necessary steps to complete the implementation of the requirements of Article 58 (Iraqi Constitution, 2005). In accordance with Article 140 of the Iraqi constitution, the future status of Kirkuk was set to be settled through conducting a referendum by 31 December 2007. But that deadline has long passed and the status quo of Kirkuk has still remained as it is.⁵

Thus, while this study deals with the internal politics of Kirkuk rather than the general question concerning the stability of Iraq as whole, the internal stability of Kirkuk has

⁴ The constitution has identified three options to settle the future status of Kirkuk: (1) a governorate under the authority of the central government, (2) an autonomous region and (3) as part of the Kurdistan region. Each of these options is supported by one of the three main groups: the Kurds wish to incorporate Kirkuk into the Kurdistan region, the Turkmen want Kirkuk to be an autonomous region, and the Arabs want Kirkuk to be under the authority of the central government, albeit with a special status.

⁵ I shall discuss this article in more detail in chapter 1. The whole article will be attached in the appendices.

consequences for the stability of the whole country. Hence, addressing the problem of Kirkuk is vitally important. However, while there are different institutional mechanisms for managing conflict in deeply divided places, none have been formally adopted in Kirkuk (Saeed, 2015). The decision about which model to support is crucially important, since different institutional choices favour or disadvantage one group over another, and each has distinct consequences in particular for divided societies. The central claim of this research, however, is that consociation can solve the problem of governance in the city. But, before discussing the solution, it is important to firstly discuss the city's governance problem. The following section deals with this problem specifically.

The Problem of Governance

The future governance of Kirkuk is the focus of this dissertation. Before discussing the most appropriate and the most likely scenarios for governing the city in the future, it is important to firstly give an overview about the political system that has been in place in the city since 2003. In this section, I focus specifically on the political arrangements that have been used to govern the city since 2003.

Under the Ba'ath rule, as other governorates, Kirkuk was governed unilaterally by the Sunni Arab Ba'athists, excluding other groups from power and even expelling a large number of them from the city. After the fall of the Ba'ath party in 2003, however, unilateral, one faction rule was over. For example, two months after the removal of the Ba'ath regime in Kirkuk, the first municipal council was formed in Kirkuk in which the U.S military appointed 30 members indirectly from the four communities in the city to govern the city (Anderson, 2009: 13). The second municipal council was expanded to 40 members from all of the communities and continued for a year between 2004 until 2005.

In 2005, the first election at the governorate level was held. In Kirkuk, 41 members were elected in a public election for the Kirkuk Provincial Council (KPC) and those members have held office since then (these three councils will be further discussed in chapter one and chapter three). According to the Law of Governorates not Incorporated into a Region (Law 21/2008), the KPC plays the role of the legislative body of Kirkuk, whereas the positions of governorship and deputy governorship are deemed as executive offices. For nearly two years, since June 2003 until January 2005, the four communities of Kirkuk were included in the first two municipal councils mentioned above. In the first municipal council,

the senior positions included ‘mayor’, ‘deputy mayor’, and ‘assistants of the mayor’. The mayor was a Kurd, his deputy was an Arab and he had three assistants (a Kurd, a Christian and a Turkman) (Anderson and Stansfield, 2009: 215). In the second municipal council, a Kurd became a governor, his deputy was an Arab and a Turkman became the KPC chairman. However, after the first governorate election in Kirkuk, some change occurred. Both the governor and the KPC chairman were Kurds and the position of governor deputy was left vacant. In short, all the communities were included in the legislative and executive bodies in Kirkuk for the first two years after the fall of Saddam’s regime. However, the Kurds controlled the executive body after the first governorate election in 2005.

As noted in the previous section, the territorial dispute over Kirkuk, according to article 140 of the constitution, was set to be settled by the end of 2007. Given this and the fact that the Kurds dominated most of the positions including the positions of governor and the chairman of the KPC, the Arabs and Turkmen resorted to boycotting the KPC’s proceedings during 2006-2007. In other words, while all the groups were included in the legislative and executive bodies in the first two years after the collapse of the Ba’ath regime, the Kurds dominated most of the position in the latter two years, i.e. 2005-2007. The Kurds managed to do that because they won 26 seats out of the 41 seats of the KPC in the 2005 governorate elections (further discussed in chapter three). Taking this new situation into consideration (i.e. approaching the deadline of article 140 and the boycotts of the Arabs and Turkmen), various recommendations were presented by different Iraqi and non-Iraqi parties to find a solution for the problem of governance and the future status of Kirkuk because the two issues are closely linked.

The International Crisis Group (ICG), for example, has recommended several solutions for the issue of disputed territories and Kirkuk to date. In 2006, the ICG suggested that Kirkuk should become a stand-alone federal region for an interim period of ten years with sharing power between its four communities. However, this suggestion did not contain any real incentive for the Kurds and was therefore overlooked. The ICG outlined another solution in 2008 entitled ‘oil for soil deal’. This deal would allow the Kurds to exploit the oil fields within the Kurdistan region in return for deferring its exclusive claim to Kirkuk. This deal was also rejected by the Kurds, because ‘the Kurdistan Region already has the power to manage its own oil and gas fields, so this deal gives them nothing they do not already have’ (Anderson, 2013: 379). The UN was also involved in trying to find a solution for the

administrative and governance issues of Kirkuk. In April 2009, the UN Special Representative, Staffan de Mistura, formally presented UNAMI's report on disputed territories to the officials of the Iraqi central government and the KRG president (ICG, 2009: 7). Four possible options for resolving the dispute over Kirkuk were given: 1) reformulating Article 140 to make it unambiguous and clear. This would mean resolving key questions related to a referendum, such as the referendum question, eligibility and voter registration, and the boundaries of the 'referendum area'; 2) retaining Kirkuk's status as a governorate that is not organized into a region, as with the other Iraqi governorates; 3) 'dual nexus' which administratively links Kirkuk to both Baghdad and the KRG; and 4) 'special status' that gives Kirkuk special administrative powers different from any other province in Iraq with high degree of administrative self-rule and less direct influence from Baghdad and Erbil. However, the report did not receive a particularly enthusiastic welcome and was rejected equally by both Baghdad and KRG (Wolff, 2010). The inability of the disputing parties to agree upon one of the above options was a major reason for overlooking the UNAMI's report.

Nationally, the Council of Representative (CoR) issued law 36 regarding the Elections Law of the Provincial, Districts, and Sub-Districts Councils in 2008. According to article 23 of this law, the elections of Kirkuk governorate was to be held only after implementing the process of dividing the administrative and security powers and senior positions including the position of the chairman of the KPC, governor and deputy governor among the communities of Kirkuk governorate in equal percentages. Based on article 23, a committee of seven CoR members representing the Kirkuk governorate (two representatives from each of the three main ethnic groups of Kirkuk and one representative for the Christians) was established to submit its report to the CoR about several issues, mainly the mechanism of local power-sharing arrangements in the city. The committee should have prepared a report by 31 March 2009 and the CoR was expected to create a special elections law for Kirkuk after that. However, the committee failed to design a mechanism for the division of power among the groups (further discussed in chapter three). Therefore, elections were not held in 2009 and 2013 in Kirkuk. Thus, the KPC is now the longest-serving provincial council in Iraq, indicating the difficulty and the complexity of governance in the city. As I shall explain below, I suggest consociational power-sharing as a way to get out of this impasse.

The only relative success on governance arrangements was achieved as a result of the local Kurdish-Arab agreement of 02 December 2007. Based on that agreement, the deputy governor position was given to the Arabs and both sides agreed on allocating power equally on the basis of 32-32-32-4 for the three main ethnic groups and the Christians (Anderson and Stansfield, 2009: 161). After that, the Friedrich Nauman Foundation⁶ organized two workshops for the local representatives of Kirkuk in Amman and Berlin in 2008 and 2009 which were known as the ‘Dead Sea Declaration’ and the ‘Berlin Accord’, respectively, in which the local representatives of the city committed themselves to cooperation and power-sharing. In the ‘Berlin Accord’, the participants agreed upon the distribution of senior posts in the provincial administration as mandated under article 23 (Collins and Wolff, 2009). The Arabs was already given the position of deputy governor in 2008 and the Turkmen were given the position of KPC chairman in 2011. However, the equal power-sharing of 32-32-32-4 for the public sector employment which was mandated in article 23 and confirmed in both the Dead Sea Declaration and the Berlin Accord was never implemented, because the KRG blocked it (Knights and Ali, 2010: 7).

The status quo, however, is temporary and based on a local and an informal agreement. Therefore, it is too fragile to be able to continue for a number of reasons. Firstly, the Iraqi Supreme Court, at the request of a Kurdish member of KPC, annulled article 23 in August 2013. In other words, the article on which the current political arrangement has been based was already deemed unconstitutional. Therefore, the current arrangement in which the three senior positions have been divided among the Kurds, Arabs and the Turkmen respectively might not continue like that. Moreover, Stefan Wolff, who was one of the organizers of the both the Dead Sea Declaration and the Berlin Accord, acknowledges that these two agreements were ‘unofficial and organized by a small outsiders group’ (Collins and Wolff, 2009). Therefore, the agreement is likely to be abolished by the Kurds at any time. Secondly, as noted in the previous section, the problem of Kirkuk is not only a local dispute rather it is also a national one. Therefore, no genuine solutions would be reached without the involvement of Baghdad and the KRG. In other words, due to the influential role of both Baghdad and Erbil in the city, any local bargaining over power-sharing arrangements

⁶ For more information on the Friedrich Nauman Foundation, see: <http://fnf-amman.org/en/about-fnf>

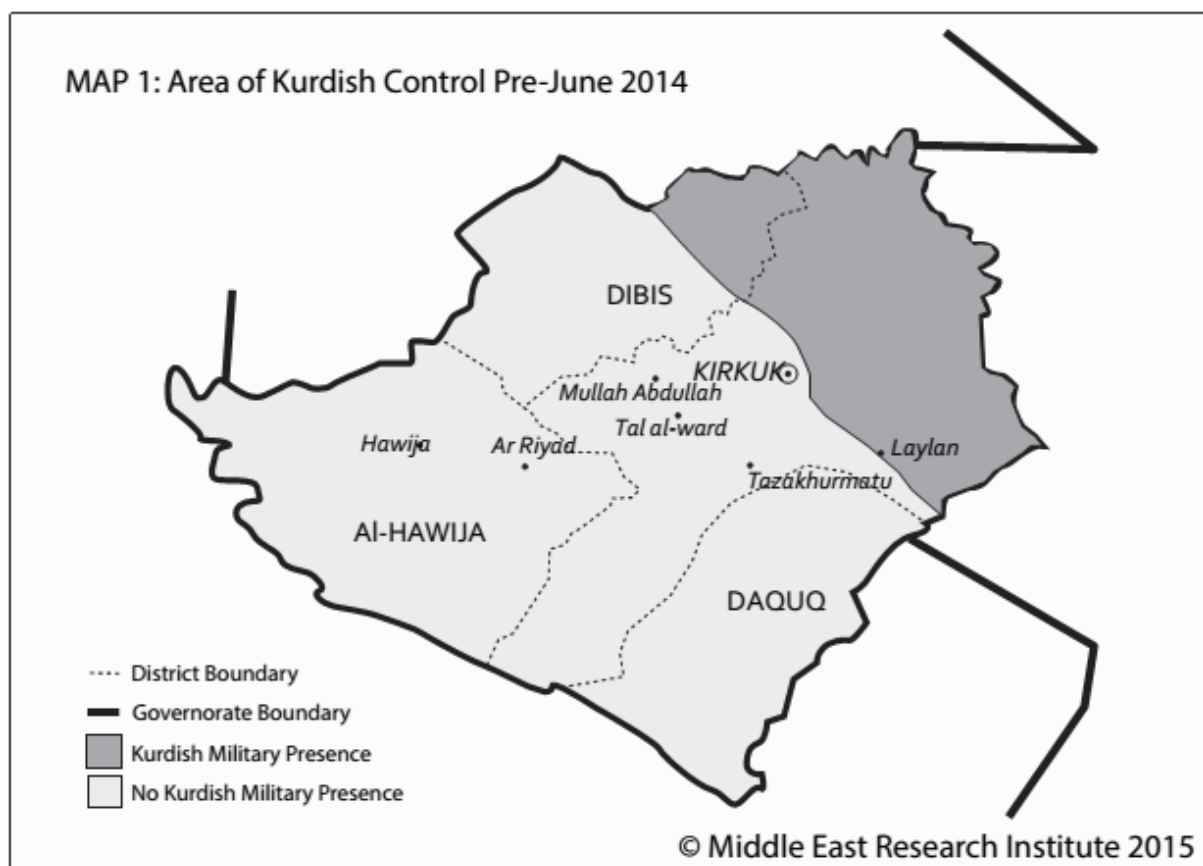
or any other institutional mechanism would be complex and far from being able to endure in the long run.

Thirdly, as noted earlier, the issues of governance and future administration of the city are linked. In other words, as long as article 140 of the constitution remains unimplemented, the problem of governance will also remain unsettled. Clearly, article 140 has not been implemented yet. The current existing arrangement with respect to the division of the three senior positions between the three main groups, therefore, may not continue not just because it has been reached locally, but also because it has been agreed upon without any reference to the future status of Kirkuk and article 140. As Anderson (2015) points out, if the Kurds are denied the incorporation of the city into the Kurdistan region, ‘then why should they be expected to share power with other, smaller groups?’ According to Anderson (2015) the fact that the Kurds have permitted a sort of power-sharing in the city was to reassure ‘other groups that they have nothing to fear from the Kurds if or when Kirkuk becomes part of the Region. The Kurds will share power, but only if Kirkuk is reunited with the Kurdistan region.’ For Anderson (2013: 376), the Kurds as a majority group can ‘win elections and govern Kirkuk alone’ and they have ‘a strong geographical, historical and moral claim to Kirkuk’, then why would they ‘voluntarily share power with Arab and Turkmen political leaders?’⁷ Moreover, he (2015) continues ‘there are no power-sharing arrangements in Baghdad [province], or Diyala, or other mixed provinces, so why should we expect the Kurds in Kirkuk to be the only ones to share power?’ In short, the current existing governance approach in the city is temporary and might not be viable, especially if Kirkuk will not join the Kurdistan region in the future.

Finally, with the fall of Mosul and the rise of ISIS, a new era has started in Iraq in which the Kurds appear the main winner and makes them strong enough not to have to compromise on the status of Kirkuk and its governance issue. Now, the Kurdish fighters (Peshmerga) have taken over Kirkuk and 99% of Kirkuk oil is under their control (Basnews.com, 2014). If Kurdish forces maintain their current control over Kirkuk, the KRG may push for a resolution of the disputed status of Kirkuk from a position of strength regardless of the prevailing demographics of the city (Bet-Shlimon, 2014). Soon after

⁷ Based on the December 2005 national election outcome in Iraq, Anderson (2013) argues that the Kurds, Arabs and Turkmen constitute ‘53-27-13’ percentage of the governorate respectively. He believes that the percentage of the Kurds is, by now, higher than 53 percent ‘given that displaced Kirkuki Kurds have continued to return to Kirkuk under the provisions of article 140 since the December 2005 election.’

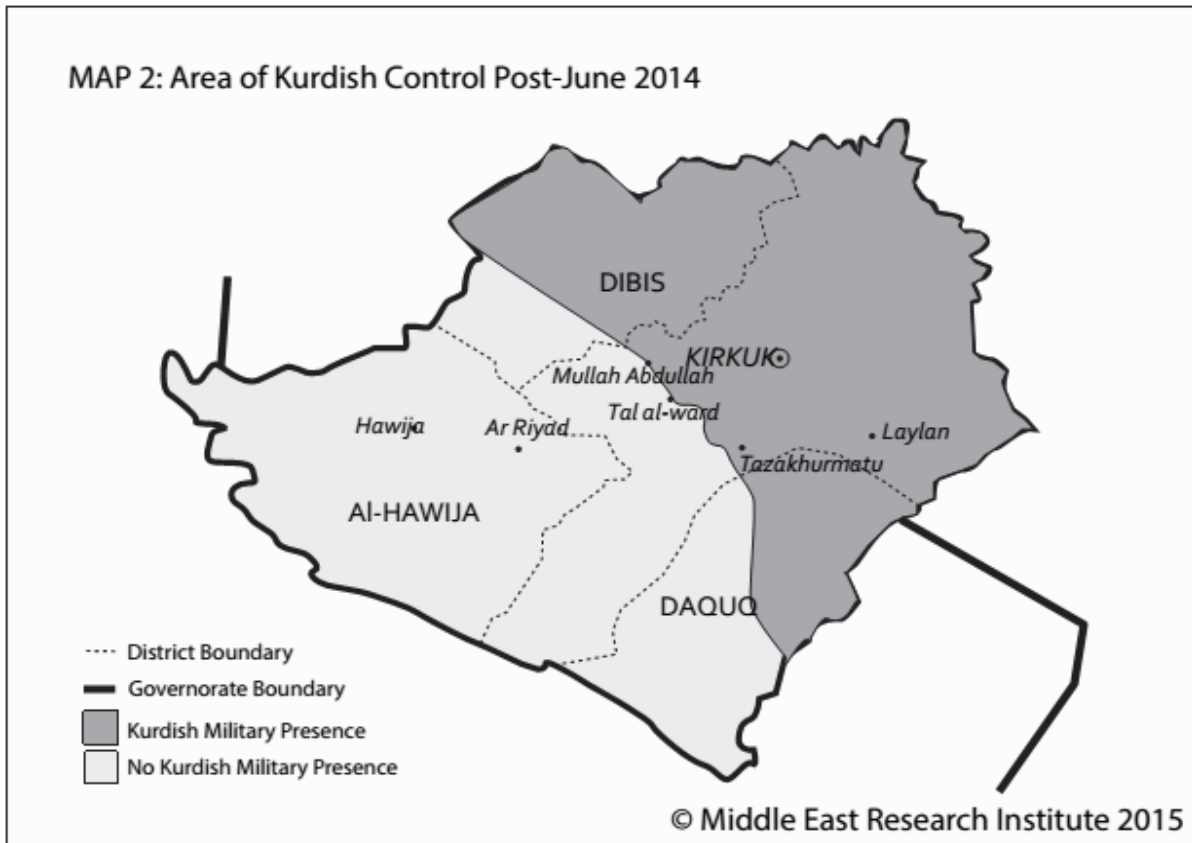
taking control of Kirkuk, the president of the Kurdistan region made a visit to the city and vowed that he will never withdraw Peshmerga from it and said ‘we are not ready to relinquish even a hand’s width of Kurdish land’ (financial times.com, 2014). After the fall of Mosul, the Kurdistan region expanded its territory by some 40% and created a new reality which seems unlikely to change in the short term (Romano, 2014). In addition, the Arab majority districts and sub-districts of Hawija, al-Zab, Riyadh and Abbasi are now under the control of ISIS. A recent report by the Middle East Research Institute (MERI) which was released on 7 September 2015, illustrates that the areas under the Kurdish Peshmerga in Kirkuk areas has been expanded in the post-Mosul period (see map 2). Thus, the Kurds have become the single biggest winner in the present crisis in Iraq (Dohainstitute.com, 2014). Kurdish politicians are committed to the new status quo and now, frankly, tout ‘a new reality’ (the guardian.com, 2014). Under this new circumstance, it is highly unlikely that the Kurds will make any compromise over the governance and the future status of Kirkuk.



Map 1. Adapted from Middle East Research Institute (MERI) (2015) ‘The future of Kirkuk: a roadmap for resolving the status of the governorate’, Erbil, p. 13.

There is evidence which show that the Kurds are reluctant to continue committing to the previous local agreements with Arabs and Turkmen. For example, as noted earlier, the position of KPC's chairman was given to the Turkmen based on a Kurdish-Turkmen agreement in 2011. Thus, Hasan Turan from the Iraqi Turkmen Front (ITF) took the position. Nevertheless, he resigned in 2014 from his position after winning a seat for CoR in the 2014 Iraqi elections.⁸ His Kurdish deputy, Rebwar Talabani, replaced him temporarily. However, a year passed and the Turkmen have not regained the chairmanship of the KPC. The ITF has called for regaining their position several times, but the Kurds seem to have intentionally delayed and overlooked their demand. More recently, on 8 September 2015, Rebwar Talabani spoke about this issue and told a major Kurdish media outlet 'Rudaw' that the Peshmerga forces protect all the communities in Kirkuk which have led to political and military changes on the ground and 'the ITF should acknowledge that' (Rudaw, 2015) He also added 'we have to hold a new political agreement and not talk about the agreement that took place in 2011', i.e. the agreement according to which, Hasan Turan became the chairman of KPC. In that interview, Talabani asserts that this new reality will become the basis for their discussions with the Turkmen. This illustrative indication confirms the above discussion on the possibility that the Kurds will renounce their agreements with the Arabs and Turkmen in the new environment.

⁸ According to article 49 of the Iraqi constitution, it is not permissible to combine membership in the Council of Representatives (CoR) with any work or other official position. Therefore, Hasan Turan had to choose either remaining in his post as the chairman of KPC or becoming a member of Cor.



Map 2. Adapted from Middle East Research Institute (MERI) (2015) ‘The future of Kirkuk: a roadmap for resolving the status of the governorate’, Erbil, p. 13.

Several broad conclusions can be drawn from the above discussions on the issue of governance in the post-2003 period in Kirkuk. Firstly, there has been a kind of power-sharing in the city since 2003. Secondly, the existing power sharing has been temporary, informal and vulnerable to collapse at any time, particularly under the current situation in which the Kurds have controlled the city and the Arab have lost most of their areas to ISIS. Thirdly, the inability of the local political parties to reach a formal and legally embedded power-sharing has mainly been due to the fact that the governance problem is linked to the future status of the city. In other words, the governance problem cannot be tackled without addressing the disputed future administrative status of the city. To do so, the involvement of both the central government and the KRG is necessary.

Different Options for Kirkuk

Maintaining the status quo is not an adequate solution for the governorate. As noted above, although the currently existing system is largely a power-sharing arrangement, it remains an interim one. Kirkuk needs to have a more clearly defined status both legally and

politically not only on its future status but also with regard to its internal governance between its local communities. Conducting only one election within ten years in the governorate (other governorates held three elections in 2005, 2009 and 2013) is a clear indication of the depth of disputes among the three main ethnic groups regarding the governance of the city.

It is noteworthy that there are different institutional mechanisms for managing conflicts in deeply divided places. As McGarry and O'Leary (1993: 4) note, two main methods are usually used by countries for the regulation of ethnic conflict: the elimination of differences and the management of differences. The elimination of differences includes genocide, forced mass-population transfers, partition or secession and integration or assimilation. While the management of differences includes hegemonic control, arbitration, federalization and power-sharing. This distinction has been made in various ways such as 'integration' and 'devolution'; 'repression' and 'accommodation'; 'denial' and 'acceptance' (For more detail about these terms, see Heraclides 1997).

Assimilationist strategies favour majorities and try to make the minorities conform to the culture of the dominant group. According to McGarry and O'Leary (1994: 102), assimilation 'aims eventually to create a common ethnic identity through the merging of differences (the melting pot)'. This strategy can work when targeted at migrants who have left their homelands and they wish to be assimilated (such as many of the migrants in UK or Canada). However, this is unacceptable in divided societies. The Turkish policy to assimilate its sizeable population of Kurdish citizens for nearly a century has been proven dangerous and unsuccessful as well. In other words, it is coercive assimilation that is morally and politically problematic not voluntary assimilation (O'Leary, 2014).

Unlike assimilation, under an integration strategy people are free to preserve their private cultural differences. In other words, the government or public policy do not seek to promote the full cultural homogenization of minorities into the dominant culture. Under integration, people are free to have their own schools in their own languages or religions, but they do not receive public subsidies to do so (O'Leary, 2014). This means that there is recognition of the difference in the private sphere. However, the public sphere is homogeneous in the sense that a common public language and public symbols are preferred there. Minority participation, under integration, is encouraged in the public life, but they are expected to leave their cultures at the doors to public places 'in the way some institutions and peoples

expect visitors to leave their shoes' (O'Leary, 2013: 17). Integration, as O'Leary (2014) argues, is the dominant norm among European nation states.

Majoritarian democracy is another option for divided societies. Majoritarian democracy is the most common types of democracy which are also called the British or 'Westminster' model. In a majoritarian democracy, there is government-versus-opposition in which the leaders are divided into a government with majority support and a large (though minority) opposition. The style of leadership in British model is competitive or adversarial. In a majoritarian democracy, candidates that represent society's majority generally form the government, and the opposition is formed of minority groups.

Federalization and power-sharing are two other options for managing differences in divided societies. McGarry and O'Leary (2011: 249), for example, identify two types of accommodation on the territorial and non-territorial basis. Territorial forms of group difference can be managed through federal systems or 'territorial pluralism.' Weller and Wolff (2005, 12-13) argue that in territorial autonomy the autonomous entity is defined in territorial terms and thus 'a population living in a certain territory is granted an autonomous status regardless of whether the individuals living on this territory belong to one or another ethnic group.' However, centripetal and consociational forms of powersharing are the two best-known forms of managing differences that do not necessarily rely on territory.

Centripetalism is mainly associated with the works of the American political scientist and legal scholar Donald Horowitz. Horowitz (2014:5) argues that centripetalists attempt to 'create incentives, principally electoral incentives, for moderates to compromise on conflicting group claims, to form interethnic coalitions, and to establish a regime of interethnic majority rule.' In other words, centripetalism would encourage the election of moderate representatives through various electoral mechanisms such as 'alternative vote' (AV). AV allows voters to rank order preferences at the ballot box to facilitate the election of moderate ethnic politicians who should reach out and attract votes from a range of ethnic groups other than their own (Reilly, 2011: 290-291). In short, as O'Flynn (2007: 736) notes, the hope is that an inter-ethnic coalition of moderates will be formed that is strong enough to repel the extremists.

Consociationalism, on the other hand, is closely associated with the works of Arendt Lijphart. Complete consociational systems have four features, namely: grand coalition

government, mutual veto, proportionality and segmental autonomy (Lijphart, 1977). Consociational theory favours ‘the formal public recognition and organization of ethnic, religious, and linguistic minorities’ (O’Leary, 2013: 19). Consociation, as a mechanism of conflict management, is seen by its defenders as an appropriate mechanism for resolving the problem of governance and bringing about political stability in divided societies (See, for example, Lijphart 1977, 2002, 2004; McGarry & O’Leary 2004; and O’Leary 2005, 2013). Power-sharing is such an effective institutional mechanism for managing conflict that has been included in nearly all the peace accords signed in the last two decades in one form or another (McCulloch, 2014: 1). In addition, consociation is the preferred choice of the international community, including for Bosnia and Herzegovina, Afghanistan and Iraq.

Finally, the key research question that this study tries to answer is whether consociation can offer an appropriate institutional mechanism for managing conflict and building a stable government in Kirkuk. The question is about how to implement consociation, but before making that case, one has to establish why consociation is applicable. I examine the applicability of consociationalism in greater detail in chapter three and I also discuss how best to implement consociation in the remaining chapters. In other words, the research question deals with two important issues. Firstly, examining the applicability of consociationalism in Kirkuk. Secondly, determining how best to implement consociation in the city, i.e. determining the precise form that consociation needs to take.

In the above question, several terms need to be defined and explained such as ‘consociation,’ ‘managing conflict,’ and ‘political stability’. The key concept of ‘consociational democracy’ had already been defined by Lijphart (1977) in terms of four basic principles: grand coalition, mutual veto, proportionality and segmental autonomy. Conflict management is dealt with in this dissertation as ‘a process that aims at channelling the violent manifestation of an incompatibility of goals between two or more parties into a political process where their disputes can be addressed by non-violent means’ (Yakinthou and Wolff, 2012: 1). Political stability is used in the way identified by Lijphart (1977: 3-4) as a multidimensional concept which combines system maintenance, civil order, legitimacy and effectiveness.

Methodology

This section is concerned with the methods that I have used for this research. Social science scholars use different methods to study social phenomena and their debate over which method can be better than others continues in academia. In this research, I chose to employ a qualitative research approach. I have used two qualitative methods in this research which are interviews and official legal documents. My interviews can be considered as elite interviewing, because I have interviewed people who are close to power and policy-making processes such as the members of Kirkuk Provincial Council (KPC) and the members of Council of Representatives (CoR) in Baghdad.

My interviews are my primary data as I have conducted them personally. Appendix (E) illustrates the names, ethnic background and the position of my 29 respondents along with the date and the place of the interviews. The interviews were conducted in two stages: between August to October 2013 (24 interviews) and January to April 2015 (5 interviews). I initially planned to conduct all the interviews in 2013, but things did not go as planned. Therefore, I was compelled to do five other interviews in 2015. I have undertaken interviews with elites from different ethnic groups both within and outside Kirkuk in three languages (Kurdish, Arabic and English). The majority of my interviewees are from Kirkuk but as the question of Kirkuk is also related to Baghdad and the Kurdistan region, I conducted four interviews with politicians in Sulaimani and Erbil and three interviews from Baghdad via the telephone and Facebook. My interviewees include almost all the key political actors inside Kirkuk such as the former and current governor, the former and current chairman of Kirkuk's provincial council (KPC), a number of KPC's members and political party leaders. Outside Kirkuk, my respondents include members of Iraq's Council of Representatives (CoR), politicians and academics.

The role that this primary qualitative data is playing in the thesis to generate an evidential basis for the arguments put forward. Consociation is mainly an elite-oriented theory. Therefore, conducting interviews with political leaders of different communities of Kirkuk for this research was essential to understand whether there are prospects for adopting consociational power-sharing. In addition, most of the literature on the problem of Kirkuk has mainly focused on the future status of the city rather than its unresolved governance problem. In other words, taking the views of the elites was vital to understand the problem of governance in the city and the different options to solve that problem. The rich data that

I collected on the nature of governance in the city since 2003 and learning about the points of agreement and disagreement among the elites are very helpful to have a profound insight into the problems of governing Kirkuk.

In terms of the representativeness of my interviews, my interviewees' ethnic backgrounds are as follow: 17 Kurds, 6 Arabs, 5 Turkmen and 1 Christian. This is somewhat a reflection of the proportional number of each group in the KPC. The number of KPC's members are 41 in which the Kurdish Brotherhood List (KBL) have 26 members, 9 Turkmen and 6 Arabs⁹. Within each group, I have tried to take the views of all influential parties. For example, my Kurdish interviewees include members of all influential political parties such as Patriotic United of Kurdistan (PUK), Kurdistan Democratic Party (KDP), Movement of Change (Gorran), Kurdistan Islamic Union (KIU) and Kurdistan Islamic Group (KIG) and independent people.¹⁰ My Arab interviewees include respondents from the two major Arab parties in Kirkuk, i.e. the Iraqi Republic Gathering (Arab) with 5 seats in KPC and Iraqi National Gathering with one seat. Most of my Turkmen respondents are from the Iraqi Turkmen Front (ITF) which is the main Turkmen political coalition that have 8 seats in KPC followed by Turkmen Islamic Coalition (TIC) with one seat.

I used different approaches to recruit my participants. In the first step, for example, I officially submitted a written letter to the Kirkuk Provincial Council (KPC) requesting an interview appointment. In that letter I covered several issues briefly such as introducing myself as a neutral researcher and my research topic, the manner of my questions in general and requesting an hour for interview. Moreover, in case of not having time for face to face interviews, I had proposed other alternatives for conducting interviews such as telephone, email, Facebook and Skype. Along with that letter, I attached a support letter from Newcastle University and submitted it to some officials' secretaries who served as 'gate keepers' in order to find and organize a time for the interviews. This technique worked in few cases but then I realized that this way is not effective as I had to follow up and make many phone calls later with no guarantee of accessing my respondents in most of the cases. In addition, as Mikecz (2012: 482) notes 'gaining access to elites is hard enough; gaining their trust and building rapport with them is even more difficult.' Taken this into

⁹ There is one Christian within KBL. Moreover, although there is no reliable census in Kirkuk, the number of Arabs are more than the Turkmen. The reason for larger Turkmen representations in Kirkuk than Arabs is because of the low Arab Sunni turnout in the 2005 Kirkuk governorate election.

¹⁰ These five political parties have dominated Kurdish politics in the Kurdistan region and have representatives in the CoR in Baghdad as well.

consideration, I resorted to the snowball sampling technique in the second step. This technique is ‘a sampling technique in which the researcher samples initially a small group of people relevant to the research questions, and these sampled participants propose other participants who have had the experience or characteristics relevant to the research. These participants will then suggest others and so on’ (Bryman, 2012: 424). This strategy proved very effective and useful.

Not all of the 29 interviewees for this research were initially planned. I initially planned to do most of the interviews via phone or Skype and to avoid visiting the city as much as possible, mainly for security reasons because, as a fragile divided city, Kirkuk is subject to frequent violence and terrorist attacks. Once I returned to Iraq, however, I realized that without personally visiting Kirkuk, collecting empirical data was almost impossible. It did not take me long to understand that being personally present is still not sufficient. Given this and knowing the importance of personal relations and friendship as part of the Iraqi culture, I decided to depend on the snowballing strategy. Snowball sampling is ‘a recruitment method that employs research into participants’ social networks to access specific populations’ (Browne, 2005: 47). I used this method to access people who were difficult to access by myself. At the end of an interview with a respondent, I would ask if the respondent could help me in reaching out to other people. As Mikecz (2012: 491) observes, at the end of the interviews ‘it helps to ask for names of contacts that they think would be able and willing to provide information in the form of an interview’. This strategy made gaining access to some busy politicians easier and avoided the long and possibly fruitless bureaucratic waiting period. To gain access to my respondents, I depended on different people from different ethnic backgrounds. Using this technique, I found that the elites were far more receptive and open to talk than they might have been if I had approached them by myself as a researcher. Following each interview, I sent a mobile message to my interviewees thanking them for their cooperation. I noticed that this gesture would encourage my interviewees in some cases to help me in reaching political leaders who were otherwise very difficult or even impossible to access directly by an independent researcher.

Data collection were carried out following guidelines of ethical research. I made it clear to my respondents at the outset that I am an independent researcher and before commencing any of my interviews I clarified some essential points to the respondent regarding the nature

of my research, the employment of the data and the dissemination of the research outcome (See, for example, Harvey, 1984: 9-10). Moreover, I designed a consent form based on a previous consent form example provided by Newcastle University. In that form, the respondents were given complete freedom to: ask any question about my research and my aims in doing it; withdraw from the interview at any time without giving reasons; and disclose their names or keep them confidential. The respondents were informed that this research may be used by other researchers in the future. It is worth mentioning that all of my respondents, without exception, agreed to my recording the interview and to mentioning their names in my research, either by signing the above-mentioned consent form or by giving their consent over phone, skype, etc. This is not surprising as elite members are generally confident people and used to speaking in front of microphones, so they tend not have reservations regarding sharing their insight for the subject under investigation and disclosing their names in general, particularly if researchers can establish trust with them before starting their interviews (Bozoki, 2011: 3-4). The above initial procedures were effective for a conversational breaking of the ice and in establishing basic trust with my interviewees. Although I was aware that politicians are generally confident people, I still made efforts to ensure that I would leave my respondents in the same position in which I found them so that my interview does not endanger and harm their political positions (Woliver, 2002). Briefly, I was aware that I needed some information which was not easy to garner from the available sources but at the same time I was fully aware of the need to consider ethical issue and explain everything clearly to my respondents.

One of the main challenges in my research project was handling my ethnic identity. Conducting elite interviewing in a deeply divided society is clearly a challenge for researchers. In my case, my Kurdish identity could contribute in adding to the challenge even more. I shall turn to this point. However, one may agree that the author of this dissertation, as an 'insider' who originates from the region, was well qualified to gather hard data in Kirkuk. The reason for that, as Tamar Hermann (2001: 82) notes, is that the insiders are familiar with the socio-cultural and political contexts, proficient in the language, have better access to primary resources, and have detailed and sometimes first-hand information regarding relevant events. Unlike the outside researchers, I did not need an interpreter during my interviews and thus the possibility of getting an erroneous impression from my interviewees regarding the problem of power-sharing in Kirkuk were reduced.

Being an insider is not, however, without its challenges. In my case, I had to avoid being biased and to handle my ethnic identity carefully. I was keen to be impartial and avoid seeming biased. Following McEvoy's advice for researchers conducting interviews in divided societies, I tried to avoid or at least limit being biased by using techniques 'impartially' and trying to be 'as neutral as possible by carefully framing the interview schedule, keeping to the same themes with the different respondents and using neutral language' (McEvoy, 2006: 187). Two points were useful to remove or lessen the effect of my ethnic identity on my non-Kurdish respondents. Firstly, as noted earlier, explaining my research project clearly and stating that I am a neutral researcher along with giving them the right to skip any question that they do not like to answer or even retreat from the interview completely if they wish to do so. Secondly, I noted that the support letter of Newcastle University was crucial as my respondents had, generally, the perception that my study in a well-established UK university could have put me in a position to avoid being biased and keep neutrality to a healthy extent. My Kurdish identity was, however, still an obstacle in some situations. For example, in the initial design of my interview questions, I planned to go to Hawija to interview some local Arab leaders but later I realized that this is simply impossible and physically dangerous. As Hermann (2001: 90) convincingly notes, 'some of the negative influences of the researcher's identity cannot be remedied, but an awareness of them might mitigate their effects.' Yet, being Kurdish was advantageous in relation to easier access to most of my Kurdish interviewees and thus gain rich data.

In conducting the interviews, I faced various difficulties. Firstly, as noted above, the majority of these interviews were conducted between August and October 2013 at the time when the Kurdish politicians were getting ready for and busy with the aftermath of the Iraqi Kurdistan legislative elections which took place on 21 September 2013. Due to that election, I could not gain access to some of the senior Kurdish politicians in Erbil and Sulaimani that I initially planned to interview.¹¹ Secondly, I had to travel nearly three or four times a week from my town (Chamchamall) into Kirkuk for nearly 50 minutes and once getting there I had to join a long queue and pass four security inspection points every time which was difficult and in some cases (depending on the mood of the inspector), I was not allowed to take any electronic devices into the building such as my mobile and my

¹¹ Apart from that, I contacted the American and British consulates in Erbil via email, but I did not get any reply. I also made several phone calls with the UNAMI representative in Kirkuk, but he told me that he cannot speak to me on behalf of UNAMI. In several cases, despite their initial consent, some people declined to do the interviews for no clear reasons. Therefore, I had to add four other interviews later in 2015.

recorder which made conducting interviews very demanding. In several other cases, even if I passed the security inspections, I had to return home without being able to do any interview. This was either because the respondents were busy or they had to do another immediate thing such as attending a meeting or holding a press conference. In some of those cases, I had to leave my questions so that they would answer them later. However, I found that face-to-face interviews were better in terms of gaining richer data. Thirdly, I had to be very flexible for changing the time and place of the interviews. For example, in one case, one of my respondents called me late in the evening and told me that he had only time for the interview two hours later; therefore, I had no choice but to go to Kirkuk and find his house that night to do the interview. In a couple of interviews in Sulaimani, my respondents told me that they had only 15 minutes for interviews, so I had to determine my priority questions very quickly and compromise on some other questions and thus not gaining the sufficient information that I had hoped for. Last but not least, I had to leave Kirkuk as soon as undertaking the interviews because of security concerns and the fear of explosions which targeted governmental buildings in particular. In the middle of my last interview with an Arab member of KPC, a car bomb exploded a few hundred yards away from his office. Despite these difficulties, I believe that I have collected rich data.

The interviews were recorded, transcribed and translated into English. Sixteen out of twenty-nine interviews were undertaken in Kurdish, twelve in Arabic and one conducted in English. The interviews with the Arab, Turkmen and the only Christian participant were conducted in Arabic language. I faced little difficulty in translating the interviews into English, partly because I already have experience of both translating and interpreting from Kurdish into English on the one hand and have also done Arabic-English translations on the other.¹² As some elements of my interviews were not very useful because some of my interviewees were raising irrelevant topics, I saw little point in transcribing and translating those portions. As Bryman (2012: 486) notes, ‘this is a common experience among qualitative interviewers’: therefore following his suggestion, I chose to listen my interviews closely, at least twice and then transcribing only those portions that I thought are useful or relevant.

¹² In 2005, I obtained my BA in English language and literature in the department of English language at Sulaimani University/ Iraq. After graduation, I worked with Mine Advisory Group (MAG) as English-Kurdish and Kurdish-English translator and interpreter. In the past and also in many occasions in this research, I have done Arabic-English translations.

In analysing my transcripts, I followed two main procedures: thematic analysis and illustrative method. To reduce my data, I have employed thematic analysis in analysing my data which is one of the common approaches to the analysis of qualitative data. Although themes are often fuzzy abstract, it, in one of its meanings, can be viewed as a ‘category identified by the analyst through his/her data’ (Bryman, 2012: 580). To identify the themes, I read and reread the transcripts carefully and marked up the answers of my respondents about a particular question. For example, after reading the transcripts several times, I noticed that my respondents from different ethnic groups repeatedly referred to the importance of including all the groups to govern the city, therefore I concluded that ‘inclusion’ is an important theme of my data. As Ryan and Bernard (2003) note, one of the common ways to identify themes is the topics that recur over and over again. Portions of my research themes come from my data, whereas in some other cases the themes have come from my prior theoretical understanding of the theory of consociation found in the literature (Ryan and Bernard, 2003: 88). This ‘a priori’ theme appears to be the equivalent of what Lawrence Neuman (2011) dubbed ‘illustrative method’. According to Neuman (2011: 519), illustrative method is ‘a method of qualitative data analysis that takes theoretical concepts and treats them as empty boxes to be filled with specific empirical examples and descriptions.’

In this research, the consociational theory provides the ‘empty boxes’ that I fill with empirical evidence. The four elements of consociationalism (Grand Coalition, segmental autonomy, proportionality and mutual veto), for example, can play the role of empty boxes and thus I treat each of them as an independent theme. Evidence in the boxes, as Neuman (2011: 519) notes, can ‘confirm, modify or reject the theory’. Based on this argument, I will show in the conclusion of this research how my empirical data might contribute to a possible modification in the theory of consociationalism. Finally, one of the common criticisms of qualitative data analysis, as Draper (2004:644) notes, is that ‘it is very subjective and merely reflects the researcher’s own biases and interests.’ In order to avoid this, I have tried to present the views of all the ethnic groups when discussing a specific topic or theme in my analysis. In addition, I have also tried to refer to the official documents when supporting one view against another. Now I turn to those documents and how I have used them in this research.

In terms of legal and policy documents, I mainly depend on the official documents of Iraq such as TAL and the articles of the Iraqi constitution. Moreover, the orders under Coalition Provisional authority (CPA) are also consulted. The laws by the Council of Representatives (CoR) and the orders by Council of Ministers (CoM) are also employed when necessary. Clearly, there are numerous articles and laws which are publicly available, but I choose those which are specific to Kirkuk such as Article 58 of the TAL and article 140 of the 2005 Iraqi constitution.¹³ I also consulted those articles and laws that are not specific to Kirkuk but relevant such as the electoral laws for governorate elections. These documents are credible official state documents which are mostly available in the Arabic language and sometimes English and Kurdish as well. Therefore, the translations (when English versions are not available) and interpretations of the laws and articles are mine. These documents are especially useful to illustrate the post-2003 Iraqi political system as a consociational one. They are also vitally important to understanding whether there are any legal obstructions or leeway regarding the possibility of adopting a consociational power-sharing arrangement for Kirkuk governorate in the future. In addition, they should be referred to, particularly when the interviewees repeatedly point to a particular article in the constitution or a law by the CoR. In that case, they are supportive and enhance the empirical data. In short, these documents serve as additional values in this research on some occasions, whereas they are key in some others and without them the research would be incomplete.

Finally, two general points can be drawn as a conclusion of this section. Firstly, interviewing is one of the common techniques of data collection in political science research to access the views and interpretations of issues under investigation (McEvoy, 2006: 184). In this research, conducting interviews with elites was essential because consociationalism is originally an elite-oriented theory. Moreover, this research is a normative one which tries to conclude what *should* be done to govern the city in the future. Therefore, without sampling the views of political leaders who are the most knowledgeable people about the issue of governance in Kirkuk, this study would not make sense. Secondly, the official legal documents of Iraq are of great importance both to understand the past experience of the problems of administration and governance in the city and the future prospects for solving them.

¹³ It is worth noting that the laws that are issued by the CoR are usually published by the Iraqi official Guzzetti which can be found in the following link: <http://www.moj.gov.iq/facts/>

Structure of the Thesis

The thesis is composed of six chapters and a conclusion. Chapter one provides a historical and political background to the problem of Kirkuk in order to provide context for the discussions that follow. In this chapter, I discuss the issues of oil, Arabization policy, the identity formation of the ethnic groups and future administrative status of the governorate according to the Iraqi constitution. The importance of this chapter is that without understanding the past history of Kirkuk, it is difficult, if not impossible, to appreciate the current ethnic conflict over the city. I also try to identify variables that can explain the rise and persistence of ethnic conflict in Kirkuk and then relate those variables to the prospects for consociation. The chapter is organized over three main sections. In the first section, the pre-2003 history of Kirkuk and the factor of oil and its role in rising ethnic conflict are discussed. Particular attention is given to the Arabization policy here which is closely linked to the discovery of oil in the city in 1927. The second section will discuss how the identities of the groups have been formed over time in the light of the two dominant schools of ethnicity, i.e. primordialism and constructivism. Then, the ethnic identity formation of the groups is linked to the debates over which consociational form, i.e. corporate or liberal consociation, should be adopted in Kirkuk. The post-2003 history of Kirkuk is discussed in the third section where particular attention is given to the legal documents regarding the future status of the city and governorate.

Chapter two discusses the theoretical framework that guides this work. I provide a general overview of consociational theory in four sections. In section one, I present the theory, its elements and favourable conditions. While section two states the developments that consociation has experienced over the course of nearly forty years, such as the debate over liberal v. corporate (or predetermined v. self-determined) forms of consociation and making distinctions between the two main characteristics of consociation, i.e. ‘grand coalition’ and ‘segmental autonomy’ and the two secondary ones, i.e. ‘proportionality and mutual veto’. The third and fourth sections deal with the critiques of consociational theory and the responses by its advocates. The critiques and responses are examined in detail and their relevance to the case of Kirkuk is also identified. This review of the literature of consociation is important because, on the one hand, it helps to identify the most up-to-date discussion over the theory and, on the other, it helps clarify my basic research question.

To be able to answer whether consociation can actually offer an appropriate institutional mechanism for managing conflict and building a stable government in Kirkuk, one should understand the elements of consociation first. Chapter three examines in much greater detail the first element of consociation which is grand coalition. The first section of this chapter presents an overview on the principle of grand coalition. The second section explores the concept of 'inclusion' as a crucial feature of grand coalition governments in divided societies with particular focus on the post-2003 governments formed in Kirkuk. Elite cooperation as a prerequisite for working any grand coalition arrangement and with regards to the case of Kirkuk is dealt with in the third section of this chapter. Apart from the available literature, I also use my interviews to examine the extent of inclusion and elite cooperation in Kirkuk. In short, through investigating the governments formed in the post-2003 period in Kirkuk, I aim to illustrate whether grand coalition government would be possible in Kirkuk in the future or not. Answering this question contributes, at least partly, in answering the main question of this research.

Chapter four investigates group or 'segmental autonomy'. It is essential to study segmental autonomy as one of the primary features of consociational theory for gaining a good insight on the role of consociation in maintaining political stability in Kirkuk. As an aspect of that, I will also argue for the importance of considering social capital theory in Kirkuk. I discuss how segmental autonomy can play a greater role in the stabilization of the city if it is enhanced with a civil society perspective such as that offered by social capital theory. The chapter is divided into three sections. In the first section, I provide an overview of segmental autonomy, its definition and its territorial and non-territorial forms along with presenting a number of relevant cases. The second section examines the situation of the groups and minorities in Iraq and Kirkuk with reference to the Iraqi constitution and other legal and law frameworks. The third section deals with social capital theory and focuses primarily on the importance of creating bridging social capital at the grassroots level in Kirkuk. Here, I argue that social capital theory is crucially important to be considered in Kirkuk as it can help supplement and deepen consociational theory and practice.

Chapter five deals with the principle of proportionality. The focus of this chapter is on two main points, namely: the importance of the electoral system choice for divided societies and the representation of ethnic groups in the public sector. The chapter is divided into three sections. The opening section is about proportionality's definition and the issues that

surround it. The second section compares proportional electoral system with majority electoral system. It also points out the centripetal vs consociation debate about the impact of electoral systems on producing inclusive government or a government by moderate politicians and eventually the impact of electoral systems on stability. The electoral systems used for elections held in Kirkuk up to this point are also discussed. The third section puts emphasis on the issue of ethnic representation in Kirkuk's public sector and examines whether the groups' representation in the public sector reflects their actual size on the ground.

Chapter six examines the fourth and final element of consociational theory, which is Mutual veto. Mutual veto is considered as an important protection for minorities, as grand coalition alone might not sufficiently protect the minorities. This chapter is divided into three sections. I provide an overview of mutual veto in the first section by presenting the forms and the formal and informal status of veto rights in different cases along with its advantages and main drawbacks. In the second section, I explore a number of cases with mutual veto such as Bosnia, Northern Ireland, Macedonia and Belgium. Discussing mutual veto in these cases is important to learn whether they have any lesson for Kirkuk. In the last section, I discuss the feasibility of adopting mutual veto institutions in Kirkuk in the future. This discussion is made with reference to the way veto rights have been dealt with in the post-Saddam Iraq by taking advantage of the lessons that can be learnt from the above-mentioned cases for Kirkuk. Addressing the issue of veto rights can get us a step closer in answering the main research question.

Finally, in the conclusion, I summarise the key findings and possible implications of the findings for policy makers with regard to solving the unresolved governance issue in Kirkuk. The conclusion is organized over three sections. In the first section, I outline the main findings of this research. The second section deals with the implications of those findings with respect to expanding or refining the theory of consociational power-sharing and how those findings can serve policy makers in finding a solution for governing the city. In the last section, I highlight the limitations of this research and propose some recommendations for further research. In the conclusion, I also discuss some general lessons that other divided societies might learn from Kirkuk: in short, I discuss lessons for comparative politics more generally.

Conclusion

As a polarized and a deeply divided place, Kirkuk has three main problems which derive from its vast amount of oil, its future status and its unresolved governance. These problems have effects on the future stability of Iraq as a whole. Therefore, any solution for any one of those three problems can contribute to political stability of Kirkuk and Iraq as well. The problem of governance in Kirkuk, however, is the main focus of this study, though the other two problems will also be discussed in this dissertation where appropriate. I argue for Lijphart's solution, presented at the outset of this introduction, that the only real choice for the political leaders for establishing or strengthening democratic institution in plural societies (Kirkuk in this research) is that they become consociational engineers (1977: 223). Although there is no single best or idealized model that should be applied universally, I argue that the consociation form of power-sharing is the most appropriate institutional mechanism for managing conflict, accommodating the grievances and demands of the ethnic groups and building a stable government in Kirkuk. The merits of consociation, as noted in section two, are evident when it is compared to its alternatives.

The following six chapters of this work, with the support of employing both my primary and secondary data, will contribute to answering the main question of this research which tries to examine whether consociation can be an appropriate institutional mechanism to solve the problem of governance in the city. I will start with presenting an overview of the political history of Kirkuk and its ethnic groups and ethnicity mobilization in the coming chapter. This, on the one hand, will help us to understand the nature of the Kirkuk problem in a clearer and more detailed way and, on the other hand, pave the way to engage with the research more deeply. The following chapter is vital to understand how the political situation has evolved in Kirkuk over the last century and why this research attempts to investigate whether consociational power-sharing might be able to solve one of the difficult issues of the city, namely the governance problem.

Chapter 1. The Political History of Kirkuk

The twentieth century was a turning point in the history of Middle East. In 1916, the representatives of Great Britain and France reached a secretly negotiated deal known as the Sykes-Picot agreement. According to that agreement, the territories under the rule of the Ottoman Empire were to be divided into British and French zones of influence by the end of World War I. At the time, Kirkuk was part of the Ottoman *Vilayet* (or province) of Mosul. Although the Vilayet of Mosul, according to the Sykes-Picot agreement, was firstly planned to be under French control, the extent of the region's oil potential pushed the British to reach another deal with the French to change the Sykes-Picot agreement to be able to put the Vilayet under its control later (further discussed below). The discovery of oil in 1927 marked a milestone for Kirkuk. The presence of the oil industry pushed the successive Iraqi governments to start the Arabization policy in which the Kurds and Turkmen were expelled from Kirkuk systematically in an attempt to shift the demography of the city. This policy awakened the ethnic differences in the city and thus the lines of ethnicity emerged and gradually hardened. After 2003, the Sunni-Arab domination ended, but a severe struggle started between the different ethnic groups in the city over the ownership of the city and the right to govern it. Neither the future of the city nor its governance problem have been settled yet.

This opening chapter tries to present a political history of Kirkuk which mainly starts from the twentieth century. The point here is to familiarize the reader with some crucial stages of the history of the city and the governorate. Without this, understanding the current conflicts over Kirkuk would be very difficult, if not impossible. Once we understand the current political situation, the necessity and the importance of the main question of this research, which attempts to investigate whether consociation can be a suitable solution for the problem of governance in Kirkuk, will be more apparent. This chapter is divided into three sections. In the first section, I present an overview of the pre-2003 history with a particular focus on two events: the discovery of oil and the subsequent Arabization policy in the twentieth century. In the second section, I examine how group identities of different ethnic groups have been formed in Kirkuk. Finally, I consider the post-2003 ethnopolitical situation in Kirkuk with emphasis on the nature of local governments formed in the city and how the interim and permanent constitutions of Iraq have treated the case of Kirkuk in the new stage after the fall of Saddam.

1.1 Pre-2003 History: Oil and Arabization

In this section, I present an overview of the history of Kirkuk from ancient times until the fall of Saddam's regime in 2003. The city experienced a particular economic and political shift in the twentieth century. It was in the past century when the lines of ethnicity emerged and hardened, on the one hand, and the Kurdish-Arab political and military rivalry over the city broke out, on the other. It is important to note that the roots of ethnicity are closely intertwined with the discovery of oil, as this historic event led to a major Arabization policy by different successive Iraqi governments. The Arabization policy, which resulted in the expulsion of thousands of Kurds and Turkmen from the city, awakened ethnic distinctiveness and pushed nationalist aspirations in a way that each of the ethnic groups have now their own story about their historic ownership for the city. The outcome of holding such different views sustains the different perspectives for solving the current governance and administrative problems of the city. In other words, the main explanation for the elusiveness of authentic political stability in the city is because of its past history. Therefore, before suggesting any solution for the problem of Kirkuk, particularly an institutional solution, understanding that history is essential.

Kirkuk is an ancient city with a history of 5000 years. The Kirkuk region lies between the Zagros mountains in the north-east, the Lower Zab and the Tigris rivers in the north-west and west, the Hamrin mountain range in the south-west, and the Diyala (Sirwan) river in the south-east (Nouri Talabany, 2004: 7). Put differently, Kirkuk is located in the north of Iraq, 236 kilometres (147 miles) north of Baghdad and 85 kilometres (53 miles) south of Erbil (daftlogic.com, 2015). Over the years, Kurds of the adjacent Zagros Mountains moved to Kirkuk, at the same time Oguz Turks (in the eleventh century AD) and Ottoman officials came to form Kirkuk's large Turkmen population; Arabs from the south and Christians from the earliest days of Christianity contributed to the city's ethnic mix (Romano, 2007: 266). Thus, Kirkuk, as Anderson and Stansfield (2009:9) state, is 'an ancient city in an ancient land' which gained a reputation for cultural cosmopolitanism for many centuries and has been recognized for its distinctive ethnic, linguistic, religious and

cultural diversity (Galleti, 2005: 21). In short, Kirkuk is one of the most ancient cities of the world in which four ethnic groups and communities have lived together for centuries.¹⁴

The groups of Kirkuk are divided along religious and linguistics lines. Religiously, there are Muslims and Christians and Muslims are further divided into Sunnis and Shiites. However, language has been and still is the key distinctive marker rather than religion to distinguish the groups from each other in the city. The city has been widely known for its multilingualism and each ethnic group has its own language. The Kurds, for example, speak and write in Sorani Kurdish, the Arabs speak and write in Arabic, the Turkmen speak Turkmen (a Turkish dialect) and standard modern Turkish as a written language, and the Chaldo-Assyrians speak Assyrian and sometimes write in Neo-Aramaic (The World Factbook, 2015; Bet-Shlimon, 2012: 927). Nevertheless, multilingualism and ethnic diversity did not cause ethnic tensions and violence in the city until the twentieth century and the discovery of oil (I elaborate on this point further in the next section).

Due to its geographical and strategic location, Kirkuk changed hands many times during the wars between the Sunni Ottomans and the Shiite Safavids for a long period in the seventeenth and eighteenth centuries (Galleti, 2005: 22). By the nineteenth century, Kirkuk became a very important cultural, political and economic centre for especially its Turkmen and Kurdish population (Romano, 2007: 266). Kirkuk was part of the Ottoman Empire until the end of World War 1 when the British occupied the city in 1918. As part of the 1916 Sykes-Picot Agreement, Britain had planned to completely hand over Mosul province to the French but realizing the extent of the region's oil potential as a precious resource made the British decide to take a different course of action (Heacock, 2010: 2). After that, the British reached an agreement with the French to alter the terms of the Sykes-Picot Agreement in the 1920 Sevres Treaty. This new treaty left Britain in control of the three Ottoman *vilayets* of Mosul (including Kirkuk), Baghdad and Basra which form the present-day Iraq and it put Syria and Lebanon under the mandated authority of France (Anderson and Stansfield, 2009: 22). The British created Iraq in 1920 and attached Mosul Vilayet to it in 1925.

¹⁴ The Jews were also one of the ethnic groups of Kirkuk for a long time but they emigrated to Israel in 1950–51. For further information, see:

https://www.jewishvirtuallibrary.org/jsource/judaica/ejud_0002_0012_0_11168.html

The discovery of oil in Kirkuk in 1927 marked a turning point in the history of the city. In October 1927, the Turkish Petroleum Company (TPC), which had been formed in 1911 by the Ottoman Turks, discovered oil in the Kirkuk field. The TPC was renamed the Iraq Petroleum Company (IPC) in 1929. The oil field contained reserves of nearly 16 billion barrels (Jaffe, 2007: 21). The discovery of such a vast amount of oil was the main reason for annexing Kirkuk to the Iraqi kingdom in 1925 as part of Mosul Vilayet (Galleti, 2005: 22). Moreover, this was the main reason that persuaded the British stop their support of an independent Kurdish state (Letayf, 2011: 66).¹⁵ The Kirkuk oil field in northern Iraq is the second largest oilfield after the oilfields of Basra in the south, containing 20 percent of Iraq's known oil reserves (Stansfield and Anderson, 2009: 137). Nearly a century on from the discovery of oil, the Kirkuk oil field today is estimated to be 10 billion barrels (Sevim, 2014: 14). The oil discovery gradually turned the long history of diversity and peaceful coexistence among communities into divisions, particularly after the beginning of the policy of Arabization in the city.

It was when Kirkuk became the centre of Iraq's oil industry that the first phase of its Arabization began. Arabization – a deliberate political process that sought to change non-Arab cultural identity– was undertaken by various Iraqi governments following the discovery of oil in the city until the fall of Saddam's regime in 2003. The Kurds and Turkmen of the city became the policy's main victims. By 1927, it became clear to the Iraqi government (under the British mandate 1920-1932) that Kirkuk was resting on a huge oil field, but the government was also aware that the Arabs were a minority in the city. Therefore, the obvious presence of the Kurds and Turkmen in Kirkuk pushed the government to think about consolidating its power through increasing the number of the Arabs in the governorate. The key concern for a succession of Arab regimes during the twentieth century, as Liam Anderson (2012: 113) notes, was to ensure that 'one of Iraq's major assets remained in Arab hands'. Thus, the growth of the oil industry was the main factor behind thinking about and practically starting Arabization policy to change the demography and geography of Kirkuk.

Understanding the IPC role is particularly important to gain a deeper understanding of the early phases of Arabization in Kirkuk. Due to the presence of IPC in the city, people from

¹⁵ The reasons for not establishing a Kurdish state by now is beyond the purpose of this research, but this point is important to be considered by researchers once it comes to understand the roots of the Kurdish problem in Iraq.

all over Iraq moved there for work and thus Kirkuk's population increased rapidly. For example, by the late 1940s, the company's employees and their families were estimated to total about 30,000 people which means they constituted about 30 to 40 percent of Kirkuk's population (Bet-Shlimon, 2011: 12). In other words, the population of the city was estimated to total about 25,000 in the mid- 1920s, however, that number increased to over 120,000 in the 1957 census (Bet-Shlimon, 2013: 28). The reason for this rapid population growth was that the oil companies needed experienced cadre and highly trained technicians but few among the Kurds could meet these requirements. This was a suitable excuse for the government to bring people from other parts of Iraq to Kirkuk. New neighbourhoods were constructed to support the new labourers and large numbers of Arabs were settled in and around Kirkuk which led to a widespread social change in the city (Anderson and Stanfield, 2009: 32-34). Thus, the massive oil reserves and the presence of IPC in the city were the beginning of the afore-mentioned Arabization policy which continued for more than seventy years.

The Arabization policy gradually intensified, particularly after the 1958 coup d'état which overthrew the royal rule in Iraq. The first Kurdish war against the new republic of Iraq started in 1961. The 1957 census (see table 1 below) already showed the numerical dominance of Kurds in Kirkuk which became an 'important strategic threat' to the government (Anderson, 2012: 113). In 1963, the Kurdistan Democratic Party (KDP) led by Mulla Mustafa, demanded a formal recognition of Kurdish autonomy within the boundary of the old Vilayet of Mosul including Kirkuk oil fields with the exception of the city of Mosul itself (McDowall, 2004: 314). The KDP's demand was rejected and Kurdish revolt resumed. After that, therefore, the Iraqi government intensified its efforts to weaken Kurdish hold and influence in the governorate of Kirkuk to ensure that the areas around the pipelines running from Kirkuk to the south west were protected. Therefore, the Kurds living around the pipelines were expelled and replaced with Arabs. During 1963-1968, further Arabization strategies were implemented to dilute the percentage of Kurds. For example, the predominant Arab district of Hawija (its population was 27,705 in the 1957 census, see Talabany, 2004) was incorporated into the Kirkuk governorate during that period.

Furthermore, Arabization policy took a more organized and strategic shape in the 1960s that primarily targeted the Kurds. Arabization became more intense after 1963 when the second coup occurred in Iraq and Abd al Karim Qasim, the first Iraqi republic president,

was overthrown by the Arab Nasserists and Baathists. The Nasserist Abd al Salam Arif became president and the Baathist Ahmad Hasan al Bakr became prime minister. According to Nouri Talabany (2004: 39-41), during that period, some Arabization measures were taken by the new government in Kirkuk governorate, including the destruction of a number of Kurdish villages near the oil fields and resettling them with Arab tribes; some Kurdish neighbourhoods in the city were demolished which obliged some inhabitants to leave the city for ever; many elementary and secondary schoolteachers were transferred to southern and central Iraq involuntarily; large numbers of the oil company's Kurdish workers were dismissed from their jobs and replaced with inexperienced Arabs; names of schools and streets of Kirkuk were changed into Arabic and the province became largely militarized. Even the name of the city was changed from Kirkuk into 'At-Ta'mim'¹⁶. Moreover, the usage of Arabic language was rising as a result of 'Baghdad's effort to promote Arabic language primary and secondary education in predominantly non-Arab areas' (Bet-Shlimon, 2012: 921). However, the next phase of Arabization became much more intense.

The Ba'ath party consolidated their power in 1968 through a coup by excluding non-Baathists from government. In 1970, the Kurds and the new Ba'ath government reached a deal which was called '11 March agreement' that was supposed to grant the Kurds 'extensive powers of self-government and cultural autonomy in majority Kurdish areas' (Anderson, 2012: 113). The agreement was supposed to culminate either in a plebiscite or a census to determine the boundaries of the Kurdish autonomous area. However, neither plebiscite nor census was conducted. Mulla Mustafa accused the government of resettling Arabs in Kirkuk and other disputed territories such as Khanaqin and Sinjar and declared that he 'would not accept the census results if they indicated an Arab majority' (McDowall, 2004: 329). In other words, the fate of Kirkuk, mainly because of its oil resources which accounted for 70 per cent of the state's total oil output at the time, was seen by both sides as the litmus test of the '11 March agreement' (McDowall, 2004: 335). Thus, the 1970 agreement broke down over boundary issues in general and Kirkuk in particular and war resumed between the Kurds and Baathists. The Kurds were defeated militarily mainly because of the 'Algiers agreement' in March 1975 between Iraq and Iran in which Iran withdrew its support to the Kurds and caused the collapse of their rebellion in Iraq. After

¹⁶ From 1976 to 2006, Kirkuk was named 'At-Ta'mim' which means 'nationalization' and refers to the national ownership of the regional natural gas and oil reserves.

that, the Baathists intensified and extended the Arabization policy with even greater vigour to ensure an Arab majority in Kirkuk.

The Ba'ath government embarked upon a deeper Arabization of the region in the 1970s. Thousands of Kurdish and Turkmen families were expelled from Kirkuk into the southern deserts. In this period, normal business was severely restricted for the Kirkuki Kurds. Kurds were not allowed to buy property under any circumstance and they could sell their property only to Arabs (Talabany, 1999: 35). Transferring the governorate's administrative offices from the Kurdish to the Arabized section of the city can be seen as a clear indicator and evidence of political marginalization of the Kurds. In addition, to induce the Kurdish population to leave Kirkuk for towns in the south or centre of Iraq, a financial package was offered to anyone willing to do so. (Anderson and Stansfield, 2009: 38). On the other hand, 10,000 dinars and a piece of land was offered to any Arab family willing to move to Kirkuk from southern Iraq (Anderson, 2013: 13). Thus, thousands of Arabs were induced and moved to Kirkuk. Shorsh Rasool (2003: 46) notes that after the collapse of the Kurdish movement in 1975, the government implemented all types of Arabization. For example, modern villages were built around Kirkuk and Arabs were brought from the middle and south of Iraq to settle there. Moreover, the regime distributed 'ethnic identity correction' forms within Kirkuk city and governorate to Kurds, Turkmens and Assyrians that required them to register themselves as Arabs (Human Rights Watch, 2004: 15).

It was during this phase of Arabization when the Ba'ath regime started the systematic redrawing of Kirkuk's boundaries in an obvious effort to build an Arab majority. According to Republican Decree 608 of December 1975, the predominantly Kurdish and highly populated districts of Chamchamal (50,000), Kifri (50,000), Kalar (30,000) Tuz Khurmatu (80,000) were detached from Kirkuk and allocated Sulaymaniya, Diwaniya or the new province of Salah al Din. Other measures included 'financial rewards to Arabs who took Kurdish wives, a deliberate encouragement of ethnic assimilation' (McDowall, 2004: 340). In 1987, Arabization was given further impetus with the appointment of Ali Hassan Al-Majid as secretary general of the Ba'ath Party's Northern bureau with its headquarters in Kirkuk.¹⁷ Majid embarked a genocidal campaign of Anfal against the Kurds. According to Human Rights Watch (1993), during the Anfal campaign which was carried out in eight

¹⁷ Al-Majid was cousin of Saddam Hussein and known as 'Chemical Ali' due to using chemical weapons against Kurds in the Anfal campaigns of 1980s. al-Majid was sentenced to death and executed by hanging on 25 January 2010.

phases, the Iraqi government massacred 50,000 to 100,000 Kurdish civilians including women and children. The third phase of Anfal (7-20 April 1988) targeted Garmian areas in Kirkuk governorate which is considered the most violent phase of the Anfal campaign. The purpose of the third phase of Anfal was to demolish all Kurdish villages in Kirkuk governorate and get rid of its inhabitants to complete the process of Arabization (Qadir, 2006: 124-125). Arabization policy continued through the 1990s until the fall of Ba'ath party in 2003. According to Human Rights Watch (2003), between 1991 and 2003, between 120,000 and 200,000 non-Arabs were displaced from Kirkuk and its environs. Most of the displaced people were living under harsh conditions in the camps of the Kurdistan region.

The overall effects of Arabization were stunning. It resulted in an ethnic composition change in Kirkuk and reduced its geographical size from 20,000 km² in the 1930s, to 9,679 km² today, roughly half its previous size (Anderson, 2009: 30). By 1987, Kirkuk had become an Arab-majority governorate (Natali, 2008: 435). Both the demography and geography of the Kirkuk governorate were fundamentally transformed. The purpose of Arabization process, as noted earlier, was to dilute the Kurds and Turkmens number in favour of the Arabs. The following table provides data from three censuses conducted in Iraq since 1957 and illustrates the impact of the Baath regime's constant effort to change Kirkuk's demographic identity.

Table 1.1 Comparison of 1957, 1977, and 1997 censuses.

Ethnic groups	1957 Census	Percentage	1977 Census	Percentage	1997 Census	Percentage
Kurds	187,593	48	184,875	38	155,861	21
Arabs	109,620	28	218,755	45	544,596	72
Turkmens	83,371	21	80,347	17	50,099	7
Total	388,829		483,977		752,745	

Source: Anderson, L. and Stansfield, G. (2009) *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, p. 43. Anderson and Stansfield have adapted these figures from the 1957, 1977 and 1997 censuses in Iraq.

Another effect of Arabization is that it played a negative role in hardening ethnic lines in the city. Now, each of the three major ethnic groups of Kirkuk (Kurds, Arabs and Turkmen) have their own ethnic narratives to claim their historic settlement in the city to prove that the city is historically their own and thus justify their present ownership claim for it. The Kurdish narrative emphasizes that Kirkuk is both historically and geographically a part of Kurdistan. In their argument to claim the city, the Kurds depend on the writings of the Ottoman encyclopaedist Shamsadin Sami on the ethnic composition of Kirkuk in the Ottoman era. Sami writes ‘three quarters of the inhabitants of Kirkuk are Kurds and the rest are Turkmens, Arabs, and others. Seven hundred and sixty Jews and 460 Chaldeans also reside in the city’ (Talabany, 2007: 1). Thus, the majority of Kurds consider Kirkuk to be a historical and geographical part of Kurdish region. They argue that there is no visible geographic demarcation between Kirkuk and the remaining areas of Kurdistan (Hanish, 2010: 20).

The Turkmens as the third largest ethnic group in Iraq, after Arabs and Kurds, also argue that Kirkuk is historically a Turkmen city. They argue that they were important leaders in Iraqi history and they played an important role in the Ottoman Empire. To prove that, they argue that they are populated in the centre of the province, while the Kurds are living in the north and east and the Arabs are living mainly in the south and west (Özmen, 2011). The Turkomans consider Kirkuk to be their cultural centre and ancestral capital and argue that the city was a majority-Turkmen city even in the first half of the twentieth century (Güçlü: 2007:3). In their argument, the Turkmens mainly depend on the Palestinian historian argument Hana Batatu (1978: 913) when he notes that ‘Kirkuk had been Turkish through and through in the not too distant past,’ but the Kurds gradually and by degrees moved into the city from the surrounding villages. By 1959, Batatu (1978: 913) notes that the Kurds ‘had swollen to more than one-third of the population, and the Turkmen had declined to just over half.’

The Arabs, on the other hand, assert that Kirkuk is an Iraqi city with an Iraqi identity. The Arabs of Kirkuk are two types. There are Wafideen Arabs (or newcomers), mostly poor Shia who resettled in Kirkuk under Arabization policy, and Sunni nomadic families who have been in the city for centuries. The Arabs argue that the city has a long history of being Iraqi, with all ethnic groups living together peacefully prior to the discovery of oil and founding of the Iraqi state. According to Anderson and Stansfield (2009: 80), the Arabs

have three reasons for wanting to maintain Kirkuk as an Arab governorate. Firstly, like the Kurds and the Turkmens, they have had a long history and presence in Kirkuk. Secondly, they, like the Turkmens, believe that the Kurds are exaggerating the number of displaced Kirkuki Kurds and overstating their suffering. And thirdly, Arab Iraqi nationalists see a strong, autonomous Kurdistan with a Kurdish-controlled Kirkuk as a threat to Iraqi integrity and statehood. Thus, the three significant groups of Kirkuk retain different narratives. However, these narratives are relatively new which mainly date back to the early twentieth century, particularly after the discovery of oil and the hardening of the lines of ethnic identity in the city.

To sum up, three general conclusions can be drawn from the above discussions. First, the problem of Kirkuk dates back to the early years of the twentieth century, more specifically to the discovery of oil in the city. As Hanauer and Miller (2012: 7-8) put it, ‘the conflict between Arabs, Kurds, and Turkomen in Kirkuk does not stem from “ancient hatreds” but is rather a manifestation of competition for political control, resources, and territory over the past 100 years.’ Second, oil has been a curse not a blessing for Kirkuk which led to the coercive ethnic expulsion, emerging ethnicity lines and severing ethnic tensions and violence in the city. Third, in the absence of power-sharing in the divided societies the most heinous crimes are likely such as genocide, forced expulsion and assimilation. Both the Anfal campaigns and the Arabization policy can be seen as the two extreme forms of eliminating ethnic difference exercised through the coercive domination of the Sunni-Arabs, represented in successive Iraqi governments. Thus, the past injustices and the current grievances of the ethnic groups of Kirkuk are closely related. In the following section, I specifically examine the group identities and how, in the light of theories of ethnicity, they have been formed.

1.2 Group Identities in Kirkuk

Inter-ethnic conflict is hardly unique to Kirkuk in particular or Iraq in general. In the last two decades or so, ethnic division has torn Yugoslavia and Soviet Union apart and ethnic strife continues in many other divided places such as Lebanon, Bosnia, Northern Ireland, Burundi, Colombia etc. As Philip Yang (2000: 41) puts it ‘throughout the world, there is no sign that ethnicity is vanishing. In reality, the importance of ethnicity is even on the rise.’ Ethnic divisions have been the defining feature of the current political landscape in Kirkuk. In this section, I discuss ethnicity and the formation of group identities in the city

in the light of the two predominating theories of ethnicity, i.e. primordialism and constructivism. This is vitally important, because this has much to do with the question of choosing an appropriate institutional design to solve the problem of governance in the future. I also highlight the most crucial events in the city during the twentieth century that played important roles in emerging, hardening and politicizing ethnic identities. However, before discussing how ethnic identities have been formed in the city, it is vital to firstly define ethnicity.

There is no clear-cut definition of the term ethnicity. For the purpose of this research, though, I use Donald Horowitz's well-known definition which I think best defines the ethnic groups of Kirkuk. According to Horowitz (1985: 53) 'ethnicity' is a concept that 'easily embraces groups differentiated by color, language, and religion; it covers "tribes," "races," "nationalities," and castes.' (Horowitz 1985, 53). As noted in the previous section, language is the main distinctive marker of ethnicity in Kirkuk. As Liam Anderson (2012: 2) notes, divisions of ethnicity tend to be 'deeper and more permanent than other social cleavages.' This is because 'unlike other divisions, of social class, for example, individuals cannot easily change, or modify their ethnic attributes.' Arguably, the theories of consociationalism and centripetalism, for example, advance their descriptive and then prescriptive solutions to the ethnically divided societies based on these assumptions about the nature of ethnic divisions (more on which later).

To conceptualize and understand ethnicity or ethnic identity, scholars have developed two main theories, i.e. primordialism and constructivism. Constructivism asserts that ethnicity is socially constructed and it is commonplace among social scientists. Kanchan Chandra (2001: 8) claims that 'it is now virtually impossible to find a social scientist who openly defends a primordialist position.' However, the primordialist view cannot be overlooked so easily, mainly because ethnic groups often see or perceive their identity in primordial terms and it is still common outside academia. I generally take the constructivism side for, as we will now see, it is more convincing at explaining the existence of ethnic groups. However, I also think that primordialism is useful in the case of Kirkuk at least to understand how people themselves perceive their ethnicity (whether or not they are ontologically justified in doing so). In other words, in the case of Kirkuk, constructivism is generally more useful in terms of explaining the nature of ethnicity and ethnic groups in the city, while primordialism is also relevant when it comes to explaining and understanding the

deep implications of ethnic narratives on the thinking and behaviour of the members of ethnic groups.

The essence of the primordialism vs constructivism debate over the nature of ethnicity lies in the question whether ethnicity is something that is inherited or something that is constructed. In academic literature, the primordialist tradition begins with Edward Shils (1957) and Clifford Geertz (1973). This school claims that among the members of an ethnic group certain kinds of attachments are felt towards each other. For example, in explaining primordialism, Geertz (1996: 43-44) adds primary kinship groups that rallied around (1) assumed blood ties, (2) race, (3) language (4) region, (5) religion and (custom). Thus, according to Eller and Coughlan (1996: 45), the concept of primordialism as elaborated by Geertz seems to contain three distinct ideas. First, primordial identities or attachments are 'given'. In other words, primordial identities are natural rather than sociological. Second, primordial ties are 'ineffable' which means that if an individual is a member of a group, he or she necessarily feels certain attachment to that group and its practices. Finally, primordialism is essentially a question of emotion or affect, they call it *affectivity*. Thus, according to this view, the concept has most often to do with feelings as Geertz speaks of primordial 'attachments', 'sentiments', and 'bonds'. However, it must be noted that ethnicity is not merely a matter of what people feel, rather it is also taken as a biological or psychological given.

The essence of the arguments of the primordialism school revolve around one's ancestors and the rigidity of ethnic boundaries. For example, they argue that ethnicity is an ascribed identity which is inherited from one's ancestor. In this sense, if my ancestors are Kurdish, then I am also Kurdish because I inherit physical and cultural characteristics from my forebears. Ethnicity, thus, is a very deeply rooted to one's bloodline, i.e. common ancestry determines ethnicity. They also see ethnic boundaries as fixed or immutable. For example, if I were born Kurdish, I would be forever Kurdish, and I cannot change my membership to another group. So, according to this view, every single individual belongs to one and only one ethnic group, and that group membership remains fixed over a lifetime.

The primordialist perspective was the dominant way of thinking until the 1970s, but since then the constructivist school has been in the ascendancy. Constructivism, as referred to by Ian Lustick (2001:22), often described with terms such as 'instrumentalism,' 'hegemonism,' 'circumstantialism,' 'perennialism,' or 'strategic manipulation.' According

to Kanchan Chandra (2001: 7), the constructivists, with all of these types and varieties, agree on two basic propositions: 'first, individuals have multiple identities, not single, ethnic identities; and second, the identity with which they identify varies depending upon some specified causal variable.' Yang (2000: 43) also notes that constructivists have developed three major arguments. First, ethnicity is socially constructed, something that is created. The name of the 'constructivist' school springs from the emphasis of this school on the social construction of ethnicity. Second, ethnicity as an extension of constructed identity is dynamic, i.e. ethnic boundaries are changeable and fluid. Finally, ethnic identification or affiliation is constructed or determined by society. Ethnicity is a reaction to the changing social environment. In other words, this school maintains that political identities are not stamped 'primordially' on groups or individuals within groups. Rather, identities are malleable and can be influenced by various social, political and economic factors.

It is noteworthy that the question of institutional designs is greatly affected by the primordialist and constructivist views of ethnicity and ethnic conflict. If groups have 'an identifiable and immutable essence,' then 'the rigid institutionalisation of competing ethnic identities' may be the only way of resolving conflict (O'Flynn, 2006: 39). In his early work on consociation until the mid-1970s, Lijphart took the primordial view, but from about 1980 on, he reassessed his theory and shifted his interpretation of ethnic identity from primordialism to constructivism (Lijphart, 2001). This shift influenced his thinking on questions of institutional design for divided societies. Now, Lijphart (1995) suggests an alternative form of consociational democracy, in which individuals and groups would be free to 'self-determine' rather than 'pre-determine', that is, to freely organize themselves into political groupings rather than treating political groupings as fixed or preordained. Preferring 'self-determination' to 'pre-determination' is to prefer 'liberal' consociation to 'corporate' consociation once it comes to institutional design. Liberal consociation rewards 'whatever salient political identities emerge in democratic elections' whether these are 'ethnic, religious, linguistic, or based on other criteria' (O'Leary, 2013: 27-28). Corporate consociational, on the other hand 'accommodates groups according to ascriptive criteria, such as ethnicity or religion, on the assumption that group identities are fixed, and that groups are both internally homogeneous and externally bounded' (McGarry and O'Leary, 2007: 675). I will discuss this distinction further in chapter two. As Lijphart (1995: 284)

argues, ‘unless there are compelling reasons to opt for pre-determination, the presumption should be in favor of self-determination.’

Consociationalists argue that group identities tend to be durable once created. This singles them out from those constructivists who contend that ‘individuals can change identities relatively easily, even once identities appear “crystallized” in society’ (Hale, 2004: 462). O’Leary (2013: 19), for example, argues that ‘group identities are often resilient, durable, and hard, rather than malleable, fluid, soft, or quickly transformable, as suggested by self-styled “social constructionists”’.¹⁸ Once collective identities are formed based on ‘ethnicity, nationality, language and religion,’ they generally tend to be fairly durable (O’Leary, 2005: 8). O’Leary (2013: 19) criticizes social constructionists for having unconscious ‘assimilationist or integrationist biases.’ He concludes that where the divisions are enduring, ‘attempting either assimilation or integration is unjust, and unfeasible, unless much blood is shed’ (O’Leary, 2013: 19). For consociationalists, ethnic identities are unlike other identities such as social class, for example, that can be changed easily once created. Therefore, they privilege ethnic identities over other identities by designing institutional mechanisms to manage them. Keeping this theoretical background in mind, now it is important to understand how the identities of ethnic groups in Kirkuk have emerged.

As mentioned above, my view is that the constructivism rather than primordialism argument can better explain the creation of ethnic identities of the groups. However, the primordialist explanation has merits, especially once it comes to understanding how the members of an ethnic group think about their identity in present day Kirkuk. Kirkuk was famous for its diversity and the peaceful coexistence among its communities for centuries until the early years of the twentieth century. As already explained, the emergence of strong ethnic lines generally dates back to the 1920s when oil was discovered in the city. The lines of ethnicity hardened further as a result of the Arabization policy. According to Arbella Bet-Shlimon (2012), a historian of the modern Middle East who pays particular attention to the history of Kirkuk, group identities did not exist in *hardened* forms among Kirkukis in the early twentieth century. However, during the early to mid-twentieth-century, ethnic group identities crystallized in the city mainly because of oil and Baghdad’s policies. In other words, she argues that at the time of the formation of the Iraqi state in 1920 ‘group

¹⁸ O’Leary views identities as ‘socially constructed’, but he also thinks they can be extremely durable once constructed. However, that doesn’t commit him to primordialism, even if some people read him in that way.

identities were fluid and local politics did not align clearly with ethnicities or other self-identities' (Bet-Shlimon, 2012a: iii). Ethnic identities, as Esman (2004: 6) notes, does not imply 'ethnic conflict' and ethnic conflict 'is not necessarily violent.' In Kirkuk, ethnic groups and identities have been existent for a long time but ethnic conflict dates back to the 1920s and the first violent ethnic conflict occurred in 1959, as I will discuss later.

As mentioned earlier, constructivism better explains the creation of ethnic identities of the groups in Kirkuk than primordialism. Multilingualism and intermarriage were so prevalent in Kirkuk that it made identifying the ethnic identity of the people very difficult in the early years of the twentieth century. In 1921, the British High Commissioner for Iraq as cited in Bet-Shlimon (2012: 916), for example, acknowledged the difficulty of separating Kurds, Turkmens and Arabs from each other as the lines between them were 'very blurred'. This difficulty was later emphasized by the Mosul Commission of the League of Nations that was tasked to settle the future status of Mosul Vilayet (whether it joins the new Iraqi state or the republic of Turkey). In order to understand public opinion about the future fate of their Vilayet, the commission tried to identify people in terms of 'race' but admitted in their report that multilingualism and intermarriage rendered such a simplified approach impossible (Bet-Shlimon, 2012: 918). In short, after the creation of Iraq and then attaching the predominantly Kurdish Mosul Villayet to the new country in 1925, the lines of ethnicity gradually emerged.

The initial signs of ethnicity emerged when the Kurds and Turkmen declined to vote for Amir Faysal who was chosen by the Britain to be the Monarch of Iraq. In 1921, the vast majority of the voting population of Iraq voted for Amir Faysal as the first King of Iraq after the defeat of the Ottoman Empire in World War 1. The referendum results showed that 96 per cent in favor of accepting Amir Faysal, the remaining 4 Per cent that rejected voting in favor of Amir Faysal was 'coming mainly from the Turcoman and Kurdish communities of Kirkuk' (Bell, 1927: 432). The Arabs and Christians supported the new Iraqi state controlled by Arabs in Baghdad, however, the Kurds and Turkmens were against the new country which was supported by Britain. The Turkmens had no affiliation for the Arab government in Baghdad but rather wanted to be part of the newly-formed republic of Turkey (Heacock, 2010: 3). The Kurds, on the other hand, were striving for self-determination and independence. Both Kurds and Turkmen were concerned about their future treatment by the government controlled by the Arabs in Bagdad. As noted in the

previous section, after the discovery of oil and the initial stages of Arabization, the grievances of the Kurds began. As William Zartman (1995: 5) points out, ethnic conflicts ‘begin with the inability or unwillingness of the government to handle grievances to the satisfaction of the aggrieved; that is, they begin with the breakdown of normal politics.’ That is exactly what happened with regards to Baghdad’s response to Kurdish demands and grievances in the Kurdish areas, especially in Kirkuk. Baghdad became increasingly centralized and Kurdish demands for better representation in local government were largely neglected, while many Turkmen civil servants were appointed in Kirkuk at that initial stage after the creation of Iraq (Bet-Shlimon, 2012). Thus, Kurdish-Arab, on one hand, and Kurdish-Turkmen conflicts on the other hand gradually but steadily arose. In 1959, the Kurdish-Turkmen ethnic conflict turned into violent ethnic conflict. The point here is that, while the different ethnicities in Kirkuk are best explained using a constructivist model, political changes on the ground led to a hardening of those identities.

To understand how the violent conflict between the Kurds and the Turkmen erupted in 1959, it is important to give a brief background of the change to the political system in the country. For example, the monarchy was removed in a military coup by Brigadier Abd al-Karim Qasim on July 14, 1958 and he declared the establishment of the Republic of Iraq. In the early days of his rule, Qasim built good relations with the Iraqi Communist Party (ICP), as he was aware that the ICP had a deep-rooted base in Iraq which was beneficial for his unstable rule.¹⁹ As the affiliates of the ICP were mainly Kurds in Kirkuk, the Kurds benefitted from Qasim’s coup as they gained the legal and political positions in the city and took most of the senior positions such as the chief of the municipality, the president of the court and military positions which increased Kurdish influence in the city (Batatu, 1978: 913-14). The Turkmen who dominated the economic and political situation of the city while the monarchy was in power, perceived this new change against their interests. Therefore, the political situation of the city was tense and the atmosphere was highly-charged between the Kurds and Turkmen. The tensions and intercommunal violence erupted between the Kurds and Turkmen in July 1959. To celebrate the first anniversary of the 1958 coup (later known as the July 14, 1958 revolution), the ICP (predominantly Kurdish) decided to organize a demonstration in Kirkuk on July 14, 1959. The Turkmen also planned to stage their own demonstration, apparently in response to the Kurdish one, for the same day (Bet-

¹⁹ See, e.g., Marion Farouk-Sluglett and Peter Sluglett, *Iraq Since 1958: From revolution to dictatorship* (London: I.B. Tauris, 1990), 47-66; Tripp, *A History of Iraq*, 143-57.

Shlimon, 2012: 926). The two demonstrations passed by each other in the center of the city and a shot was fired near a Turkmen coffee shop which provoked the Kurdish demonstrators. The Kurdish demonstrators, who were joined by the Kurdish soldiers of an army division in Kirkuk, attacked the coffee shop and attacks on other Turkmen shops and houses continued for two days. These events explain how ethnicity has been transformed into ethnic conflict in the city the mid of the twentieth century.

After the arrival of military reinforcements from Baghdad, order was restored to the city on 17 July 1959. As a result of that tragic event, 32 people were killed (28 of them were Turkmen), 130 were injured and 120 houses, coffee houses and stores were destroyed or plundered (Batatu, 1978: 913-14). The government executed 28 people for their involvement in that event, 24 of them were Kurds and 4 were Turkmen (Anderson and Stansfield, 2009: 34). The event is known among Turkmen as the 'Turkmen massacre' (Al-hurmzi, 2014). In the aftermath of the event, as Anderson and Stansfield (2009: 34) note, secret organizations were formed to assassinate the most prominent Kurds in an attempt to push them out of the city. The Kurds, this time, thought that they were persecuted by both the government and the Turkmen. This event was a landmark in the history of Kirkuk as it resulted in communal violence for the first time and set the scene for polarizing the city with a mobilization of people around ethnic identities. This was the first violent ethnic conflict between the two largest groups in the city over issues of power and resources.

These events show that the politicization of ethnicity or ethnic identity of the groups is relatively new in Kirkuk. In other words, ethnic identity of the groups in Kirkuk has been constructed rather than innate. The British colonialism²⁰, the discovery of oil and Baghdad policy towards non-Arabs in the city played roles in mobilizing people around ethnicity. As Ashley Heacock (2010: 7) notes, Kurdish identity is currently shaped by two primary factors: lost autonomy and past grievances, while Turkmen identity is shaped by unacknowledged identity and past grievances. The Arab identity, on the other hand, is shaped by loyalty to the new Iraq which was created from the remnants of the Ottoman Empire by the British in 1920. The twentieth century violence by successive Iraqi regimes under Arabization policy had a powerful role in the politicization of ethnicity. Such violence could be identified as an ethnic violence for it was motivated by animosity towards

²⁰ The British colonial rule in Iraq (1920-1932) prepared the ground for ethnic politics in Kirkuk by attaching Mosul Vilayet into the new Iraq and ignoring the demands of Kurds and Turkmen.

the Kurds and Turkmen and the victims were targeted due to their ethnic identity. However, if we accept that ethnic identity is socially constructed in the city, why and for what reason? The instrumentalist approach can provide a good answer to explain the politicization of ethnicity for political and economic benefits. This approach tries to explain how identity is put to use in the service of political goals. The instrumentalists assert the significance of ethnic affiliation and ethnicity in social, economic and political competition with the focus on the role of elites. In their view, ethnicity is a resource used by elites to regulate group membership and boundaries, define group identity, and make claims and extract (state) resources (Brown and Langer, 2010: 413). In Kirkuk, as noted earlier, ethnic distinctions were not politicized prior to the formation of the Iraqi state. This means that politicizing ethnicity is relatively new in the city.

It is important to note that people become receptive to political mobilization along ethnic or religious lines when they find themselves disadvantaged because of their language, religion or race. It was in the twentieth century that the people of Kirkuk, especially the Kurds and Turkmen, perceived that they were disadvantaged because of their language difference. As Kaufmann (1996: 154) points out, 'even if constructivists are right that the ancient past does not matter, recent history does.' He (1996: 154) argues that 'intense violence creates personal experiences of fear, misery, and loss which lock people into their group identity and their enemy relationship with the other group.' In Kirkuk, the Arabization policy and the 1959 ethnic violence pushed people to gather around their ethnic group identity. In such a situation, it would be easy for elites to manipulate ethnicity for political ends. One reason is that members of ethnic groups have a psychological bias that leads them to 'discount or ignore their own leader's involvement in producing ethnic conflict so that the other takes all the blame' (Fearon and Laitin, 2000: 847). Taking more than seventy years of Arabization into account, it is not difficult to understand the psychological bias of Kurdish and Turkmen people towards the policy of their political leaders. The Sunni Arabs, on the other hand, see themselves as the main victims in the post-2003 Iraq. Thus, the perceptions of people towards an outgroup can easily be manipulated by unscrupulous elites in the current political situation both in Iraq and Kirkuk.

To conclude, ethnic lines have hardened in the city and, now, each ethnic group holds a strong ethnic identity. Therefore, the key issue is not what political scientists and academics think about the origins and foundation of ethnicity and identity in Kirkuk. What matters is

how the members of ethnic groups perceive their identity in practice and how they think about the future of their city and its unresolved governance status. In other words, although constructivism can better help us to explain how ethnicity has been created over time in Kirkuk, the current perceptions of the members of the different groups are the vital element for consideration by the constitutional designers of Kirkuk future. Each ethnic group, as noted in the first section, has its own ethnic narrative that is used to legitimize its right in the future and people tend to vote along ethnic lines and believe in those narratives.²¹ In such a situation, therefore, dealing with how people actually think about their ethnic identity is more important than the arguments by academics who generally discredit primordialism (see, O'Flynn, 2006: 41; Anderson and Stansfield, 2009: 74). This has become more apparent in the post-2003 period in Kirkuk to which I now turn.

1.3 Post-2003 Kirkuk

After 2003, a new political situation started in Kirkuk. On March 1, 2003, the National Parliament of Turkey decided not to allow the U.S. 4th Division to pass to northern Iraq through Turkey to open a second front in the north. This was a good opportunity for the Iraqi Kurds to prove their loyalty to the U.S. (Peltier, 2005: 24). Kirkuk fell on 10 April 2003 and 10,000 Peshmarga entered the city. As Anderson and Stansfield (2009: 91-96) note, due to the insufficient numbers of U.S. forces on the northern front and their inability to maintain order in Kirkuk, the Kurds emerged as the leaders of the city. Their reliable security forces and their past experience in running governments played important roles in consolidating their political and military power in the city. As noted earlier, the population of Kirkuk changed substantially as a result of Arabization policy by various Iraqi regimes, especially the Ba'ath party. Therefore, after the fall of Ba'ath party, tens of thousands of displaced Kurds and Turkmens returned to Kirkuk and other Arabized areas. The Kurds have retained control over most of the important political and security posts of the city since then.

²¹ For example, see: Yücel Güçlü, 'Who Owns Kirkuk? The Turkoman Case,' *The Middle East Quarterly* (Winter 2007), <http://www.meforum.org/article/1074> (accessed 15 February, 2012); Nouri Talabany, 'Who Owns Kirkuk? The Kurdish Case,' *The Middle East Quarterly* (Winter 2007), <http://www.meforum.org/1075/who-owns-kirkuk-the-kurdish-case> (accessed 15 February, 2012); Anderson and Stansfield (2009) *Crisis in Kirkuk: The ethnopolitics of conflict and compromise*. Philadelphia: University of Pennsylvania Press, pp. 56-87.

Since 2003, three provincial councils have been formed in the city which have been inclusionary. The first government lasted nearly six months between June 2003 and December 2003. During this period, the U.S military appointed 30 members *indirectly* for the municipal council to govern Kirkuk (Anderson, 2009: 13). That council was made up of five blocks (Kurds, Arabs, Turkmen, Christians, and independents), and each consisted of 6 members (Hanish, 2010: 18). Of 6 seats for the independent block, the Kurds held five of them. The second government was expanded and continued from January 2004 until January 2005. That was called a governorate council which consisted of 40 members from all of the segments of the governorate. Considering a sort of equal power-sharing for that time was understandable, particularly as there was not any reliable census available and elections were still to be held. However, the equation changed thereafter. The third government started from January 2005 in which 41 members were elected in a public election for the governorate council and they have held office since then. In other words, the third government which has been in place since 2005 was formed on the basis of provincial elections outcome. The seats were taken by the political parties on the basis of the election results. There was not a previous agreement to distribute the provincial council seats among Kurds, Arabs, Turkmen and Christians on a fixed formula basis. Thus, the system has been inclusive in the sense that none of the four main communities has ever totally been excluded from power in the city since 2003. Moreover, as I will clarify in chapter three, the first two governments were somewhat similar to what is called ‘corporate consociation’ while the third one moved towards a more liberal one (consociation has not been adopted formally yet, though).

After 2003 conflict over claimed population sizes began intensively. Each group was intentionally overestimating its size and claiming that it was the majority in the city. However, the population of Kirkuk and the relative size of its ethnic groups at present can only be estimated. It is not easy to cite exactly the ethnic composition of the present day Kirkuk governorate since no reliable figures are available after the 1957 census which is considered the least politicised census and its validity is not seriously disputed by the three main groups. It is generally accepted, however, that the Kurds comprise either the majority or the plurality of the population (Anderson, 2013). The International Crisis Group (2006: 2) estimates the total population of Kirkuk close to 1.5 million in the governorate in which 800,000 of them live inside the city. Stefan Wolff (2010: 1369) notes that the Kurds are estimated at just over half of the UN’s figure, while Turkmen and Arabs constitute roughly

12 per cent and 35 per cent of the population respectively; other communities are around 1 per cent. For Rydgren and Sofi (2011: 29), however, although the Kurds are currently the largest group in Kirkuk, with approximately 40–45 percent of the population, they do not constitute a majority. According to their estimate, Arabs make up approximately 30–35 percent of the population, Turkmens 20–25 percent and 1–2 percent are Christians. One indication for confirming Kurdish plurality, at least, are the results of the successive elections results since 2005 in the governorate in which the Kurds have been the major winner. For example, the Kurds constitute nearly two thirds of the KPC and out of the 13 seats assigned for Kirkuk governorate in the Council of Representatives (CoR), the Kurds won 8 seats, Arabs have two seats and the Turkmen also have two seats while the Christians have been given one quota seat by law. Thus, although there is no official and reliable census at the moment, election results indicate that the Kurds are larger than other groups.

In the new era, Baghdad and the Kurdistan Regional Government (KRG) reached power-sharing agreements at the level of the state, but they have been unable to reach a similar mutual understanding over the status of Kirkuk. The main dispute over Kirkuk between the three main ethnic groups is in determining who should administer the governorate (Natali, 2008: 433). After the collapse of Saddam Hussein's regime, the U.S. coalition established the Coalition Provisional Authority (CPA) in May 2003 to govern Iraq under the leadership of Paul Bremer. The CPA established the Iraqi Governing Council (IGC) on 13 July 2003. The IGC was an interim Iraqi government composed of 25 members from Iraq's main religious and ethnic groups: thirteen Shi'ite Arabs, five Sunni Arabs and five Kurds, one Turcoman and one Assyrian (Yildiz, 2004: 119-21). The IGC adopted the interim Iraqi constitution or Transitional Administrative Law (TAL) in March 2004 which served as Iraq's provisional constitution until the adoption of Iraq's current and permanent constitution on October 15, 2005 (Bolden and Fussnecker, 2008: 4). Both TAL and the Iraqi constitution paid particular attention to solving the problem of Kirkuk.

The Kurds worked closely with the US-led coalition to address the issue of Kirkuk and their efforts resulted in Article 58 of the TAL (Janabi, 2008). Article 58 committed the Iraqi government to 'act expeditiously to remedy the injustice caused by the previous regime's practices' (TAL, 2004). The article identifies how to reverse the policy of Arabization through the process of normalization to settle the administration of the disputed territories. The article outlined steps of normalization including the return of the displaced people, the

recovery of their properties and homes and the reversal of border alterations, i.e. changing the administrative boundaries of Kirkuk to the pre-1968 borders before Arabization became an official policy of the Ba'ath party (Bolden and Fussnecker, 2008: 4).²² The article deferred the permanent resolution of disputed territories, including Kirkuk, until after the ratification of the permanent constitution. The disputed territories, as Peter Bartu (2010: 1330) puts it, 'cross Iraq in a north-west–south-east line from Sinjar on the Iraq–Syria border to Khanaqin and Mandali on the Iraq–Iran border, with Kirkuk governorate at the dispute's epicentre.'

In 2005, the new Iraqi Constitution was adopted and ratified. Article 140 replaced the TAL's Article 58, calling for a three-step process in Kirkuk and other disputed territories involving 'normalization,' to be followed by a census, and finally a referendum to determine whether or not the citizens of Kirkuk wish to join the Kurdistan region. According to Article 140 of the Iraqi constitution, the executive authority was to undertake the necessary steps to complete the implementation of the requirements of Article 58 (Iraqi Constitution, 2005). Thus, Iraq's new constitution gives the right to the people of Kirkuk to settle the fate of their city through a referendum. This was a victory for the Kurds who support the accommodation solution for Iraq. Article 140 is not specific to the Kirkuk issue but deals with all disputed territories in the country such as the areas in Mosul, Salah al-Din, Diyala and Kirkuk (Hanish, 2010: 19). As argued by O'Leary and Bateman (2008: 3), this article was necessary because both the CPA and the Iraqi transitional government failed to rectify the relevant injustices 'expeditiously'.

Normalization (reversing Arabization policies) as the first step of implementing Article 140 is undoubtedly problematic. Bolden and Fussnecker (2009: 6) argue that failure to define and achieve normalization is one of the main reasons Iraqis have failed to conduct a referendum by the deadline set forth in the constitution, i.e. December 31, 2007. As Natali (2008: 436) points out, normalization process requires: (1) resettling Arabs to their original areas; (2) returning the expelled Kurds (and Turkmen) to Kirkuk; (3) changing administrative units in Kirkuk to their pre-1976 borders, i.e. the four districts of Chamchamal, Kalar, Kifri and Tuz-Khurmatu should be returned to the governorate of Kirkuk which were annexed to the neighbouring governorates by the regime in 1975. After

²² For the background to the July 1968 coups by the Ba'ath Party, see: Sluglett, P., and Farouk-Sluglett, M., 2003. *Iraq since 1958: From revolution to dictatorship*. London: I.B. Tauris; and Tripp, C., 2002. *A history of Iraq*. Cambridge: Cambridge University Press.

implementing the above three steps, a census and a referendum should be conducted to decide the future administration of the city: whether it should remain as a governorate under the authority of the central government; become an autonomous region; or join the Kurdistan Region.

The process of normalization needs a long time in order to be able to remove the deep impacts of the Arabization process. In the meantime, neither the census nor the referendum mandated by the constitution have yet taken place. In the view of the Arabs and Turkmen, the main problem of the census has been the process of Kurdification since 2003. They believe that the KRG is paying Kurds to move back to Kirkuk to offset the ethnic balances to ensure that they are the majority in the city for when the census takes place. This allegation is usually rejected by the Kurds.²³ Moreover, there is lack of clarity on the aspects of referendum in both Article 58 of the TAL and Article 140 in that they do not provide specific requirements or steps on how to conduct it. Elizabeth and Stoltz (2008: 3) raise three concerns in this regard. Firstly, they argue that the language of Article 140 is vague and it is not clear which areas are eligible with Kirkuk for the referendum; this is a result of not defining 'disputed territories' in the constitution. Secondly, it is unclear what would be the potential results of a Kirkuk referendum. Finally, a disagreement over registration or eligibility could prevent a vote for years, if not indefinitely. Furthermore, the local communities of Kirkuk have not reached any suitable settlement for the future of their city. On the contrary, they increasingly depend on their patrons outside Kirkuk. Thus, Kurds have aligned themselves with Erbil, Arabs must seek support in Baghdad and Turkmen rely highly on help from Ankara. Accordingly, due to the local communities' dependence on external sponsors, 'the latter, in turn, have invested much of their own political capital in particular 'solutions' of the Kirkuk dispute' (Wolff, 2010: 1372). The administrative problems of Kirkuk, thus, have yet to be resolved.

Due to the conflicting views on the validity of the article, a legal solution to settle this issue seems necessary. Bolden and Fussnecker (2009) argue that it is the duty of the Federal Supreme Court to address the validity of article 140 and declare that the Iraqi political bodies' failure to execute a constitutional article does not invalidate the article. To put an end to this legal dispute, the Centre for Kirkuk Referendum Operations (CKRO) at

²³ Romano (2007) and Anderson and Stansfield (2009) also deny the 'Kurdification' allegation by the Arabs and Turkmen.

Georgetown University, in a detailed analysis on Kirkuk's future referendum (2012: 59-60), suggests three options: the first option is to have a parliamentary vote to extend the deadline. This already happened with Article 142 which was extended by a vote in the House of Representatives. However, such a vote does not have the weight of a constitutional amendment. The second option is similar to the earlier suggestion by Bolden and Fussnecker (2009), which recommends submitting the article to the federal court as the highest judicial power to decide whether the article is valid or not. This appears to be an appropriate solution, as the decisions of the Supreme Court, according to Article 94 of the Iraqi constitution, are 'final and binding for all authorities'. Nevertheless, the decisions of the Supreme Court are often seen as politically driven, partly because its members have been appointed by the powerful political parties. The last option is to seek international aid, such as a resolution by the United Nations Security Council to endorse the extension of Article 140. But this option might encounter severe internal, regional and even international objections, as it would be interpreted as interfering in the internal affairs of Iraq. Despite objections, therefore, resorting to the Supreme Court might be the most appropriate option for it is the highest judicial authority in the country and its decisions are binding and not seen as external interference.

Each of the three aforementioned options regarding the future of Kirkuk is supported by one of the three main groups: the Kurds wish to incorporate Kirkuk into the Kurdistan region, the Turkmen want Kirkuk to be an autonomous region, and the Arabs want Kirkuk to be under the authority of the central government, albeit with a special status. As a governorate under the control of Baghdad, the status of Kirkuk would be defined by the Iraqi constitution and the Provincial Powers Law (Law 21/ 2008).²⁴ Under this option, the Provincial Council of Kirkuk would have powers to elect and remove the head and deputy head of the council, to issue laws, instructions and by-laws, to develop policies and set strategic priorities, to prepare and approve a budget, to monitor all the provincial executive bodies, to elect and remove the governor and his or her two deputies, to approve nominations for senior positions and remove senior managers of the provincial administration, to approve local security plans, to approve administrative boundary changes

²⁴ This law has been amended twice, the first occasion was in 2010 with slight changes regarding the tasks of governorates' council members and the termination of their membership. However, the second comprehensive amendment was done in 2013. This law was put in place in Kirkuk in 2015. Prior to that, Kirkuk was governed under the provisions of Order Number 71 by the Coalition Provisional Authority on local governmental powers (CPA 71/2004) which, comparing to other governorates, gave Kirkuk less power.

within the province, to select the symbols for the governorate, and to collect taxes, duties and fees. The governor and his or her executive team, however, would have the power to draft a general budget; to execute decisions by the provincial council; to execute federal government policy; to oversee and inspect public facilities; to represent the governorate in the international conferences and forums; to establish universities, colleges and institutes in coordination with the ministry of higher education of the federal government and subject to approval by the Provincial Council; to appoint, promote, reward, and remove civil servants and directors of the governorate (subject to council approval); to direct local security services and request their reinforcement; and to direct the work of up to five assistants and seven advisers. (Law 21/ 2008; Wolff, 2010: 1373). More importantly, with regard to the powers shared between the federal government and the governorates, priority shall be given to the law of the governorates in case of dispute.²⁵

However, this scenario (Kirkuk under the authority of central government), which is integrationist in its nature, faces serious domestic objections and barriers. This implies the non-realization of both Kurdish and Turkmen projects which would be a huge blow for the Kurds and Turkmen. However, under the new reality in which the Kurds have dominated the city both politically and militarily, it is highly unlikely that they would accept this option. The Kurds support the implementation of article 140 and argue that the people of Kirkuk themselves should decide the future of their city in a plebiscite. As Nasri and Salimi (2013: 92) note, this option will be ‘the most likely case for the outbreak of a civil war and the most unlikely in terms of probability.’ However, the Arabs are now in a weak position, particularly after ISIS seized control of Hawija which is a predominant Arab district and the largest Arab populated area of Kirkuk governorate. Therefore, this scenario has little chance of being successfully pursued.

The second scenario for Kirkuk is that it becomes an autonomous region. The Turkmen group are the main advocates of this option. Their view is based on article 119 of the constitution that allows governorates to become regions. They want to be protected from both a strong central government and a powerful Kurdish regional government. As noted

²⁵ These powers include all powers not stipulated in the exclusive powers of federal government such as formulating foreign policy; formulating and executing national security policy; fiscal and customs policy; regulating standards, weights and measures and regulating issues of citizenship, residency and asylum; regulating the policies of broadcast frequencies and mail; general and investment budget; planning policies relating to external water resources; and general population statistics and the census (Article 110, constitution of Iraq).

by International Crisis Group (ICG), (2008: 28), they are ‘in an intense borderland struggle between Arab and Kurdish nationalism and feel squeezed.’ The Turkmen believe that this is the best solution for themselves but they also think that it can help maintain the political stability of Iraq as well. The ICG (2011: 6) note that ‘Turkmens as a large ethnic group in the disputed area are looking for a suitable political ground including Kirkuk’s becoming an autonomous governorate in such a way that it is not controlled by Baghdad and Erbil’.

It is worth mentioning that Kirkuk as an autonomous region would enjoy more executive and legislative powers than as a governorate. As an autonomous region, it would enjoy the rights of a federal region rather than given decentralization by the central government. The constitution lists the competencies that the federal and regional authorities share together which include: managing customs, electric energy sources and distribution, environment, general development and planning, public health, education and internal water resources (Article 114, constitution of Iraq). However, priority is given to the regional law over federal law in case of any dispute between the region and the centre. If the option of an autonomous region were to succeed, Kirkuk would become a single-governorate region or, based on article 119 and the Law on the Executive Procedures Regarding the Formation of Regions. It could then form a region with any other governorate regardless of whether it is a neighbouring governorate or not. (Law 13/2008; Wolff, 2010: 1374). In short, according to the constitution of Iraq, the regions have more powers than the governorates. For example, the Kurdistan region as a federal region enjoys much more power than other governorates in Iraq.

The third option derives from article 140 of the Iraqi constitution of which the Kurds are the main advocates. The main reason for the Kurdish persistence on implementing Article 140 is that it allows a legal attachment of Kirkuk to the Kurdistan Region. The Kurds have a deep sentimental and historical attachment to Kirkuk, viewing it as a Kurdish city. Due to the centrality of Kirkuk to Kurdish history and the Kurds’ national story, the former Iraqi Kurdish president, Jalal Talabani, has gone as far as calling Kirkuk ‘our Jerusalem’. Article 2 of the draft constitution of the Iraqi Kurdistan Region has identified Kirkuk as part of the region. According to this article, the administrative borders of the Iraqi Kurdistan Region include the governorates of Dohuk, Kirkuk, Sulaymaniyah, Erbil and parts of Nineveh (Mosul) and Diyala (Article 2, the draft constitution of Kurdistan region 2009). Thus, winning Kirkuk has a ‘mythical status’ for the Kurds because incorporating Kirkuk into the

Kurdistan Region would 'be the ultimate proof that they have finally succeeded in their question for meaningful autonomy' (Anderson and Stansfield, 2009: 77). By looking at the current political situation of Iraq and the disputed territories, one may conclude that the realization of this option is most likely in such a way that other scenarios may be regarded as secondary options. This is because, as noted in the introduction of this research, the Kurds have dominated the city both politically and militarily and do not intend to relinquish it in any foreseeable future. Under this situation, it is hard to expect that the Kurds will agree to the first two above-mentioned options.

Finally, from the above discussions we may conclude that overthrowing Saddam's regime in 2003 by the American-led coalition forces marked a new history both in Iraq and Kirkuk. In the new era, the Kurds and to a less degree (the Turkmens) emerged as the main winners while the Arabs lost their historic coercive control over the city. However, the future status of the city remained unresolved. Neither the interim constitution under CPA nor Iraq's 2005 permanent constitution have been able to solve the problem of Kirkuk. The main reason for this are the conflicting views of the three main ethnic groups regarding settling the future of the city and governorate. While settling the future administration of the city has proved to be the most difficult issue pertinent to the problem of Kirkuk since 2003, the unresolved governance issue has complicated the problem further.

Conclusion

The current problems of Kirkuk are rooted in the past discriminations and injustices. The discovery of oil in 1927 is of great importance to understand the beginning of ethnicity awakening and the perception of ethnic distinctiveness in the city. Kirkuk witnessed the most extreme policies aimed at eliminating ethnic differences such as genocide, ethnic expulsion and coercive assimilation attempts under both the Anfal campaigns in the 1980s and the Arabization policy over more than 70 years. In other words, ethnic distinctiveness changed into ethnic conflict and then to ethnic violence in the twentieth century. Now, ethnic division is apparent and has become the defining feature of the city. In the post-2003 period, the problem of Kirkuk manifested itself in the inability of the local and national parties to solve the problems settling the future administration of the city and how the city should be governed.

Thus, different methods have been used in the past to overcome ethnic differences in the city through a variety of coercive techniques, from the forcible suppression of ethnicity to the elimination of ethnic differences. Those methods, however, proved to be both ineffective and dangerous. Therefore, a new democratic arrangement should be found to resolve the city's ethnic conflict peacefully in a way that leads to alleviating rather than exacerbating ethnic divisions. Bearing this in mind, this research suggests that, compared to its alternatives, the consociational power-sharing arrangement is the most appropriate institutional mechanism for managing ethnic conflict and building a stable government in Kirkuk. Now I turn to explain the theory of consociational democracy which I suggest should be adopted in the case of Kirkuk.

Chapter 2. Options for Governing Kirkuk

In the 1950s and 1960s, the main concern of many political scientists of the Western World was over the question of establishing and maintaining stable democratic government, especially in a plural society. The dominant view was that a stable and democratic regime is more difficult to achieve and sustain in divided societies than in homogeneous societies. The prevailing view of the political scientists at the time was largely compatible with John Stuart Mill's scepticism with regard to the possibility of democracy in such societies when he asserted that democracy is 'next to impossible in a country made up of different nationalities' (Lijphart, 2004: 96-97; Wolf and Cordell, 2011: 300). For example, in a famous article entitled 'Comparative Political Systems', Gabriel Almond (1956) distinguished three types of Western political systems: Anglo-American political systems (homogeneous secular political culture exemplified by Britain and the United States); Continental European Political Systems (fragmented political culture exemplified by France, Germany and Italy) and the Scandinavian and Low Countries. For Almond (1956: 405), the countries belonging to the third type 'stand somewhere in between the Continental pattern and the Anglo-American.' Almond came to the conclusion that the Anglo-American model is effective and stable while Continental European democracies are weak and unstable. However, Lijphart challenged the dominant belief that only Anglo-American model of democracy is stable and effective.

This chapter presents the different strategies that the governments use to deal with ethnic differences with a particular focus on consociational power-sharing. This focus on consociation is vitally important in order to be able to answer the main question of this research which seeks to understand whether consociation can be an appropriate institutional mechanism for managing conflict and building a stable government in Kirkuk. To do so, I choose to organize this chapter over five sections. In the first section, I present the ways in which governments can respond to ethnic, national and religious differences and I rule out those strategies that are undemocratic or unlikely to work in Kirkuk. In the second section, I present a theoretical background on consociational theory. While in the third section, I focus on the advancements that the theory has witnessed since its establishment. I review the most common critiques of consociational critics against consociationalism in the fourth section. In the last section, I provide the responses of advocates of consociational theory.

2.1 Different Strategies for Managing Differences

As noted in the introduction of this research, there are two main methods for the regulation of ethnic conflict: the elimination of differences and the management of differences. The elimination of differences includes genocide, forced mass-population transfers, partition or secession and integration or assimilation. While the management of differences includes hegemonic control, arbitration, federalization and power-sharing.

In terms of eliminating differences, partition and secession cannot be applicable in Kirkuk as it is a mixed city that has three options according to the Iraqi constitution: a governorate under Baghdad, an autonomous region and joining the Kurdistan region. Genocide is the worst possibly outcome of eliminating the differences followed by coercive expulsion. According to the Prevention and Punishment of the Crime of Genocide adopted by the UN General Assembly in 1948, genocide refers to ‘acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group’ (Art. 2). In contrast, forced mass-population transfers are designed to move or remove ethnic groups from a given territory, but genocide is viewed as the most deadly due to its focus on human destruction (Jenne, 2011: 113).

In Iraq both genocide and forced mass-population transfers as two extreme forms of elimination of ethnic differences were tried by the former Iraqi Ba’athist party led by Saddam Hussein, particularly against the Kurds. According to Human Rights Watch’s comprehensive report, ‘Genocide in Iraq - The Anfal Campaign against the Kurds’, originally published in July 1993, around 100,000 Kurds were murdered in a systematic and deliberate way on the basis of their ethnicity in 1988. Kirkuk was one of the targets of that campaign. Kirkuk was also the site of the coercive expulsion of the Kurds and, to a lesser extent, Turkmen under Arabization policy. Moreover, the attempts to assimilate the non-Arab people through forcing them to register themselves as Arabs were also made. However, such attempts ended in failure and proved to be ineffective to govern the city. The above strategies can realize political stability in divided societies but not a democracy. Therefore, they are not appropriate solutions for divided societies, if democracy and political stability are to be achieved.

To combine both political stability and democracy in divided societies, other alternatives such as integration, federalism, majority rule, and power-sharing (centripetalism and consociation) are still available. As noted in the introduction of this research, under

integration, ethnic differences are recognized in the private sphere which means people are free to have their own schools in their own languages or religions but they do not receive public subsidies to do so (O’Leary, 2014). Minorities are encouraged to participate in the public life, but as O’Leary (2013: 17) states, they are expected to leave their cultures at the doors to public places ‘in the way some institutions and peoples expect visitors to leave their shoes.’ This is unlikely to be accepted in divided societies. In Iraq, for example, the Transitional Administrative Law (TAL) in 2004 marked an overall defeat for the integrationists who were arguing for a national, centralist, and majoritarian federalist in Iraq. In other words, the TAL was a victory for the supporters of accommodation approach who were seeking a consensual, decentralized and a multi-national federation for Iraq (O’Leary, 2005b: 68-69). On the other hand, the possibility of territorial federalism is unlikely in places where the segments are geographically intermingled. In places where the members of the segments are intermingled or interspersed, non-territorial autonomy is the most appropriate option. Thus, in a divided place like Kirkuk, integration is highly unlikely to be accepted by the different groups and federalism is not an option in the first places as Kirkuk is an intermingled city.

The most common types of democracy is the British or ‘Westminster’ model which is called ‘majoritarian democracy’. In this model of democracy, there is government-versus-opposition in which the leaders are divided into a government and opposition. The style of leadership in British model is competitive or adversarial. In a majoritarian democracy, candidates that represent society’s majority generally form the government, and the opposition is formed of minority groups. This involves the monopolization of power by a party, group, faction or even a person—the opposite of powersharing (O’Leary, 2013: 2). However, majoritarian democracy is, frankly, a nightmare situation for the minorities in the divided places. As Lijphart (1999: 31-32) argues, in the divided societies, ‘majority rule is not only undemocratic but also dangerous,’ since minorities are repeatedly denied access to power, and this creates a situation in which they feel excluded and discriminated against, which in turn might make them disloyal to the government. Therefore, Lijphart (2008: 78) states that ‘there is a scholarly consensus against majoritarian systems in divided societies.’ Or as O’Leary (2005: 10) puts it, ‘consociationalists want majorities – rather than the majority or the plurality’ (emphasis in original).

Lijphart, therefore, puts forth consociational democracy as an alternative to majoritarianism in divided societies. He (1999) suggests plural societies need a democratic regime that

privileges and promotes consensus instead of opposition, inclusion rather than exclusion, and that maximizes the size of the governing majority. The possibility of simple majority rule in those places gives rise to a tyranny of the majority or the dominant nationality (O’Leary, 2014). Such an undesirable outcome should be avoided in divided societies. Power-sharing (more particularly consociational power sharing) is generally better than its alternatives for divided societies. For Lijphart (1999), consociational power-sharing is ‘kinder and gentler’ for deeply divided societies than the majoritarian democracy in which the winner takes all.

Following O’Leary’s typology, there are two main types of powersharing, namely: centripetalism and consociation. At the outset, it is important to note that both centripetalism and consociation aims at an interethnic power sharing arrangement in the divided societies (O’Leary, 2013). The difference, however, arises on whether ‘conflict regulation should be driven by building up moderates among the majority (centripetalism)’ or ‘by building up moderates among the hard-liners from all groups (consociation)’ (O’Leary, 34-35). As noted earlier, centripetalism is mainly associated with the works of the American political scientist Donald Horowitz, which suggests a ‘pre-electoral interethnic coalition of moderates,’ whereas consociationalists aim at ‘post-electoral governing coalitions’ of all significant groups in divided societies (Horowitz, 2014: 6). Centripetalism disincentivises extremism and urges moderation by seeking institutional incentives such as an alternative vote (AV) electoral system. AV allows voters to rank order preferences at the ballot box to facilitate the election of moderate ethnic politicians who should reach out and attract votes from a range of ethnic groups other than their own (Reilly, 2011: 290-291). To gain the votes of other groups apart from its own group, political parties have to soften their stance on the matters of social concern. The hope is that an inter-ethnic coalition of moderates will be formed that is strong enough to repel the extremists (O’Flynn, 2007: 736). In short, centripetalists believe that inclusion without moderation does not foster political stability in divided societies.

This approach, which is alternatively called the integrative or incentive-based approach, claims that consociationalism cannot realize political stability in divided societies as its main focus is on inclusion while it gives little attention to moderation. Centripetalists consider the inclusion of the extremes in the grand coalition government as a threat to the government’s stability. According to Horowitz (2014:5), the centripetal approach attempts to ‘create incentives, principally electoral incentives, for moderates to compromise on

conflicting group claims, to form interethnic coalitions, and to establish a regime of interethnic majority rule.’ In other words, this approach aims at the election of moderate representatives and the formation of governments by moderate interethnic coalitions, i.e. it supports moderates against extremists (Horowitz, 2008: 1217).

Furthermore, consociational power-sharing, centripetalists argue, face the adoption problem. For example, Horowitz (2014) argues that the issue of adoptability is one of the big problems of both centripetalism and consociation. He lists five obstacles to adoption of either centripetal or consociational institutions. First, there are asymmetric preferences in the sense that ‘majorities want majority rule; minorities want guarantees against majority rule. Consequently, minorities may prefer consociation; majorities do not.’ Second, as ethnic politics is a high-stakes game, there are strong inclinations to avoid risk and stay with what is familiar. Third, biased negotiators tend to rule in some models and rule out others. Fourth, the presumed visibility of interests by group leaders that ‘they can foresee the relative benefits and costs for their group of alternative courses of action’ even though ‘they may later be proved wrong about those choices’ also narrows choices. Finally, the availability of alternatives such as returning to armed conflict if negotiations and peace agreements prove disadvantageous for the groups involved in armed conflict.

Centripetalism, even if it is a form of power-sharing could be in favour of the majority group in the divided societies. Lijphart (2004: 98), for example, argues that if Horowitz’s model was applied to the Iraqi Governing Council, it would produce a majority Shi’ite body but with the condition that most of the Shi’ite members of that body would be moderate and sympathetic to the interests of Kurdish and Sunni minorities. He convincingly points out that Kurds and Sunnis were unlikely to agree to a constitution that would set up such a model. This is because groups prefer to be represented by the members of their own communities, not the moderate members of other groups, particularly in the post-conflict places where interethnic distrust is high. Lijphart’s argument could be applicable to the case of Kirkuk as well. If Horowitz’s model were adopted in Kirkuk, then a majority of Kurdish moderate representatives were likely to be elected for Kirkuk provincial council (further discussed in chapter five). In that case it is hard to imagine that, in the long run, the Arabs and Turkmen would be satisfied with the scenario of being represented by the moderate Kurdish representatives, instead of being represented by the members of their own communities. It is equally hard to imagine that they would ever agree to a constitution

that will try to set up such a system in the future. Therefore, it is difficult to expect that the Turkmen and Arabs would ever accept centripetalism arrangements in Kirkuk.

Nevertheless, consociation is still the preferred institutional mechanism by the United Nations for managing conflict in divided societies. Moreover, consociational powersharing has a better track record than centripetalism. In the following section, I shall discuss consociational powersharing and explain that comparing to its alternatives, it is the most appropriate institutional mechanism for managing conflict in divided societies.

2.2 Consociational theory

O’Leary (2013: 14-15) argues that powersharing is, unlike strategies of genocide, expulsion, partition and control, intended to hold the existing state with the active participation and consent of its minorities. He also notes that the advantages of power-sharing turn out more clearly when it is considered in comparison with its possible alternatives. I shall discuss consociational power-sharing in a greater detail below.

Consociational theory is most closely associated with the work of Arend Lijphart. As noted above, the dominant perception among political scientists until the 1950s and 1960s was that democracy can work only in homogeneous societies. However, Lijphart opposed this view and argued (in the late 1960s) that it is possible to have democracy in heterogeneous and plural societies as well. For Lijphart, consociational power-sharing is ‘kinder and gentler’ for deeply divided societies than the majoritarian democracy. Since its inception, consociationalism has attracted much criticism, but at the same time it has been attractive to policy makers and international actors and thus it has been widely applied in post-conflict societies, including Iraq. Consociational theory was originally an empirical theory to describe and analyse democracy and political stability in plural societies. However, it gradually became a normative and prescriptive theory which was recommended for managing conflict in plural societies.

By making reference to the political systems of Almond’s third category- the Low Countries, Switzerland and Austria— Lijphart began to examine consociational democracy in the late of 1960s. Almond had argued that ‘that subcultural and mutually reinforcing cleavages made stable democracy very difficult, if not impossible’, however, the puzzle for Lijphart was why these countries, especially the Dutch democracy, was ‘far from unstable and dysfunctional, in spite of the deep religious and ideological divisions in Dutch society’

(Lijphart, 2013: 3). In his words, ‘according to the theory of crosscutting cleavages, one would expect the Low Countries, Switzerland, and Austria, with subcultures divided from each other by mutually reinforcing cleavages, to exhibit great immobilism and instability. But they do not’ (1969: 211). This was the beginning of his theory of consociationalism.

His basic argument was that cooperation at the elite level could assuage conflict and overcome deep communal differences. The importance of elite cooperation as explained by Matthijs Bogaards (2006: 119), comes from the assumption that democracy is possible in divided societies only if elites cooperate, even if the grassroots remain divided. This view assumes that leaders will be strong enough to discipline their respective supporters. Lijphart firstly used the term ‘politics of accommodation’ in his book *The Politics of Accommodation* (1968), which later changed to ‘consociational democracy’ in his 1969 article. He followed up with looking at other cases of consociational democracy which culminated in his ground-breaking work *Democracy in Plural Societies* in 1977. In his early work, Lijphart focused on the single case of the Netherlands with the emphasis on the role of the behaviour of the political elites in political stability. In his 1977 book, he analysed nine cases which were the Netherlands, Belgium, Switzerland, Austria, Lebanon, Malaysia, Cyprus, Suriname, and the Netherlands Antilles. Based on his analysis, he proposed explicit recommendations for constitutional-writers in divided societies. For example, after analysing the nine case studies he (1977: 223) explicitly stated that if political leaders of plural societies wish ‘to establish or strengthen democratic institutions in their countries, they must become consociational engineers.’ In other words, analysing different cases helped him to link his empirical conclusions to policy recommendations. He later expanded his empirical cases and included more and more countries until his case studies reached 36 countries in his 1999 book *Patterns of Democracy: Government Forms and Performance in 36 Countries*. In his words, ‘this increase in the number of cases made for a change in my basic research approach: from the case-study method, to the comparative method, to the statistical method’ (Lijphart, 2013: 3-4). In other words, consociational theory was originally an empirical theory to analyse democracy and political stability in divided societies. Nevertheless, it gradually became a normative and prescriptive theory which was recommended for managing conflict in divided societies and has been widely applied in post-conflict societies.

Lijphart (1977: 25) defines consociational theory in terms of four basic principles:

1- Grand Coalition: The first and most important element of consociational democracy is that all significant groups have effective representation. In other words, the significant communities share in executive power. This can take various forms, such as grand coalition cabinet in a parliamentary system, a grand coalition of a president and other top office holders in a presidential system, or a grand council or committee with important advisory functions. It may be contrasted with the government-versus-opposition model of democracy in that the advocates of consociationalism argue that a grand coalition is more appropriate than the Westminster pattern for the achievement of political stability in those plural countries.

Two crucial principles must be present before and after the establishment of any grand coalition government: inclusion and elite cooperation. In a deeply divided society, the principle of inclusion is vitally important because the groups prefer to guarantee positions and share power in government rather than being overruled by their rival in a competitive government. In other words, the groups opt for power-sharing over majority rule and the exclusions that the latter might bring. As explained by Binningsbø (2004: 40), because there is a lack of trust among the segments after civil war, it is better for them to jointly govern with their counterparts. This could also be applicable for countries that have experienced regime change such as Iraq. Consociationalists support the representation of the main groups in an inclusive government in the divided places and advocate a broad-based decision making among communities in those places. Such forms of joint-decision making between the major groups are important to achieve political stability in divided societies (Allison, 2014: 4). In short, the inclusion of the significant groups in government is crucially important for managing conflict and achieving stability in the divided societies.

In terms of elite cooperation, Lijphart considers accommodation among political leaders to be the essence of consociational theory. For him (1977: 25) ‘the primary characteristic of consociational democracy is that the political leaders of all significant segments of the plural society cooperate in a grand coalition to govern the country.’ He states that accommodation should be taken as a non-competitive style of elites, i.e. as the opposite of elite-competition. Consociationalism is fostered by the tradition of elite compromise and accommodation. Lijphart (1977: 99-100) emphasizes that ‘plural societies may enjoy stable democratic government if the political leaders are engaged in coalescent rather than adversarial decision-making’ In short, if elites do not opt for cooperation in a grand coalition government, the government will face immobilism and would be dysfunctional.

The principles of 'inclusion' and 'elite cooperation' will be further discussed in the context of Kirkuk in chapter three.

2- Mutual Veto: This means the right for each segment to prevent changes that adversely affect their vital interests. This right is important for protecting minorities as their presence in the coalition alone does not guarantee complete protection of their rights and their projects or cases may be outvoted by the majority. When the majority decision affects the significant interests of a minority segment, such a decision is deemed unacceptable as it can threaten intersegmental elite cooperation. In such a case, only a minority veto can give each segment an absolute guarantee of political protection. It must therefore be added to the grand coalition principle.

3- Proportionality: The principle of proportionality means that each segment is a proportional beneficiary in political representation, key public institutions and they are proportionately represented in public sector employment. It, like the mutual veto, is closely connected with the principle of grand coalition. It is a way of allocating scarce financial resources and civil service appointments as well. In other words, it is to avoid the unrestrained majority rule principle in which the winner takes all.

4- Segmental Autonomy: This principle indicates that each minority enjoys some distinct measure of autonomy, especially in the area of the minority's cultural concerns. In grand coalition government, decisions should be made on all matters of common interest by all of the segments together with proportional degrees of influence. However, decisions should be left to the various segments on all the other issues which are particular to them.

In plural societies, as mentioned earlier, representative organization of the society (e.g., political parties) follow segmental cleavages. This means that the plural nature of an already plural society is increased by the segmental autonomy. In other words, this feature serves one of the basic characteristics of consociational democracy which does not attempt to abolish or weaken but to recognise the segmental cleavages explicitly in order to turn them into constructive elements of stable democracy (Lijphart 1977: 42).

In order to speak about fully-fledged consociational power-sharing, the above four elements have to be more or less clearly present (Schneckener, 2002: 205). These features were existent in the consociationalism classic examples such as the Netherlands, Austria, Switzerland, Belgium, Lebanon, Cyprus, Fiji and Malaysia. Some of these consociations

have succeeded, as in Switzerland, the Netherlands, Austria and Belgium, and others have failed, like Lebanon, Cyprus, Fiji and Malaysia (Wolff, 2011: 300). As already noted, the role of elites is clearly a crucial element for the success of the above four basic characteristics of consociational democracy. Without elite co-operation among the leaders of different segments, this model of democracy cannot work (Cordell and Stefan, 2010: 141). Therefore, the behaviour of political elites has been identified by Lijphart to be the main reason for bringing about and maintaining political stability.

Lijphart (1977: 53-103) also lists a number of favorable factors conducive to consociational democracy: these are a multiple balance of power among the segments of a plural society; a small number of political parties in each segment; a multiparty system, the small size of the territory to which a consociational arrangement is applied; the existence of some cross-cutting cleavages with otherwise segmental isolation; and overarching loyalties. Moreover, the prior existence of a tradition of elite accommodation is a factor which enhances the stability of the consociational settlement. Although, these factors are 'neither indispensable nor sufficient in and of themselves to account for the success of consociational democracy', they can improve the 'explanatory and predictive power of the consociational model' (Lijphart, 1977: 54). These factors, therefore, can be seen as both favourable conditions and explanatory variables at the same time, though Schneckener (2002: 218) argues that 'the combined impact of favourable conditions is mainly decisive for success or failure of consociationalism.'

In short, consociationalism is a relatively new theory which dates back to the 1950s and 1960s. It has had a big impact within the field of political science, however, partly because of its unique ability to combine both democracy and stability in divided societies and hence its logical rebuttal of the previous dominant view that would consider democracy as nearly impossible in those societies. Consociational theory puts much emphasis on the significant role of the behaviour of elites with particular attention to its four institutional components, i.e. grand coalition, mutual veto, proportionality and segmental autonomy along with pointing to several favourable factors. Finally, it should be noted that the theory has experienced important advancements since its inception. The following section will discuss those developments.

2.3 Developments in Consociational Theory

Consociational theory has undergone revisions, refinements and developments over the years by its advocates. Lijphart's thinking, for example, on consociational theory has evolved and developed over time and made considerable changes to some of his earlier writings. Other consociational advocates such as John McGarry and Brendan O'Leary have also played important roles in advancing consociational theory. The refinements and developments in consociational theory, which I will discuss below, have been partly influenced by the challenges that the critics of consociationalism have made against Lijphart's theory for the last forty years or so. Due to the constant revisions and expansions, consociational theory has been able to survive, on one hand, and it has remained an attractive choice for policy makers in the post-conflict societies on the other hand.

As part of the theory's refinement, the definition and the significance of the four elements of consociational democracy have seen growth and change. In his 1969 article, Lijphart defined 'consociational democracy' as 'government by elite cartel designed to turn a democracy with a fragmented political culture into a stable democracy' (Lijphart, 1969: 216). However, in his 1977 book, he defined consociational democracy in terms of four basic characteristics and discussed each one of them extensively. Moreover, now he makes a distinction between primary and secondary characteristics of consociation and argues that 'grand coalition and autonomy are the most crucial, whereas the other two occupy a somewhat lower position of importance' (Lijphart, 2008: 4). The reason for this revision, as his contribution to Andrew Reynolds's *The Architecture of Democracy* subtly implies, is that most experts on divided societies and constitutional engineering are in broad agreement that 'the two key ingredients for successful democracy' in divided societies are the 'sharing of executive power and group autonomy' (Lijphart, 2002: 38-39). In other words, agreements on these two elements transcend the borders of the consociational school.

Lijphart's emphasis on executive power-sharing and group autonomy as primary characteristics of consociational theory could be because of the fact that they have been 'repeatedly and independently re-invented and re-discovered' by both politicians and social scientists (Lijphart, 1995: 275; 2002). Nevertheless, Lijphart (2002) still maintains that the proportionality and mutual veto are important for they strengthen executive power-sharing and group autonomy. He (1995: 275) states that these principles can be implemented in

various ways and must be thought of as broad guidelines, but at the same time warns that not all of them are of ‘equal merit and can be equally recommended to divided societies.’

The grand coalition principle, as the major feature of consociational theory, has been refined and developed by, amongst others, Brendan O’Leary. In particular, O’Leary argues that (2005: 13) what matters for a democratic consociation is not that every leader from every community is included in the grand coalition, but rather ‘that leaders have at least plurality levels of support within its segment’. To make this case, he distinguishes complete, concurrent, and weak democratic consociational executives from each other. By complete consociational executive, he means ‘the leaders of all significant segments of an ethnically differentiated territory are represented’ (O’Leary, 2005: 13). This means that ‘complete consociation’ is equivalent to what might be traditionally thought of as Lijphart’s ‘grand coalition’. However, he maintains that ‘grand coalition’ does not demand the representation of every community in the executive, or that representatives within every community in the government are supported by all individuals of that community, or that all ethnic parties have representatives in the executive (O’Leary, 2013: 25). In a ‘concurrent executive’, O’Leary (2013:25) argues, ‘representatives of the majority within each of the main partner groups is in government’. By ‘weak’ or ‘plural’ executive, he means that at least the plurality representatives of each significant segment are in government (O’Leary, 2005: 13; 2013: 25). Thus, grand coalition today has a broader meaning than that suggested by Lijphart in his oeuvre.

Another important modification is that consociationalists now distinguish between pre-determination and self-determination forms of consociationalism. Lijphart (1995: 280), for the first time, argued that one of the most important choices that consociational engineers have to make is ‘the difference between pre-determination and self -determination of the segments of a plural society’. In other words, he raised the question whether the segments in divided societies be identified in advance so that power would be shared based on these pre-determined segments or not. McGarry and O’Leary (2007) have labeled this difference as ‘corporate’ and ‘liberal’ consociations. The main difference between the two, as noted in the previous chapter, is that a ‘corporate consociational accommodates groups according to ascriptive criteria, such as ethnicity or religion, on the assumption that group identities are fixed, and that groups are both internally homogeneous and externally bounded’ while ‘A liberal or self-determined consociation, by contrast, rewards whatever salient political identities emerge in democratic elections, whether these are based on ethnic or religious

groups, or on sub-group or trans-group identities' (McGarry and O'Leary, 2007: 675). Most consociationalists are in favour of self-determination consociation. For example, Lijphart (2008: 71) states that 'unless there are compelling reasons to opt for pre-determination, the presumption should be in favour of self-determination' as 'self-determination has a number of great advantages over pre-determination'. As Stefan Wolff (2011: 1783) points out, this turn from 'corporate' to 'liberal' consociationalism displays an 'important modification of consociational theory that addresses one of its more profound, and empirically more valid, criticisms,' that is consociations 'further entrench and institutionalise pre-existing, and often conflict hardened, ethnic identities, thus decreasing the incentives for elites to moderate.'

Another development in consociational theory is what O'Leary terms as 'complex consociation,' which is also called 'consociation plus'. Apart from the four basic characteristics, complex consociations have four additional features which are the source of that complexity (O'Leary, 2005: 34-35). First, they attempt to address self-determination disputes by institutional recognition of more than one people or nation in a polity. This can be done constitutionally by defining a state as multinational such as Bosnia. As Allison McCulloch (2014: 19) notes, such provisions 'highlight the point that many such conflicts are about the struggle for national self-determination rather than simply about ethnicity, religion or class within the confines of a single state.' Second, they are political settlements that are included as part of peace processes to halt conflicts and prevent recurring violence in the future such as the mechanisms of confidence-building measures, restructuring of the security system and human rights protection mechanisms. Third, complex consociations 'involve at least one additional strategy other than consociation' (O'Leary, 2005: 34). This means that the political settlement encompasses 'consociation plus territorial autonomy or consociation plus integration' (McCulloch, 2014: 20, emphasis in original). The fourth element of complexity is international involvement in adopting and maintaining consociational settlements. This may involve neighbouring countries, regional states, great powers, the UN, etc. Complex consociation or consociation plus is an important advancement in consociational theory, partly because these four additional configurations are 'likely to proliferate in future crisis zones' (O'Leary, 2005: 35). If one day consociation were to be adopted in Kirkuk, it should be 'consociation plus' rather than simple consociation. I will elaborate this point further in the following chapters.

To conclude, this section has given an account of the various developments that the consociationalists have made to consociational theory. Although the original emphasis of consociationalism on the role of elites and the necessity of protecting the political and cultural rights of minorities have remained the same, there have been considerable changes and additions to the theory. For example, the initial definition of consociation and its original framework is no longer the same, but stretched to cover broader points and issues. However, the two most prominent and effective developments are probably those which relate to making distinctions between pre-determined (corporate) and self-determined (liberal) forms of consociation, on one hand, and inventing the concept of ‘consociation plus’, on the other. This vital change has shifted consociational theory from a fixed and narrow theory into a flexible and broad one that, in turn, has given consociation the power to adapt itself to different contexts within different historic stages. Nevertheless, consociational theory, prior and after these advancements, has attracted a lot of criticisms by different critics. The following section reviews the most common of those criticisms in detail.

2.4 Critics of Consociational Theory

Lijphart’s consociational theory has received a great deal of criticism over the past forty years for various theoretical, empirical and methodological reasons. The theory has been attacked and deemed primordialist, segregationist, futile, perverse and even dangerous and its proponents have been accused of racism, promoting apartheid, institutionalizing fallacious ethnicity and ‘academic entrepreneurs’ (See, for example, Taylor, 1992 and Dixon 2011, 2012). Most criticisms against consociationalism, as Stefan Wolff (2011: 1789) notes, have been from one of three perspectives: a theoretical criticism that ‘it is based on a changing and an uncertain conceptual foundation’; a normative one, i.e. ‘it is undemocratic’; and a pragmatic one that ‘it does not lead to stable conflict settlements.’ In Lijphart’s own words ‘some critics have argued that power-sharing democracy is not ideally democratic or effective; others have focused on methodological and measurement issues’ (Lijphart, 2004: 97-08). Generally, as Choudhry (2008: 19) rightly points out, ‘the consociational model has generated an enormous literature’. In the following section I discuss the most common objections that have been raised against consociational theory.

Some of the early critiques of consociationalism revolve around the definition deficiencies and the problem with the classical cases of consociational democracy. For example, Brian

Barry (1975b: 480) points out that on the one hand, Lijphart describes ‘government by elite cartel’ as the explanation for stability in plural societies. On the other hand, he goes on to say that consociational democracy has four requirements. In addition, his definition of consociational democracy was criticized for being too overloaded and puts together in a package stability, segmentation, elite accommodation, dissensus and some mix of ‘consociational device’ which makes it hard to do any substantial explanatory work (Barry, 1975: 480; Lustick, 1997: 100-101). In terms of the cases, Barry (1975b: 481) argues that this theory fails to consider clear cases of consociationalism. He argues that:

‘1. That Switzerland provides no support for the consociational democracy, 2. That the Austrian case is less clear-cut than is often assumed 3. That Belgium and the Netherlands, although plausible supporting cases, still fall short of fully bearing out the theory, and 4. That the relevance of the consociational model for other divided societies is much more doubtful than is commonly supposed’.

In the same line of argument, Rudy Andeweg (2000: 517-518) maintains that many of the countries classified as consociational democracies have been contested. For example, he indicates that there was no such division in Dutch society as Lijphart tended to present; the Dutch segments were not so far apart, the risk of political instability was relatively minor and the class and religious cleavages were actually cross-cutting. Additionally, he asserts that a grand coalition, including representatives from all segments, never existed at the level of government. Moreover, the consociational approach is sometimes alleged to generalize from European models to Asian and African conflict conditions, i.e. consociational is based on European or Western experiences and therefore it is not suitable for divided societies in other parts of the world (e.g. Horowitz, 1985: 571).

Further, Bogaards (1998, 2000) raises theoretical critiques against consociational power-sharing. On the basis of terminological, conceptual and typological problems within consociational theory, Bogaards focuses on two limitations of Lijphart’s argument. His first criticism is that Lijphart’s empirical analysis of the performance of consociational democracy in plural societies cannot support his recommendation of this model rather than majoritarian democracy. His second one is that the considerable changes of the favourable factors for the successful consociational theory, both in terms of number and content in the course of time, shows the lack of theoretical coherence of the theory. He remarks that

Lijphart's favourable factors are deterministic in essence which are clearly in contrast with his voluntaristic stance.

One of the normative objections against consociationalism is that consociational theory is not sufficiently democratic. The allegation that consociationalism is undemocratic was originally raised by Barry (1975a, 1975b) and has been repeated by other critics over and over again. The objection is based on the opinion that forming a grand-coalition government conflicts with the view that considers a strong opposition as a prerequisite of contemporary democracy. Van Schendelen (1984) and Ian Lustick (1997), for example, are concerned about the consequences of consociationalism for the quality of democracy. The concerns of these authors about consociationalism are that it creates a predominance of elites, an absence of opposition, and mass political apathy resulting in a lack of political vitality. In other words, consociationalism is criticized for excluding opposition and overpowering minorities at the expense of majorities. Moreover, consociationalism is accused of being an elitist model which privileges ethnic elites by entrenching and maintaining their power and taking top state positions, while this 'falls short of the minimal democratic standard' which expects that 'positions of power must be determined by a competitive vote' (Howard, 2012: 156). The allegation that consociation is undemocratic, as O'Leary (2005:6) points out, is 'the biggest stick with which consociationalists are beaten' and it is 'the strongest normative objection to consociation.'

Furthermore, consociationalism is criticized for focusing on group rights rather than individual ones. The broad and widely shared criticism of consociational power-sharing, as Stefan Wolff (2011: 1791) notes, is that consociationalism favours and embodies communal identities at the expense of individual rights and identities. The core of this critique is that liberal democracy and consociationalism pull in different direction. Liberal democracy focuses on the individual political rights while ethnic groups and the ways in which their political and cultural rights are manifested in political institutions are the main concerns of consociationalism. In some consociational cases such as Bosnia and Lebanon, for example, the defining feature of the political landscape is the prevailing group and community rights over individual rights. Ian O'Flynn (2003) raises this point in the context of Northern Ireland and argues that the Belfast Agreement restricts individual freedom, or equal treatment, particularly once it comes to group vetoes which privilege designated groups over individual members of the Belfast Assembly. Similarly, he (2003: 144) observes that "by effectively discounting the votes of the 'others' on certain important

issues, the agreement privileges national over individual identities.” Rupert Taylor (2006: 220) also makes a similar point when he argues that the individual right to freedom of association is directly violated by the Belfast Agreement because ‘individuals do not have the autonomy of exiting from group designation.’ This argument can also be true for Iraq, as the three groups of Shiite Arabs, Sunni Arabs and the Kurds have dominated Iraqi politics with little attention to individual rights.

Consociation has also been criticized for placing more emphasis on elites’ statesmanship. Consociationalists assume that consociational power sharing would work because the elites are pragmatic and recognise that it is in their best interest to choose a system in the first place that allows them to manage ethnic divisions. However, Horowitz (2002: 20-21), one of the prominent critics of consociation, points out that consociationalism is ‘motivationally inadequate’ for it fails to explain the elites’ self-interested motives that guide their behaviour. In other words, while Lijphart puts much emphasis on the pragmatism and statesmanship of elites, Horowitz believes that elites are rational and their behaviours are guided by their self-interested motives. On the other hand, he (2002: 20) raises the majority-minority situation and argues that under such situations, the consociational approach cannot offer an adequate explanation of why the majority group should share power with other minority groups. He (1997: 195) argues that ‘those who have all of state power within their reach have no incentive to take a large fraction of it and give it away.’ In the same line of argument, Anderson (2012: 372-4) argues that in a situation where no one group constitutes a majority, the incentive issue is not a big concern, but under majority-minority conditions, why should a majority group willingly acquiesce in arrangements that are deliberately designed to dilute its power? Horowitz (2002:20) asks the question, ‘but why should majority-group leaders, with 60 per cent support, and the ability to gain all of political power in a majoritarian democracy, be so self-abnegating as to give some of it away to minority-group leaders?’ Elites in Horowitz’s incentive-based model (2002:21), are rational and driven by self-interest motives; therefore ‘it is very risky to count on statesmanship’. Thus, consociationalism is criticized for having too much faith in elites and their ability to reach compromise, particularly when one ethnic group enjoys a clear majority in a divided society.

Another related criticism is that consociation does not resolve conflict but institutionalizes divisions. For example, Taylor (1992) claims that consociationalism is not only undesirable but ‘dangerous’ because, through rewarding ethnic parties with seats in legislatures and

government, it entrenches ethnic divisions. Consociation, in this perspective, does not resolve ethnic conflicts rather it freezes those conflicts for a while but they might erupt again at any time. This is partly because most parties have a narrow ethnic support base and parties do not need to ‘compete for votes among their former foes’ (Jarstad, 2008: 125). Therefore, critics argue that the institutions of consociationalism tend to deepen existing divisions and do not promote moderation. The charge, thus, is that consociation reinforces ethnic divisions and empowers ethnic leaders who, in turn, exploit the situation by maintaining divisions and entrenching communalism to consolidate their positions. As Anderson (2012: 70) points out, ‘once empowered by the institutions, ethnic leaders have no incentive to change the system’s architecture’, rather they have ‘every incentive to defend the system that empowers them.’ The cases such as Belgium, Macedonia, Bosnia and Herzegovina, and Iraq are good examples to support this critique. Thus, consociational institutions, in this view, may offer a way to reduce ethnic conflict in the short term, but it does not curb them: in the long run there is always the possibility of the conflicts erupting again. Worse still, as Howard (2012, 162-165) observes, ‘the problems become very hard to solve once ethnocratic institutions are put in place,’ for example, ‘once a principle such as group rights becomes institutionalized in a constitution, it becomes very difficult to banish.’ This could be true, especially ‘when power-sharing institutions are combined with territorial autonomy for aggrieved groups’ such as the case of the Kurdistan region in Iraq (Sisk, 2013: 11).

In addition, consociationalists are sometimes accused of being primordial pessimists. Rupert Taylor (2001: 39-40), for example, argues that the consociational approach deals with ethnicity as a social fact that makes consociationalists not prepared to look beyond those ‘existing facts’ and ‘concrete realities’. Ethnicity, according to him, is not seen by consociationalists as a choice made by people or produced by political processes; as he puts it, ‘the point that consociationalism has not grasped, but that has been central to both liberalism and Marxism, is that human freedom is a power, a Promethean force; and as such it is not something to be limited to ethno-national aggregates and inter-elite institutional structures’ (Taylor, 2001: 40). For Howard (2012, 159), Lijphart is explicit ‘in basing his theory on an assumption of immutable identity’ in divided societies when he raises a ‘tenacity of primordial loyalties’ in his 1977 book. In short, the advocates of consociational theory are blamed for dealing with ethnic groups as fundamental units of their analysis and for their primordial thinking and assumptions.

Another major criticism is by the centripetalism approach which challenges the inclusion-oriented consociational approach. This approach, which is closely associated with the work of Donald Horowitz and alternatively called the integrative or incentive-based approach, claims that consociationalism cannot realize political stability in divided societies as its main focus is on inclusion while it gives little attention to moderation. Centripetalists consider the inclusion of the extremes in the grand coalition government as a threat to the government's stability. According to Horowitz (2014:5), the centripetal approach attempts to 'create incentives, principally electoral incentives, for moderates to compromise on conflicting group claims, to form interethnic coalitions, and to establish a regime of interethnic majority rule.' In other words, this approach aims at the election of moderate representatives and the formation of governments by moderate interethnic coalitions, i.e. it supports moderates against extremists (Horowitz, 2008: 1217). Centripetalism disincentivises extremism and urges moderation by seeking institutional incentives such as an alternative vote (AV) electoral system. AV allows voters to rank order preferences at the ballot box to facilitate the election of moderate ethnic politicians who should reach out and attract votes from a range of ethnic groups other than their own (Reilly, 2011: 290-291). To gain the votes of other groups apart from its own group, political parties have to soften their stance on the matters of societal concern. The hope is that an inter-ethnic coalition of moderates will be formed that is strong enough to repel the extremists (O'Flynn, 2007: 736). In short, centripetalists believe that inclusion without moderation does not foster political stability in divided societies.

Furthermore, consociational power-sharing, critics argue, face the adoption problem. For example, Horowitz (2014) argues that the issue of adoptability is one of the big problems of both centripetalism and consociation. He lists five obstacles to adoption of either centripetal or consociational institutions. First, there are asymmetric preferences in the sense that 'majorities want majority rule; minorities want guarantees against majority rule. Consequently, minorities may prefer consociation; majorities do not.' Second, as ethnic politics is a high-stakes game, there are strong inclinations to avoid risk and stay with what is familiar. Third, biased negotiators tend to rule in some models and rule out others. Fourth, the presumed visibility of interests by group leaders that 'they can foresee the relative benefits and costs for their group of alternative courses of action' even though 'they may later be proved wrong about those choices' also narrows choices (Horowitz, 2014: 9).

Finally, the availability of alternatives such as returning to armed conflict if negotiations and peace agreements prove disadvantageous for the groups involved in armed conflict.

Even if consociational power-sharing is adopted, critics argue, it does not work in practice. The critics argue that making decisions is difficult or even impossible in broad power sharing which leads to deadlock and democratic breakdown. The failure of power-sharing democracy in Cyprus in 1963 and in Lebanon in 1975 is often cited by the critics of consociationalism. Barry (1975b: 502-503) argues that consociationalism may work in societies divided along ideological or religious lines but not in the ethnically divided societies. This is because ethnic conflicts are less amenable to control by political leaders and thus the conflict will be difficult to resolve, whereas religious and class groups can more easily be controlled by their leaders and thus it would be easier for consociationalism to work when 'religious and class conflict is a conflict of organizations' (Barry, 1975b: 502-503). Horowitz (2014: 7) also remarks that 'immobilism is a strong possibility' under a situation in which an inclusive government is accompanied with the minority veto. Under such an environment, he argues, it is very difficult 'to overcome the stasis that immobilism can produce.' Minority veto can be dangerous in that it will lead to deadlock as in Belgium, Bosnia, etc.

Finally, some of the critics deny the whole idea of the existence of consociations while some others see partial value in it but question the long-term suitability of power-sharing in divided societies. Stefan Wolff (2011: 1791) dubs the two groups as 'complete rejectionists' and 'partial rejectionists'. If 'atheism' is the response of 'theism', O'Leary (2005: 7) observes, then the complete rejectionists, who deny that consociations exist or have ever existed, may be called 'aconsociationalism'. The partial rejectionists such as Donald Rothchild, Philip Roeder, Donald Horowitz, and Timothy Sisk worry that power sharing may not be suitable for the successful conflict management in the long run (Wolff, 2011: 1793). Sisk (2013) for example, accepts consociational forms of power-sharing as the best transitional arrangement but he is sceptical about its long-term capacity to bring about democracy and stability. Therefore, he suggests that 'a centripetalist approach may be more conducive to forging a long-term peace' (Sisk, 2013: 16). Similarly, Rothchild and Roeder (2005) argue that power-sharing is a useful short-term mechanism particularly in the immediate aftermath of civil wars, however, they have serious reservations about its capacity to bring about stability and sustainable peace in the long term. This is because they consider consociational power-sharing as a theory of conflict management not a theory of

conflict resolution. Thus, the criticisms against consociation since its inception have continued but they have also contributed in enriching the literature on consociationalism. This debate between consociationalists and their critics, which will probably run and run, is actually useful, especially for researchers who want to understand whether consociation can be adopted in new cases, including the Kirkuk case for that matter. Consociationalists have engaged with their critics in many of their works. The following section highlights the responses of the advocates of consociational theory against their critics.

2.5 The Consociational Responses

Before presenting the responses of consociationalists against their critics, I think it is important to clarify several issues. It is important to bear in mind that deeply divided places are not ideal for establishing democracy and political stability in the first place. Lijphart has already pointed out this reality. He (2002:38-39; 2004: 96-97) explains that most experts on divided societies and constitutional engineering are in broad agreement on several points. First, the experts agree that deep ethnic and other societal divisions pose a grave problem for democracy and that it is more difficult to establish and maintain democracy in divided than in homogeneous societies. Second, they agree that the problem of ethnic and other deep divisions is greater in countries that are not fully democratic yet or not democratic than in the well-established democracies. There is a broad but not universal agreement on the third point that sharing of executive power and group autonomy are the two key ingredients for successful democracy in divided societies. This acknowledgement is important to understand that some of the arguments of the critics are really difficult to dispute as they are valid, especially for corporate consociational settlements. For example, it is difficult to disagree with the critique that consociational power-sharing actually deepens ethnicity and empowers ethnic elites in the corporate form of consociationalism, particularly in the places where ethnic groups are geographically concentrated.

Another point to consider is that the corporate assumption of consociational power-sharing has permeated many of the criticisms. As noted earlier, Lijphart as well as McGarry and O'Leary now make distinctions between pre-determined (corporate) and self-determined (liberal) consociations and favour the latter. In other words, the contemporary consociational power-sharing can more convincingly rebut the critiques that have originally been raised against classic consociation. What is missing in much of the critique of

consociationalism, as Allison McCulloch (2014b: 502) notes, is the recognition that ‘there is more than one way by which to implement consociational settlements’ which are corporate and liberal strategies. The works of both McGarry and O’Leary have been influential in developing classical consociational theory and responding to many arguments of the critics of consociation. Thus, the distinction between liberal and corporate forms of consociation have weakened the validity of those criticisms that raise the question of the rigidity of consociation in the consociational cases such as Bosnia.

Lijphart himself has responded to the critics of consociational theory in various places. In his contribution to Andrew Reynold’s *The Architecture of Democracy*, 2002: 39-53, Lijphart offers a comprehensive and long response to the critics of his theory. He (2002:40-45) summarizes the most important criticisms and objections against consociational theory in six points and he responds to them in turn. I will come back to some of his responses below. Both John McGarry and Brendan O’Leary have also not just contributed in developing consociationalism but defended it in their body of work (see, for example, McGarry and O’Leary 2004, 2007, 2009; McGarry 2001, O’Leary 2005 and 2013). Therefore, many of the criticisms against consociationalism have been answered by the consociationalists quite convincingly. As noted earlier, the advancements in consociational theory have already answered some of the problematic issues regarding the ambiguity of consociational definition and cases. In the following paragraphs I elaborate the systematic responses of consociationalists to some of the most repeated critiques against consociationalism.

Consociationalists are often accused of being primordial thinkers. As noted in the previous chapter, Lijphart took the primordial view in his early work on consociation until the late 1970s, but from about 1980 on, he reassessed his theory and shifted his interpretation of ethnic identity from primordialism to constructivism (Lijphart, 2001). Now, Lijphart clearly rejects holding primordial view of ethnicity (Lijphart, 2001, 2008 and 2013). This shift was important as it influenced his thinking on questions of institutional design for divided societies and in particular his thinking about ‘self-determination’. However, as McGarry (1998: 860) states, ethnic ties are typically durable in deeply divided societies; therefore, they must be ‘accommodated in political institutions’. O’Leary (2005: 8) also maintains that the national, ethnic, linguistic and religious identities are generally durable once formed. In other words, group identities, according to consociationalists, tend to be resilient, durable and hard and they are often mobilized in a politics of antagonism in

divided societies. O'Leary (2013: 19), warns the social constructionists, who suggest ethnic identity as malleable, fluid, soft and quickly transformable, of their unconscious 'assimilationists or integrationist biases' and when divisions are durable, such biases are 'unjust' and the attempts at assimilation or integration would be 'unfeasible,' unless 'much blood is shed'. This is because assimilation or integration policy in divided societies results in imposing one community's identity and interests at the expense of other community's which can lead to violence or civil war as in Turkey and Iraq where the Kurds resisted assimilation and integrationist policies which resulted in thousands of casualties. In short, the consociationalists consider themselves as realists and argue that in places 'where divisions are long-standing' and 'when there is intra-group violence', it is more realistic to "accept that different groups will continue to exist than to seek the 'deconstruction' of group ties" (McGarry, 1998: 860). But at the same time they reject the label 'primordialists' (O'Leary 2005, 2013). This argument seems to be more convincing for Kirkuk where its ethnonational divisions, as noted in the previous chapter, are long standing and in every election since 2005, the population has mainly divided into ethnonational camps. In short, durability is consistent with a constructivist view of ethnicity.

Consociationalists have also responded to the claim that consociational theory is not democratic. In a grand-coalition government, critics argue, elites predominate and oppositions are absent and thus consociationalism conflicts with the familiar notion of contemporary democracy (See, for example, Taylor 1992, Dixon 1997, 2005). Lijphart (2002: 40-41) explains that the criteria of opposition is narrowly based on majoritarian conception which is one conception of democracy that 'does not exhaust the range of democratic possibilities.' Moreover, although consociation favours the democratic value of inclusion over opposition, this does not mean that consociation has no room for opposition (McGarry and O'Leary, 2009: 78). In the new consociational theory, leaders can freely choose to sit in opposition, as, for example, the Sadr group did for a period in Iraq and Hezbollah did in Lebanon (again, for a period). Lijphart (2002: 41) states that when the two systems of consociation and majoritarian rule are compared, one cannot see a big difference in terms of elite domination, as significant decisions are usually made in the two systems 'behind close doors' and in complete secrecy by the leaders. However, O'Leary (2005, 2013) offers a more compelling response, based on the distinction between 'complete', 'concurrent' and 'weak' consociations. This distinction, as already mentioned, is one of the important modifications to consociational theory. By a complete consociational

executive, O’Leary (2005: 12) means ‘the leaders of all significant segments of an ethnically differentiated territory are represented’. This indicates that ‘complete consociation’ is equivalent to Lijphart’s ‘grand coalition’. However, he maintains that ‘grand coalition’ does not demand the representation of every community in the executive, or that representatives within every community in the government are supported by all individuals of that community, or that all ethnic parties have representatives in the executive (O’Leary, 2013: 25). In a ‘concurrent executive’, O’Leary (2013:25) argues, ‘representatives of the majority within each of the main partner groups is in government’. By ‘weak’ or ‘plural’ executive, he means that at least the plurality representatives of each significant segment are in government (O’Leary, 2005: 13; 2013: 25). In the case of ‘concurrent’ and ‘weak’ consociations, ‘significant parties exist outside the government to criticize its policies’ which means that government can be held accountable and thus the accusation that ‘consociational executives lack democratic opposition is only (partially) accurate’ (O’Leary, 2013: 37-38). In short, as O’Leary (2005: 13) points out, what matters for a democratic consociation is ‘meaningful cross-community executive power-sharing in which each significant segment in the government with at least plurality levels of support within its segment.’ Therefore, grand coalition has currently a broader meaning than Lijphart originally suggested and thus the allegation that consociation is undemocratic loses much of its strength.

Further, consociationalists argue that majoritarian democracy, the benchmark against which critics evaluate consociational theory, is not appropriate for divided societies. In a majoritarian democracy, candidates that represent society’s majority generally form the government, and the opposition is formed of minority groups. This involves the monopolization of power by a party, group, faction or even a person—the opposite of power sharing (O’Leary, 2013: 2). This is, frankly, a nightmare situation for the minorities in the divided places. As Lijphart (1999: 31-32) argues, in the divided societies, ‘majority rule is not only undemocratic but also dangerous,’ since minorities are repeatedly denied access to power and this creates a situation in which they feel excluded and discriminated against, which in turn might make them disloyal to the government. Instead, Lijphart (1999) suggests, plural societies need a democratic regime that privileges and promotes consensus instead of opposition, inclusion rather than exclusion, and that maximizes the size of the governing majority. Or as O’Leary (2005: 10) puts it, ‘consociationalists want majorities – rather than the majority or the plurality.’ In short, inclusive government is more effective

and fairer than its opposite ‘winner takes all’ democracy in deeply divided places, because the possibility of simple majority rule in those places gives rise to a tyranny of the majority or the dominant nationality (O’Leary, 2014). Such an undesirable outcome, consociationalists contend, should be avoided in divided societies.

One of the big problems of the consociational approach, according to its critics, is that it lacks incentives for compromise. In order to reach agreements in a consociational bargain, the leaders of different ethnic groups are required to compromise the demands and claims of their followers. Such compromises are exploited by politicians who are not part of the consociational bargaining process to accuse the moderate leaders of ‘selling out’ the legitimate interests of their people (Esman, 2004: 144-145). As Stephen John Stedman (1997: 5) points out, ‘the greatest source of risk comes from spoilers-leaders and parties who believe that peace emerging from negotiations threatens their power, worldview, and interests, and use violence to undermine attempts to achieve it.’ To avoid such a situation, centripetalism suggests a ‘pre-electoral interethnic coalition of moderates,’ whereas consociationalists aim at ‘post-electoral governing coalitions’ of all significant groups in divided societies (Horowitz, 2014: 6). It is important to note that both centripetalism and consociation aims at an interethnic power-sharing arrangement in the divided societies (O’Leary, 2013). The difference, however, arises on whether ‘conflict regulation should be driven by building up moderates among the majority (centripetalism)’ or ‘by building up moderates among the hard-liners from all groups (consociation)’ (O’Leary, 34-35). Lijphart (2002) acknowledges that Horowitz is right in citing many examples of coalitions that have fallen apart as a result of being unable to compromise, but he argues that there are many other contrary examples. Moreover, Lijphart (2002: 43) points out that ‘logically, the desire to coalesce does imply a need to compromise.’ In other words, he notes that in divided societies parties not only want to enter but also to stay in the cabinet in order to reach compromises with their coalition partners as they have a very strong incentive to compromise political power. Therefore, consociationalists encourage the inclusion of radicals in a grand coalition government as this can make them less extreme. This is because their concerns are addressed through their inclusion in the first place and thus they may moderate their policy stances in return (Mitchel et al, 2009).

For consociationalists, the problem of the critics is that their alternatives can hardly produce better outcomes in the divided societies. Moreover, political leaders in those societies tend to accept power-sharing arrangements rather than its rivals such as integration or centripetalism. Consociational deals, as O’Leary (2013: 34) notes, are attractive for the political leaders, mainly because ‘they guarantee their group/party some direct share in power’; moreover, politicians tend to agree to proportional representation electoral systems rather than centripetal ones, because ‘they can win votes and seats on their own preferred platforms’. As Anderson (2012: 257) notes, ‘a convincing critique of power-sharing arrangements must posit an alternative that plausibly produces superior outcomes’ and at the same time ‘stands some reasonable chance of being adopted by rational, self-interested elites in the first place.’ Consociation has already a good historical track record while centripetalism has found ‘almost no support from either academic experts or constitution writers’ (Lijphart, 2004: 98). One reason for this is that the inclusion of radicals is often a precondition of getting a peace agreement off the ground.

It is hard to expect ethnic leaders to voluntarily choose institutions that are purposefully designed to weaken their power. As Drake and McCulloch (2011: 381) note, if parties are excluded from a system, then why they would contribute to the political stability of that system. Moreover, excluded radicals can destabilize the institutions of power-sharing by returning to violence or accusing the moderates from their bloc of treachery and thus preventing them from making necessary compromises for successful power-sharing (McGarry and O’Leary, 2004: 25). Contrary to Horowitz’s assumption, including radicals in a grand coalition government can make them less extreme as they are given a stake in the system and their concerns are addressed constitutionally too (McGarry and O’Leary, 2004: 25). In addition, contrary to Horowitz’s criticism about the difficulty of adopting consociationalism, Rupert Taylor lists 29 strong cases of consociationalism in his 2009 book.²⁶ Apart from that, Fraenkel and Grofman (2006) challenge many of Horowitz’s empirical claims on the effectiveness of AV in realizing moderation. In short, the track record of AV in divided societies is, at best, questionable.

Another reason that makes political leaders prefer power-sharing to its alternatives is the mutual distrust between the groups in the post-conflict divided societies. Anderson (2013:

²⁶ For familiarizing with the classic, past and contemporary consociational cases, see (Taylor, 2009: 6-7). Taylor notes that ‘since 1997, the number of cases has doubled and seems destined to grow yet further.’ His previous critical views on consociationalism appears to have been changed later.

258) convincingly argues that ‘trust is likely to be a commodity in short supply’ in the aftermath of ethnic conflict. He explains that due to having no trust between the various groups in the post-conflict societies, competitive democracy is not likely to function because such a democracy ‘requires losers to trust that winners will not use their position of power to oppress the losers, or even to change the basic rules of the game’ (Anderson, 2013: 258). In the consociational arrangements, however, the significant groups are included in the government and thus there are no clear-cut winners or losers which means that ‘trust’ is not a vital requirement for working consociational power-sharing. What makes ‘trust’ even less relevant is the existence of veto power by the minority groups to defend vital interests in case other groups make threats to change policy against the minority interests. Hence, adopting power-sharing institutions in the aftermath of ethnic conflict is more likely, mainly because on one hand they can function in the absence of genuine trust and offer security to all groups on the other hand (Anderson, 2012: 258). Iraq is a case in point in this regard. As Lijphart (2004: 99) points out, ‘power sharing has proven to be the only democratic model that appears to have much chance of being adopted in divided societies’. In short, the above points push the elites to favour consociational power-sharing institutions over any other arrangements in the aftermath of ethnic conflict in divided societies.

With regards to the criticism that consociation cannot offer an adequate explanation under the majority-minority situation, O’Leary (2005: 21-22) convincingly explains that under three conditions, the majority group may have an incentive to voluntarily share power with a minority group. First, when minorities have blackmail and resources potential. Second, when there is a risk of altering the segmental balance of power due to expanding the growth rate of a minority segment, thus the majority might lose its hegemonic status in the future. Third, when the majority group feels responsible to treat minorities generously in compensation for historic maltreatment. By contrast, the possibility of adopting centripetal institutions is even lower in the ‘sixty/forty contexts’ where one ethnic group in a clear majority (Anderson, 2013: 257). Lijphart (2004: 98), as noted in the introduction of this research, argues that if Horowitz’s model were applied to the Iraqi Governing Council (IGC), it would produce a majority Shi’ite body but with the condition that most of the Shi’ite members of that body would be moderate and sympathetic to the interests of Kurdish and Sunni minorities. This is, as illustrated in the introduction of this research, because the Shiites constitute the majority of Iraq. Clearly, the Kurds and Sunnis were

unlikely to agree to a constitution that would set up such a model. Thus, centripetalism is a system in favor of the majority group at the expense of the minority group. Therefore, even if centripetalism is hailed to be a good alternative to consociational power-sharing, at least in the long-run, it is a weak alternative as long as it has no or little chance to be adopted in the first place. Or as Anderson (2013: 258) puts it, ‘the problem with power-dividing and centripetalism as alternatives to power-sharing does not stem from their ineffectiveness at the consolidation phase, it is that they will never get this far.’ In short, consociational power-sharing has far more chances to be adopted in the aftermath of ethnic conflict than its alternatives. It is probably for this reason that consociation has become the preferred choice of the international community for post-conflict divided societies, including for Iraq.

As noted in the previous section, critics argue that consociationalism favours communal identities and entrenches them at the expense of individual identities and rights. The consociationalists have tackled this problem by making distinction between ‘corporate’ and ‘liberal’ consociation. This criticism seems to be more valid if raised against corporate form of consociation; however, as Wolff note, this is ‘a gross misreading of liberal, as opposed to corporate, consociationalism theory and practice’ (Wolff, 2011: 1791). As noted, in the first section of this chapter, the contemporary consociational power-sharing favours the liberal (self-determined) form of consociation over the corporate (pre-determined) one. A liberal consociation tries to safeguard individuals as well as national or ethnic groups. McGarry and O’Leary (2009: 37), for example, now argue that ‘a liberal consociation should treat as equally as possible those individuals who subscribe to rival national identities, to no national identity, to nested national identities, or have other salient public identities which cross-cut national lines.’ They (2007: 675) even explain their position more clearly when they state that liberal consociations take care to ‘ensure that the rights of individuals as well as groups are protected.’ Thus, this new approach (favouring self-determined consociation) by consociationalists fills an important gap in the traditional consociational literature and, at the same time, provides a good response to the claim that consociation favours group rights over individual rights.

Finally, it is important to note that although there are differences among scholars about the most effective institutional design for divided societies, there is a broad agreement that consociational power-sharing is the most appropriate mechanism for the transitional period. Many non-consociationalists also share this view. For example, Sisk (2013: 10) notes that ‘consociationalism has become default approach to ethnic or sectarian conflicts.’ This is

probably because of the fact that consociationalism may be the only strategy to bring violent conflict to end in deeply divided societies (McCulloch, 2014b: 502). On the other hand, it should be noted that the breakdown of some consociational power sharing arrangements, as O’Leary (2014) points out, is because of what is done at the center not what is done by the potential secessionists. The collapse of the Soviet Union and Yugoslavia arguably occurred due mainly to the recentralization efforts by the two governments. Similarly, the efforts of the former Iraqi Prime Minister, Nouri Al-Maliki, to recentralize power brought Iraq to the brink of disintegration. Therefore, in O’Leary’s words (2014), ‘a lot of what has occurred in the world is not the result of trouble-making secessionist minorities, it is the problem of recentralizing and overly majoritarian centres which provoke the departure of the relevant entities.’ Hence, the recentralization efforts by the governments not the secession desires of the minorities should generally be blamed in case of the breakdown of powersharing systems. In short, despite all criticisms, there is a broad unanimity among scholars that consociational power-sharing is the most appropriate solution to the transitional period in post-conflict divided societies.

Conclusion

This chapter presented the different strategies that governments use to deal with differences. At the outset, the undemocratic strategies such as genocide and coercive expulsion and the democratic strategies which have no potential to work in Kirkuk such as majoritarian democracy and centripetalism were ruled out. Consociational powersharing is, therefore, deemed to be the only viable option that can combine both democracy and political stability in Kirkuk. For this reason, the chapter particularly investigated consociationalism over the last forty years since its inception by Lijphart in the late 1960s. It argued that consociational theory challenged the dominant perception among political scientists in the 1950s and the 1960s that democracy is impossible in the plural societies. In so doing, consociationalism focuses on the role of elites and pays attention to the importance of political and cultural representation of the significant groups in deeply divided societies. However, this theory has experienced major developments and expansions, mostly in response to its critics. Therefore, the criticisms against consociationalism have generally contributed to expanding knowledge and advancing the theoretical and conceptual understanding of consociationalism. Consociationalists have responded to their critics in two main ways: rebutting and refuting some of the vehement

criticisms and advancing classical consociational theory into a contemporary one. Thus, it has remained the first preferred choice of the international bodies such as UN in the post-conflict divided societies.

It is noteworthy that the four elements (grand coalition, segmental autonomy, proportionality and mutual veto) are the defining characteristics of consociational theory. Therefore, studying these features is essential to either analyse specific consociational cases or to suggest consociation as a prescription in new cases. The central question of this research is to normatively evaluate whether consociation can offer an appropriate institutional mechanism for managing conflict and building a stable government in Kirkuk. In order to do this, it is crucially important to evaluate and analyse each of the above-mentioned features separately and in depth. The following chapters investigate whether there are prospects to apply a consociational power-sharing framework in the context of Kirkuk. Each of the four elements of consociational theory will be examined in a separate chapter. I will use my interviews in each of the following chapters. The next chapter, therefore, examines the 'grand coalition' element with reference to the case of Kirkuk.

Chapter 3. Grand Coalition

On April 9, 2003, the statue of Saddam Hussein in central Baghdad was torn down and, in the same day, Saddam's Ba'athist regime fell in Kirkuk. That day was the end of the Ba'athist party after 35 years in power and marked the beginning of a new era for the Iraqi people. In the new era, a multi-party system replaced one party and one faction rule. The Iraqi Governing Council, the first provisional government in Iraq formed on July 13, 2003, reflected the diverse ethnic and religious groups of the country. In the interim constitution (Transitional Administrative Law in 2004) and the permanent 2005 constitution, Iraq chose a consociational power-sharing system to run the country. As an Iraqi governorate, Kirkuk replicated the same governing style of Baghdad, however, due to the legal and political disputed status of the governorate, the city has never adopted consociational power-sharing formally. This chapter examines the experience of the last 12 years of governance in the city and governorate to understand whether there is any prospect to formally adopt the grand coalition element as the most important element of a consociational framework. In other words, this chapter examines whether the favourable conditions for grand coalition exist or not in Kirkuk.

Grand coalition is the central feature of consociationalism. As Lijphart (2004: 97) puts it, 'power sharing denotes the participation of representatives of all significant communal groups in political decision making, especially at the executive level (Lijphart, 2004, 97). Grand coalition entails the participation of the representatives of the major segments in the executive decision-making process, typically on a proportional basis (McCulloch, 2014: 11). However, as noted in the previous chapter, grand coalition has now been redefined in a way that covers a range of forms of governments. O'Leary (2005) now distinguishes complete, concurrent, and weak democratic consociational executives from each other. As McGarry et al. (2008: 58) put it, 'although Lijphart originally identified a grand coalition in which all communities are represented as the key indicator for consociation, what matters is some element of jointness in executive government across all the most significant communities. Consociation does not require every community to be represented in government.'²⁷ But applying this latter definition would be problematic in the context of

²⁷ According to Paul Dixon (2011), McGarry and O'Leary have redefined consociationalism so that it is compatible with Iraq's 2005 constitution. This is, on the one hand, to describe the Iraqi constitution as consociational and justify the exclusion of the Sunnis as a 'significant' segment from power in Iraq on the other hand.

Kirkuk. That is because, if ‘consociation does not require every community to be represented in government’, then it would be justifiable to exclude either Arabs or Turkmen from the executive power in Kirkuk. Excluding any of the three significant groups of Kirkuk would make the political situation in the city unstable and may lead to erupting intercommunal violence. For this reason, I will use Lijphart’s original definition of grand coalition in this chapter.

In short, the inclusion of the significant groups in the executive power is one of the crucial features of grand coalition government. The inclusion principle can be realized even in the absence of sufficient trust as discussed in the previous chapter. However, for the grand coalition government to function and to avoid immobilism, elite cooperation is crucially important. In other words, the successful establishment of a grand coalition government needs the inclusion of the significant groups, but for that government to function a minimum cooperation among elites of different groups is required. The following two sections will discuss these two principles, but I start with a discussion the principle of ‘inclusion’.

As noted above, this chapter examines whether the favourable conditions for grand coalition exist or not in Kirkuk. It focuses on the two important principles (mentioned in the previous chapter) that should exist prior to and after the establishment of any grand coalition government: inclusion and elite cooperation. Therefore, the chapter is organized around these two main themes. The first section examines the inclusion principle both theoretically and practically with reference to the case of Kirkuk. The second section deals with the importance of the principle of elite cooperation in consociational theory and examines it in the context of Kirkuk, by particularly focusing on elite behaviour in the post-2003 Kirkuk. Examining these two principles help us to understand the post-invasion governance experience in the city, and the possibility of adopting the element of grand coalition in the future.

3.1 Inclusion

The participation of leaders from all of the significant segments in the cross-community executive power-sharing is the defining feature of grand coalition governments. The consociational approach recognizes the existence of segmental cleavages and views them as the basic building block of the political system in divided societies (Lijphart, 1977: 41).

By recognizing segmental cleavages explicitly rather than deliberately seeking to abolish or weaken them, the consociational approach aims to achieve political stability in the society. In other words, consociationalism entails ‘the representation and participation of all major social segments in the governing process’ (McCulloch, 2014b: 501). This means that the consociationalists recognize the segments in the first place and argue that political stability can only be achieved when these segments are included in the government. This section examines the inclusion principle in the post-2003 Kirkuk and the prospects of the formation of inclusive governments in the governorate in the future. It starts with a theoretical argument of the importance of inclusion in deeply divided societies. It then examines the inclusion principle in the post-2003 governments and legislative bodies in Iraq as well as Kirkuk, drawing on the views of local elites in the city. Finally, based on the reiteration of the political leaders on the importance of considering inclusive governments in any future governance arrangement, I examine the corporate-liberal debate and I end the section with my recommendation for what kind of inclusive government should be adopted in the city.

3.1.1 *Inclusion in the Post-2003 Kirkuk*

Political inclusion has been the key characteristics of the post-2003 Iraqi political landscape.²⁸ By appointing the broad-based Interim Governing Council (IGC) in July 2003, the Coalition Provisional Authority (CPA) tacitly provided a basis for the consociation approach (McGarry and O’Leary, 2007: 674). Paul Bremer as the administrator of the CPA issued a regulation in which he affirmed the formation of the Governing Council of Iraq. In his 10th regulation in 2004, he recognized the members of the Iraqi Interim Government who were representing all of the significant groups of Iraq (CPA regulation 6: 2003; regulation 10: 2004). Thus, a practical grand coalition was formed at the national level in Baghdad even before approving the Iraqi permanent constitution. Likewise, the US forces created a 30-member council in Kirkuk in 2003 with the seats divided equally among the four main ethnic groups, i.e. Kurds, Arabs, Turkmen, Christians and independents (Anderson and Stansfield, 2009: 93-94). Thus, inclusion has been the primary feature of the post-2003 period both at the national and governorate levels.

²⁸ This is true in comparison with the political situation under Saddam. Otherwise, under former Prime Minister Nouri al-Maliki, the Sunnis were largely alienated and marginalized.

Since 2003, inclusion has been the prevailing feature of the legislative body of the provincial councils which were formed in Kirkuk. Since then, three provincial councils have been formed in the city which have been inclusionary. However, as noted in the introduction of this thesis, the executive body, which is represented in the positions of governorship, governorship deputy and chairmanship of KPC, has been inclusive at times and exclusive at other times. The first municipal council lasted nearly six months between June 2003 and December 2003. During this period, the U.S military appointed 30 members indirectly for the municipal council to govern Kirkuk (Anderson, 2009: 13). That council, as argued by Hanish (2010: 18), was made up of five blocks (Kurds, Arabs, Turkmen, Christians, and independents), each consisted of 6 members. Of 6 seats for the independent block, the Kurds held five of them. At that stage, the executive body was also inclusive as follow: (Mayor: Kurd, deputy Mayor: Arab, Mayor Assistants: Kurd, Christian and Turkman).

The second governorate council was expanded and continued from January 2004 until January 2005. That was called a governorate council which consisted of 40 members from all of the segments of the governorate. Again, the executive body was inclusive and senior executive positions were distributed among the four ethnic groups as follow: governor (Kurd), deputy governor (Arab), assistants (Kurd, Christian, Turkmen) and the council chairman (Turkmen) (Anderson and Stansfield, 2009: 215). Thus, the first two legislative bodies represented in the governorates council and the executive bodies represented in the senior positions in the governorate (formed under U.S. Military supervision) could largely be characterized as inclusive. The presence and influence of the US officials on the ground was crucial for that inclusivity, as they tried to convince the Kurds that they could not run the province unilaterally (ICG, 2006: 9). Although there was not and there is still not a consociational powersharing arrangement in place, the above-mentioned political arrangements between 2003 and 2005 could be seen as holding features of corporate consociation.²⁹

The third provincial council started in January 2005 in which 41 members were elected in a public election. No governorate election has been held since 2005. In other words, the

²⁹ Although independent people were included in both the legislative and executive bodies of the governorate, the seats were distributed on the basis of the ethnic backgrounds of the members and each group was given a specific number of seats.

third inclusive provincial council which has been in place since 2005 was formed on the basis of the provincial elections outcome. The seats were taken by the political parties on the basis of the proportional election results (further discussed in chapter five). Unlike the first two provincial councils, this time there was not a prior agreement to distribute the seats among Kurds, Arabs, Turkmen and Christians based on a fixed formula. Thus, a new inclusion style that will be based on a proportional electoral system would be helpful to achieve liberal consociationalism, if consociational power-sharing were to be the choice for the governing framework.³⁰ Thus, none of the four main communities has ever totally been excluded from the legislative body in the city since 2003. However, the executive body has sometimes been exclusive. Therefore, one can argue that the inclusion experience of the last twelve years (2003-2015) in the legislative body is promising in that it could be maintained and then expanded to the executive body. This can form the basis for adopting consociational power-sharing.

The elites of different groups interviewed for this research were generally satisfied with the level of inclusion in the discussions held over the issue of governance in the city since 2003. For example, the Kurdish member of the KPC, Ibrahim Khalil (2013) contended that ‘the groups have participated in the majority of discussions both inside and outside Iraq.’ When I asked him about the circumstances under which discussions were held, he added that ‘all of the discussions have taken place in a spirit of mutual understanding.’ Khalil’s point was corroborated by the former Kurdish chairman of KPC, Rzgar Ali (2013) who stated that ‘all of the groups have participated in the discussions that have taken place inside and outside the city.’ The Arabs are also satisfied with their inclusion in the discussions. Rakan Saeed (2013), deputy governor of Kirkuk, affirmed that ‘the discussions were inclusive.’ However, Saeed admits that the Arabs and Kurds reached the 2007 agreement without the involvement of the Turkmen. Mohammed Khalil (2013), the Arab member of the KPC, also explained that ‘the discussions were inclusive’ and as a result of those discussions in the governorate ‘we got the position of deputy governor and the Turkmen got the provincial council chairman.’ I asked Adward Oraha (2013), the Christian member of the KPC, whether the discussions that have taken place in Kirkuk were inclusive, he responded in a

³⁰ What distinguishes Kirkuk from Iraq is that Iraq’s 2005 constitution contains elements of consociation while consociationalism has not been formally adopted in Kirkuk yet. As noted above, McGarry and O’Leary (2007) hail the constitution of Iraq for significant parts of it are consistent with the principles of liberal consociation. Critics, however, do not agree with this conclusion (for further information, see Bogaards 2015)

word 'Yes'. As my interview with Oraha was not face to face, I could not ask him supplementary questions. However, his positive answer indicates that the Christians are also satisfied with the discussions held in the city.

The views of the Turkmen were different on this issue. Hasan Turan (2013), the KPC chairman, was skeptical about the ability of local elites to do a genuine negotiation; therefore, he maintained that 'the different groups in Iraq need a facilitator to bring all the parties together on the same table to do serious negotiations in order to reach a common vision.' When I asked Guelen Ahmed (2013), a Turkmen member of the KPC, the question about the inclusivity of all groups in the discussions, she just responded 'somewhat'. Again, as my interview with Guelen Ahmed was not face to face, I could not ask supplementary questions to further explain her response. However, she appears to have the same view by Najat Hasan (2013), a Turkmen member of the KPC, who argued that 'the discussions has been going on since 2003, however, during certain times there was a boycott of Arab and Turkmen blocs.' The Turkmen concern relates to the fact that the Kurds and Arabs signed an agreement at the end of 2007 in which the position of deputy governor was given to the Arabs, however, as Rakan Saeed, an Arab member of KPC, indicated 'the Turkmen had withdrawn at the time' but they were given the position of KPC chairman later. Once it comes to thinking about the future governance, the local politicians of Kirkuk believe that that they should run the governorate together as well. But it is important to note at the outset that those politicians generally share the same view in common with regard to governing the city, while they hold very different views when it comes to settling the future status of the city. The Arabs, for example, place much emphasis on the importance of inclusive governments in Kirkuk. For example, Ramlah Hamid Al-Ubeidy (2013), an Arab member of KPC, suggested, 'we are with shared rule.' The reason for that is because she believed that 'it is not possible that one group governs everything.' Mohammed Khalil (2013), an Arab member of KPC also emphasized that 'there should not be a dominant party' in the city, rather 'there should be a consensus government' to solve the problems. In the same line of argument, Rakan Saeed (2013), an Arab deputy governor, argued that 'after ten years, all the parties should be convinced that no group can dominate Kirkuk and impose its will by force.' The focus on inclusion in a grand coalition government is to be expected, particularly in a place where there is a lack of trust between its ethnic groups. Burhan Mazhar Al-Ubeidy (2013), an Arab member of KPC, for example, told me 'frankly, there are fears among the groups.' As noted in the previous chapter, when mutual distrust is

prevailing in the post-conflict divided societies, it is very likely political leaders opt for power-sharing. Consociational power sharing arrangement, as Anderson (2012: 258) notes, prevents creating ‘losers’ and ‘winners’ as the significant groups are included in the governments. That is exactly what Ramlah Al-Ubeidy (2013) required when she told me ‘to reach a solution in Kirkuk, there should not be a winner and a loser.’ Thus, the formation of inclusive or grand coalition governments in the city is one of the major requirements of the Arab community in Kirkuk.

The Turkmen, like the Arabs, shared the same perspective for governing the city and the push for an inclusive government. When I asked Arshad Salhi (2013), the president of the Iraqi Turkmen Front (ITF) and member of the CoR, about the sort of governance that he prefers for the future of Kirkuk, he told me ‘Kirkuk should be ruled by a shared rule.’ He also added ‘the real solution for the situation of Kirkuk is not imposing domination by a particular group over others.’ He suggested that ‘consensus should become the basis.’ Hasan Turan (2013), the KPC chairman also pointed out that ‘what Kirkuk needs is to agree on a model that includes the main three groups.’ For his part, Tahseen Kahya (2013), a Turkman member of KPC, also claimed ‘there is no hope without the consensus of the groups and all of the decisions should be taken by consensus of all of the groups.’ He maintained that the political leaders of Kirkuk should ‘reach a shared formula to deal with Kirkuk.’ Thus, like the Arabs, the Turkmen also paid particular attention to the principle of ‘inclusion’ in any government in the city. Again, they shared the same view regarding the issue of trust. For example, Arshad Salhi (2013), the president of ITF, noted that ‘Iraq still goes through the democratization processes’ and ‘there is still lack of trust among Iraqi groups’; therefore, ‘now, it is important to bring back the lost trust among us.’ An inclusive government, therefore, can be the best way for now, at least until the groups reach the point of ‘mutual trust’. Because, under the current situation ‘Kirkuk does not bear the majority-minority’ model of democracy. For Tahseen Kahya (2013), a Turkman member of KPC, the best solution is ‘to build trust’ among political leaders of Kirkuk, because genuine trust ‘is not existent up to now.’ The persistence of Arabs and Turkmen on the principle of ‘inclusion’ can be deemed as attempts to bring a power-sharing model in the city and governorate. As O’Leary (2013: 8) notes, ‘power sharing is one of the most important instances of enhanced inclusion.’ Thus, inclusion and power-sharing complete each other.

The Kurdish elites interviewed for this research, on the other hand, believed in the importance of Arab and Turkmen participation in governing the city. The Kurds, who are the largest group in the governorate, share the same view and this is vitally important, because, as Horowitz claims (year?), it is usually the large ethnic groups who reject the adoption of power-sharing. Abdulrahman Mustafa (2013), the former Kurdish governor (from 2003 until 2011), stated that ‘out of my experience, I say that all of the groups should be included in the decision-making process.’ Awat Muhammed Ameen (2013), a Kurdish member of KPC, corroborated the same point as ‘Kirkuk is a diverse city and none of the groups are the absolute majority.’ He maintained that ‘the logic of imposition and coercion does not work.’ In other words, he supported an inclusive government in Kirkuk at least for the transitional period and this, he explains, is the view of all the Kurdish politicians in Kirkuk and the KRG as well. Najmaddin Karim (2013), the current governor of Kirkuk, also confirmed to me that ‘majoritarian democracy is not suitable for Kirkuk.’ Thus, the Kurds appeared to be aware of the risks of governing Kirkuk unilaterally and its negative consequences on the political stability in the city. One reason for that could be related to the point that the Kurds comprised less than 20 per cent of the Iraqi population, yet they made many troubles for successive Iraqi governments in the past. For example, the Kurdish issue was one of the main factors of Iraq’s political instability throughout the twentieth century. In other words, the Kurds were able to shake the political stability in the country while only constituting around one fifth of Iraqi population and had no friends but the mountains.³¹

In the same logic, the exclusion of the Arabs and Turkmen might result in destabilizing the political situation of Kirkuk, because on the one hand, they definitely comprise more than 20 per cent of the population of Kirkuk governorate, and on the other hand, unlike the Kurds in the twentieth century, they have friends. For example, Arshad Salhi (2013), the president of Iraqi Turkmen Front (ITF), explained to me that the ‘European parliament is now concerned with Turkmen issues in Iraq’ and ‘holds special meetings regularly to solve the problems of Turkmen.’ He also told me that if they ‘are oppressed by Baghdad and the Kurdistan region’, they ‘will inevitably resort to two parties, either the international party or Turkey, as they are our only resorts.’ The Arabs also have friends in Baghdad and

31 The expression that the Kurds have ‘No friends but mountains’ is well known and frequently used by journalists and commentators on the Kurdish issue in middle east.

probably in the Arab neighbouring countries. The Sunni/Shia split seems to have been effective in this regard. In their recent report on the future of Kirkuk, for example, the Middle East Research Institute (MERI) (2015: 25), notes that ‘the distrust that has grown between Sunni Arabs and the Shia dominated government in Baghdad is also present in Kirkuk.’ Therefore, it is unlikely that the Kurds intend to or will be able to marginalize other non-Kurdish communities in the city. This empirical evidence is in line with O’Leary’s previously mentioned (2005) observation that under certain circumstances the majority group agree to adopt power-sharing, whereas it does not support Horowitz’s (2014) scepticism that it is difficult to adopt consociation in a majority-minority situation. In general, the Kurds, like Arabs and Turkmen, have been and are in favour of forming inclusive governments in Kirkuk. They all understand that without an inclusive government, it is highly unlikely that political stability will be achieved and sustained in the city.

3.1.2 Corporate or Liberal Consociation?

An important and relevant issue regarding inclusion is the distinction that consociationalists now make between corporate and liberal forms of consociation. The main practical difference between the two is whether seats are reserved in advance or not. In a consociational power-sharing arrangement, as McCulloch (2014b: 503) observes, inclusion can be achieved by ‘either predetermining which groups will share power or by allowing groups to determine the extent of their participation.’ In other words, inclusiveness can be achieved through both corporate and liberal forms of consociationalism, however, the former gives more guarantee of inclusion to the minority groups than the latter. In corporate consociation, the representation of the groups is entrenched and guaranteed constitutionally such as in the examples of Bosnia, Belgium and Lebanon. In Bosnia, for example, the position of president is rotated between the three ethnic groups of the Bosniak, Croat and the Serbs. The Flemish and Walloons are represented with the ratio 6:4 in the legislature while French and Dutch speakers are represented equally in the Cabinet of Ministers (McCulloch, 2014b: 503). In Lebanon, the formula of power-sharing based on the 1943 National Pact guaranteed the presidency to a Christian Maronite, the prime ministerial position to a Sunni Muslim and the speaker of the national assembly position to a Shia Muslim, while a ratio of six Christians to five Muslims was adopted in other public offices (Salamey, 2009: 83). This fixed formula of allocating the presidency, premiership, and

speaker of the legislature to a Christian, Sunni Muslim, and Shi'a Muslim is still the same in Lebanon. Thus, corporate consociationalism predetermines seats and power positions among ethnic groups in divided societies.

Liberal consociationalism, however, 'avoids constitutionally entrenching group representation by leaving the question of who shares power in the hands of voters' (McCulloch, 2014b: 503). In other words, in liberal consociationalism the voters will decide, through the ballot box, which party (ethnic or non-ethnic) takes which position and thus it leaves rooms for the emergence of new groups. Iraq's 2005 constitution and Northern Ireland's 1998 Agreement are considered by consociationalists as two documents that contain significant elements of liberal consociationalism (see, for example, McGarry and O'Leary, 2004, 2006 and 2007). In Iraq, consociation as an institutional mechanism for managing conflict has been in place since 2003. One can argue that the first stage of consociation was corporate consociation, but it gradually moved towards being a more liberal form later. Appointing the 25-members of the Iraqi Governing Council (IGC) based on their national and religious backgrounds soon after the fall of the former regime by the CPA was a clear move to favour inclusion within the corporate consociational form. In 2005, the Iraqi constitution was adopted which moved towards a form of liberal consociation. According to McGarry and O'Leary (2007: 687) the constitution of Iraq takes a liberal consociational approach as it focuses on democratic preferences rather than predetermined communal or ethnic categories. For example, while governorates are allowed to become regions which have more power and authority, they are not required to do so.

As noted above, the legislative body in Kirkuk has been inclusive since 2003 and the political leaders agree upon the necessity of an inclusion principle in any future political arrangement. However, while they all want inclusion, they want it on their own terms. The Kurds want a power-sharing arrangement based on the election results, i.e. they reject allocating the seats and positions based on a fixed formula in the governorate. The Arabs and Turkmen, however, can generally be seen as advocates of adopting equal power-sharing for each of the three main ethnic groups which is basically the same as corporate consociation. These different perspectives among the three main ethnic groups constitute the core of the governance problem in the city. An example can clarify this matter. On July 22, 2008, the Provincial Elections Law was passed by the Iraqi Council of Representatives

(CoR). According to article 24 of that law, a local power-sharing formula in Kirkuk was decided upon on the basis of 32-32-32-4 formula to distribute key positions to the Kurds, Arabs, Turkmen and Christians (Visser: 2008a). The Kurdish members of the CoR boycotted the vote and staged a walkout in protest against the inclusion of Article 24 of the law for the above-mentioned 'Provincial Elections Law'. The reason for Kurdish opposition to that article was that it mandated equal power-sharing among the three main ethnic groups of the governorate (Anderson, 2013: 364). However, despite Kurdish legislators protest the law was approved. By contrast, the Arabs and Turkmen members of CoR voted in favour of the law. Khalid Shwani (2013), a Kurdish member of CoR, described article 24 of the Provisional Election Law as 'departing from the constitution and the implementation of article 140.' For him, passing this law meant 'Kirkuk's restoration to the pre-2003 era.' The law, however, was vetoed the next day by the Kurdish Iraqi president, Jalal Talabani and his Shiite deputy, Adel Abdul Mahdi. Thus, the Kurds blocked that attempt to approve equal power-sharing government for Kirkuk.

Two months later, on September 24, 2008, Article 24 was replaced by article 23 in which the United Nations special representative in Iraq, Staffan de Mistura, cooperated to craft the elections and brokered a compromise in Kirkuk governorate by setting elections for fourteen provinces by 31 January 2009. The new article (Article 23) was approved by the presidency council on 3 October 2008 (ICG, 2008: 4). According to this article, a committee of 7 parliamentary representatives from Kirkuk was to be established to deal with the local power-sharing arrangement in Kirkuk. The committee reflected the ethnic composition of Kirkuk and consisted of 2 Kurds, 2 Arabs, 2 Turkmen and 1 Christian. They should have prepared a report by 31 March 2009 and the CoR was expected to create a special election law for Kirkuk. It was decreed in the law that if the parliament failed to do so, the president, the prime minister and the speaker of the parliament were to decree, in cooperation with the United Nations, a suitable system for elections (Visser: 2008b). However, none of these relevant parties could issue such a law. One reason for this was that the Arabs and Turkmen insisted on a pre-determined 32-32-32-4 per cent power-sharing formula to divide senior executive positions in the province and they were opposed to holding provincial elections. By contrast, the Kurds were confident that if elections were held, they would win, whereas if elections were delayed the current Kurdish dominated council would continue (ICG, 2008: 3). I will further discuss the reasons for not holding governorate election in Kirkuk since 2005 in chapter five. Thus, the groups basically agree

on the importance of considering the inclusion principle, however, they disagree over the sort of inclusion that should be adopted.

Due to the failure of the seven-member committee to prepare the draft law by its deadline of March 31, 2009, the committee was dissolved. After that, at the request of a Kurdish member of Kirkuk Provincial Council (KPC), the Iraqi Federal Supreme Court decided to strike down the first two paragraphs of Article 23 in August 2013. The first paragraph of article 23 stipulated that holding elections in Kirkuk should come after sharing power and that administrative, security and public sector employment positions should be shared equally among the groups. The Supreme Court's main reason for abolishing this first paragraph was that it deemed them unconstitutional as it considered it violation of article 16 of the 2005 Iraqi constitution which says 'equal opportunities shall be guaranteed to all Iraqis, and the state shall ensure that the necessary measures to achieve this are taken.' In other words, the article was abolished as it gave the opportunities only to the groups at the expense of citizens who may not align themselves with any ethnic group [a point made by O'Flynn (2003), Taylor (1992) and others in relation to Northern Ireland]. The court also emphasized that the same constitutional violation of the first paragraph has been repeated in the second paragraph when it puts 'forming a committee that consists of two representatives from the main three constituents of Kirkuk governorate...' Again, this committee was limited to only the main ethnic groups which denies equal opportunity to those who may not like to describe or identify themselves along ethnic lines. This act by the Iraqi Supreme Court indicates two important points. First, it is an obvious indication that the Iraqi constitution is not consistent with corporate form of consociationalism, rather it is more compatible with liberal consociationalism, a point that McGarry and O'Leary (2007) had already made. Second, the decision precludes or at least weakens the possibility of adopting corporate consociationalism for Kirkuk in the future. Thus, the court reached the conclusion that the article is unconstitutional and ends the possibility of any future legal attempt to form a grand coalition council or government based on equal power-sharing in Kirkuk.

Having said that, I would argue that considering a combination of corporate and liberal forms of consociational power-sharing would be a suitable solution to overcome the problem of governance in the city, at least for the transitional period. This is because, as I will explain in the following section, the division of the three senior positions in the city,

namely the positions of governor, deputy governor and KPC's chair among the Kurds, Arabs and Turkmen has proved effective in the past. These three positions were taken by the Kurds until 2008 when the political situation was very tense in the city. However, once the positions of deputy governor and KPC's chairman were given to the Arabs and Turkmen in 2008 and 2011, the relations among the political leaders improved considerably. Moreover, after noting how Iraq has remained 'violently unstable', McCulloch (2014b: 509) suggests that 'it would seem liberal consociational rules, by themselves, cannot do all the work of bringing about stability and cooperation' and notes 'if we turn to the cases that combine aspects of liberal and corporate rules, they, on average, appear as considerably more stable,' therefore, she recommends hybridity (a combination of liberal and consociational elements) as in Northern Ireland and Macedonia. This recommendation could be beneficial for Kirkuk's future in two ways. First, this is basically the demand of some of the political leaders in the city. For example, Rakan Saeed (2013), the Arab deputy governor, suggested adopting a combination of corporate and liberal forms of consociation in the city when he said 'the senior positions should be divided among the groups regardless of the elections outcome and other lower positions would be based on the elections results'. This point was corroborated by Rzgar Ali (2013), the former Kurdish provincial chairman; 'the senior positions such as governor, deputy governor, provincial council chairman, and directors of various directorates should be divided with consent of the groups. But the lower positions such as civil servants and workers should be divided on the basis of each group's size in the elections.' Second, adopting a combination of liberal and corporate consociational elements helps to avoid the deficiencies of corporate consociation which often ends with gridlock as in the case of Bosnia. In addition, the adoption of a hybridity consociational arrangement would be able to address the demands of the Kurds on the one hand (the lower positions will be distributed based on elections results) and the Arabs and Turkmen on the other hand (the three senior positions of governorship, deputy governorship and the KPC's chairmanship will be distributed between the three main ethnic groups) and thus conflicts can be diminished. Finally, I would argue that this solution should be possible in the case of Kirkuk.

Hybridity would be possible in Kirkuk by replicating the informal culture of dividing the senior positions among Shiites, Sunnis and Kurds in Baghdad. Habib Al-Hurmzi (2013) asserts the importance of this norm which he labels 'informal culture'. He argues that this informal culture has proved well-founded in Iraqi politics. In other words, legislation and

important political decisions are issued in Iraq in accordance with the consensus principle among the concerned parties. Since 2003, he argues, this phenomenon has become a constitutional norm employed to distribute the highest political and administrative positions. In other words, hybridity is some sort of 'half-way-house' between the liberal and corporate models. Distributing the highest three political positions of the country (prime minister, the president and the speaker of Parliament) among Shiites, Kurds and Sunnis has been in accordance with this formulation. The same norm can be applied in Kirkuk for managing the conflict in the transitional period. Alternatively, this can be achieved through an agreement between the groups for a limited time, i.e. ten years or so.

Finally, from the arguments stated above one may conclude that inclusion of all the significant ethnic groups has been the defining feature of the post-2003 political process in the city. This means that there is at least a decade of experience of inclusive provincial councils in Kirkuk. Moreover, the elites of different groups reiterate the importance of an inclusive government in the city for the future. Therefore, one can view this as a promising basis for grand coalition in any future governance arrangement in Kirkuk. Without inclusion, at least at this stage in which the mutual trust between groups is relatively low, it is highly unlikely that Kirkuk can achieve political stability. Therefore, the principle of inclusion is important to be maintained and formalized in Kirkuk either within an agreement framework (if Kirkuk joins the Kurdistan region or remains as a governorate under Baghdad authority) or a constitution (if Kirkuk becomes a stand-alone autonomous region). Although the informal inclusive government arrangements have worked relatively well in Kirkuk, it should be formalized as the Kurds controlled the city after the emergence of ISIS. In other words, the Kurds are in a stronger position than the Arabs and Turkmen and there is no guarantee that the Kurdish leaders will not try to achieve their goals by domination and refuse cooperation with the leaders of other communities. A formal structure of inclusion is necessary to rule out gaining power by domination and to give a sense of security to other non-Kurdish groups. This is of vital importance if genuine political stability in the city and governorate is going to be achieved.

However, the major dispute between the groups is not on the necessity of considering the principle of inclusion, rather they disagree about whether any future powersharing arrangement would be based on equal distribution of the positions (corporate consociation) or based on the outcome of elections (liberal consociation). Taking these differences into

consideration, I would suggest considering a combination between the two forms of consociational power-sharing in any future governance arrangement. Clearly, apart from the centrality of ‘inclusion’, elite cooperation is also another very important element for the functioning and success of any grand coalition government in divided societies. In the following section, I discuss elite cooperation with specific reference to the case of Kirkuk.

3.2 Elite Cooperation

Grand coalition government as the first primary characteristic of consociational democracy cannot function well without elites cooperating together. In the context of Kirkuk, however, no formal consociation has been put in place so far. Therefore, one cannot examine elite cooperation to assess whether consociation has been successful or not. Therefore, elite cooperation in the context of Kirkuk should be discussed to understand whether there is a prior cooperation among elites that could be conducive to the establishment of a consociational power-sharing arrangement. In this section, I examine elite cooperation as a favourable condition that is strongly conducive to establishing consociation. To do so, firstly I discuss in theoretical terms the factors that could contribute to the establishment or maintenance of cooperation among elites in a divided society. Then, to show a clear picture of elite relations in the past decade or so, I turn to empirically assess the behaviour of elites in the post-2003 period in the city. Thus, in the light of the theoretical explanation and empirical evidence on the ground, one may judge how elites have worked together in the past and whether that experience can tell us anything about the prospects of adopting grand coalition government in the future.

3.2.1 Elite Cooperation: A Theoretical Discussion

Elite cooperation is key to the functioning and durability of grand coalition in divided societies. The role of political leaders is central in consociational theory. This role can very clearly be noticed in Lijphart’s first formulation of consociationalism when he (1969: 216) states that ‘consociational democracy means government by elite cartel designed to turn a democracy with a fragmented political culture into a stable democracy’. He later emphasized this in his ground-breaking book *Democracy in Plural Societies* when he (1977: 1) stated that ‘elite cooperation is the primary distinguishing feature of consociational democracy’. After studying the cases such as the Netherlands, Austria and Belgium, he identified that even if these societies were fragmented, they maintained a stable

political process mainly because the cooperative behaviour of their elites (Wolff and Cordell, 2011: 300). Furthermore, the cooperation between the representatives of the different segments can bring about both democratic legitimacy and political stability in divided societies (McCulloch, 2014: 11). Consociationalists suggest that this elite-level cooperation can overcome deep communal differences and assuage conflict in such societies (Sisk, 1996: 34). This could be because consociationalism ‘depends on the capacity of leaders to make compromises and to persuade their followers to accept such compromises’ (O’Leary, 2013: 38). In short, consociational theory connects the political stability of divided societies to the principle of inclusion and the behaviour of elites in a grand coalition government.

While elite cooperation is key to the functioning and sustainability of grand coalition, the existence of a prior tradition of elite accommodation is a favourable factor to the establishment of consociationalism. Put differently, in the deeply divided places where grand coalition government has already been in place, elite cooperation is vitally important and even a prerequisite for functioning power-sharing. However, in other places where grand coalition has not yet been adopted such as Kirkuk, the existence of a tradition of elite accommodation is a favourable factor for its establishment. Thus, elite cooperation can serve as a favourable factor prior to the establishment of grand coalition and a prerequisite condition after its establishment. Therefore, prior experience of elite cooperation has been identified by Lijphart as one of the favourable factors that is conducive to establishing a consociational government. Moreover, Lijphart (1977:103) argues that this factor is more important than the other favourable conditions. Overall, although prior tradition of elite cooperation does not necessarily mean mutual understanding between elites in the future, it is at least a facilitating condition for establishing and maintaining consociationalism in the divided places.

According to Lijphart, three factors strongly contribute in the establishment or maintenance of cooperation among elites in the plural or divided societies: these are the existence of an external threat to the divided society; a multiple balance of power among the subcultures; and a relatively low total load on the decision-making institutions, i.e. size factor (Lijphart, 1969: 217-219). Firstly, I turn to the factor of the existence of external threats. In the time of crisis, even the elites of the countries belonging to the class of majoritarian democracies may opt for cooperating with each other within a grand coalition government as a

temporary expedient. For instance, Great Britain and Sweden, which were not consociational, yet resorted to grand coalition cabinets during the Second World War (Lijphart, 1977: 28). At the time of writing this dissertation, the predominantly Arab areas in western Kirkuk such as Hawija, Rashad, al-Abbasi, al-Zab, and Riyadh are under ISIS. In other words, Kirkuk is currently under the threat of a common enemy; therefore, the political leaders in the city are compelled to cooperate with each other to face ISIS. Now the three main ethnic groups of Kirkuk fight against ISIS under Kurdish Peshmerga, the Popular Mobilization Forces and the Sunni Tribal Fighters. Thus, the ISIS threat has compelled the elites of Kirkuk to cooperate with each other. However, notwithstanding these recent developments, political leaders in Kirkuk have generally cooperated with each other since 2003, partly because their city has borders with the highly violent governorates of Mosul, Salahadin and Diyala and they have been obliged to cooperate with each other at times to prevent violence and chaos in Kirkuk. Thus, outside threats have been a factor to get the elites of Kirkuk to work together at various points since 2003.

A second favourable factor that encourages the elites to opt for cooperation is the multiple balance of power among the segments. Lijphart (1969: 217) argues that if one segment is in the majority 'its leaders may attempt to dominate rather than cooperate with the rival minority.' For Lijphart (1977: 56), the notion of a multiple balance of power includes two separate elements: a balance among the segments, and the presence of at least three different segments. In other words, in the presence of a multiple balance of power no segment has a clear majority. At first sight, a multiple balance of power appears to be absent in Kirkuk. On closer inspection, however, one can reach a different conclusion. In an interview that I conducted with the Arab author Abdul Satar Al-Ka'bi (2013), he told me that 'there is no balance of power in Kirkuk' as the Kurds are 'in majority in terms of demography and they have also controlled the main positions' which made them more influential than other groups in the course of events in the city. However, as noted earlier, the Kurds seem to only constitute the plurality in the city. Despite what Al-Ka'bi claimed, there is no census to prove that they are more than 50 per cent. Even if it turns out that the Kurds are more than 50%, there are other reasons that may counterbalance that Kurdish majority.

Kirkuk is not only a local problem but also a national, regional and an international one; therefore, when considering the balance of power, the influence of Erbil, Baghdad and other

regional and international actors such Turkey and UN should not be overlooked. In addition, the existence of the Kurds, Arabs, Turkmen and Christians is already fulfilling Lijphart's condition for a multiple balance of power, i.e. the condition of the existence of a minimum three groups condition is already met in Kirkuk. In addition, as I discuss later, the post-2003 experience also proves that the Kurdish elites have cooperated with other non-Kurdish groups relatively well in the city. Thus, in spite of their current political and military domination in the city, the Kurdish elites cannot ignore other groups once it comes to governing the city.

The size element is the third important factor that can lead to the establishment and maintenance of cooperation among elites in divided societies. Lijphart (1969: 219) notes that 'the political burdens that large states have to shoulder tend to be disproportionately heavier than those of small countries.' This is because small places can be managed better, or more easily, than bigger ones. Lijphart (1977: 65) argues that small size has both direct and indirect impacts on the possibility that consociation 'will be established and will be successful'. It directly consolidates the spirit of accommodation and cooperativeness, and it indirectly renders the issue of governance easier. The direct internal influence of smallness is based on the assumption that it is more likely that the elites know each other personally and meet frequently. This can make them choose a cooperative rather than an adversarial style of decision-making. In Kirkuk, the members of the provincial council from different groups know each other personally and meet every Tuesday to talk about the issues related to public service and so on. Moreover, as their offices are in the same building, they see each other almost every day and, during my frequent interviews for nearly two months in the Kirkuk governorate building, I noticed that some of the members were frequently visiting the offices of other members of different groups and communicating together. In addition, the offices of the governor, his deputy and the provincial council chairman are in the same building and they see each other on a daily basis to talk about the administrative issues. Rakan Saeed (2013), the deputy governor, for example, told me that he 'meets the KPC chairman on a daily basis,' and continued, 'personally, my coordination with the council chairman and the governor is high.' Similarly, Najmadeen Karim, the governor, told me that he meets the KPC chairman 'more than once a week' and also said that there are no disputes between him as a governor and the governor deputy 'on the daily and administrative issues.' Moreover, the directors of the governorates directorates also know each other. Thus, the small size of Kirkuk has been a

facilitating factor for elite cooperation on the administrative and governance issues to date. The presence of this elite cooperation and the lack of division at the mass level together (as I will discuss in the following chapter) could be a very promising basis for the adoption of a grand coalition and consequently consociation in Kirkuk.

3.2.2 Elite Cooperation in Kirkuk: Post-2003 Experience

Having presented the theoretical discussion on elite cooperation above, it is important to turn to the behaviour of Kirkuk elites on the ground in the post-2003 period. As noted earlier, prior elite accommodation experience is a favourable factor to the establishment and success of consociational power-sharing. Based on the interviews that I have conducted, I can argue that relations among elites in Kirkuk have passed three stages since 2003. The relations have generally improved since then. The three phases can be classified as follow: The first phase (2003 – end of 2007); the second phase (2008-2011) and the final one (2011 until the present). I will explain each of these stages in further detail below.

The political situation can be defined as ‘tense’ in the city between the years 2003-2007. David Gray (2006) who was commander of 1st Brigade, 101st Airborne Division was assigned to the multinational division north in Iraq, describes the complex struggle for power among the ethnic groups of Kirkuk as ‘an amalgamation of a knife fight, a gunfight and three-dimensional chess’ in the aftermath of Saddam’s fall in 2003. In this stage, the communities were suspicious towards each other. As Awat Mohammed Ameen (2013), a Kurdish member of KPC, notes, the participation of the Kurds in overthrowing the Ba’athists rule with the American forces made the Kurds ‘a de facto dominant group.’ For the Arabs and Turkmen, he argues, ‘dealing with this new de facto was difficult.’ The Turkmen viewed Kurdish rule in the city with concern and accused the Kurds of starting ‘coercive procedures to change the demography of Kirkuk’ under the process of the so-called ‘Kurdification’ of the city (Arshad Salhi interview, 2013). The Arabs thought that the overall regime change targeted them in Kirkuk. As Ramlah Al-Ubeidy (2013), an Arab member of KPC, explained to me, in the early years after the fall of the former regime ‘the Kurds and Turkmen were viewing each Arab individual as representatives of the former regime.’ She added, ‘even saying “hello” and “good morning” was very difficult.’ Thus, after 2003, the Arabs (Sunni Arabs in particular) were feeling alienated due to the American

occupation, on the one hand, and the process of de-Ba’thification on the other.³² As a result of de-Ba’thification process, close to one thousand former Ba’thists at the rank of team leader or higher were removed from their positions in the early months after the fall of Ba’th party in 2003 which added further to Sunni Arab alienation (Anderson and Stansfield, 2009: 108). Moreover, Mohammed Khursheed (2013), a senior member of the Kurdistan Democratic Party (KDP), described the situation to me and said that the four ethnic groups ‘were trying to achieve the most for themselves’ in that early stage. Rebwar Sayd Gul (2013), a senior member of the Kurdistan Islamic Union (KIU), clarified that in 2003 ‘there was a contention among the communities and within communities over who will rule and govern Kirkuk.’ The struggle for power in the multiethnic society of Kirkuk was understandable at the early stages of post-2003 era. Therefore, it is not difficult to understand that cooperation among elites under such a turbulent and tense situation would not be easy to achieve.

As noted in the first chapter, the roots of ethnic conflict in Kirkuk date back to the beginning of the twentieth century. However, it was only after 2003 that the Arabs for the first time felt deprivation, discrimination and grievances. One of the common reasons for ethnic conflict is political injustice or political inequality. As Milton Esman (2004: 74-78) points out, political injustice is one of the common and key reasons for most of the world conflicts which manifests itself in many forms, such as the problem over the status of territory, political inequality and exclusion, and the persecution of minorities. Cederman et al (2011: 479) also argue that political inequality plays a central role in conflict and even civil war. However, the theory of ‘relative deprivation’ might be the most important explanation for the early years following the fall Saddam’s regime as this theory connects grievance with conflict.³³ For William Zartman (1995: 5), ethnic conflicts begin ‘with the inability or unwillingness of the government to handle grievances to the satisfaction of the aggrieved.’ That is what happened in Kirkuk both before and after 2003. The successive Iraqi

³² Shortly after the US invasion of Iraq, L. Paul Bremer, head of the Coalition Provisional Authority (CPA), introduced de-Ba’thification process on May 16, 2003. This was to remove members of the Ba’ath Party from their positions of authority and to ban them from future employment in the public sector. For further information on de-Ba’thification process in Iraq, see: Bremer, P. L. and McConnell, M. (2006) My year in Iraq: the struggle to build a future of hope; David, R. (2006) ‘From Prague to Baghdad: lustration systems and their political effects’, *Government and Opposition*, 41(3), pp 347–372; Stover, E., Megally, H. and Mufti, H. (2005) ‘Bremer’s “Gordian knot”’: transitional justice and the US occupation of Iraq’, *Human Rights Quarterly*, 27(3), pp. 229–254.

³³ According to Esman (1994: 29), the concept of relative deprivation refers to ‘the gap between a group’s current status and prospects and what appear to be reasonable and legitimate expectations.’

governments were unwilling to address the grievances of the Kurds and Turkmen before 2003, whereas the Arabs and Turkmen believe that the Kurds have overlooked their concerns in the post-2003 period. To resolve their problems, the Arabs and Turkmen resorted to boycotting the KPC's proceedings. They frequently boycotted the sessions of the provincial council during 2006-2007. In Awat Mohammed Ameen's words (2013) 'the Arabs and Turkmen was like one bloc at the time, each time one of them was boycotting the provincial council.' Thus, the groups' feelings of suffering discrimination and their grievances have played significant roles in Kirkuk conflict.

However, that tense situation which marks the beginning of the second phase was eased by 2008. The Kurdish Brotherhood List (KBL) and Arab Iraqi republican Assembly (IRA) signed a power-sharing agreement at the end of 2007. According to the terms of the agreement, the deputy governor position was given to the Arabs and they agreed on allocating power equally on the basis of 32-32-32-4 for the three main ethnic groups and the Christians (Anderson and Stansfield, 2009: 161). This agreement was reached based on two workshops held at the Dead Sea in Jordan in 2008 and in Berlin in 2009 which were facilitated by Iraqi and non-Iraqi bodies and organizations. In the first case, the Friedrich Nauman Foundation organized a conference entitled 'Facilitation of Governing Arrangements for Kirkuk' for 23 political decision makers of the Kirkuk governorate at the Dead Sea in Jordan from 1 December to 5 December 2008. The conference was intended to elaborate recommendations foreseen in Article 23 of the Provincial Elections Law and to search for a peaceful co-existence in the governorate and a fair and feasible power-sharing arrangement.³⁴ In a remarkable move of cooperation, the participants signed a joint declaration, the so-called 'Dead Sea Declaration', in which in the first point they all agreed on implementing the principle of power-sharing (Collins and Wolff, 2009). They also agreed on working to realize some other key issues such as implementing economic and administrative reforms, supporting the seven-member Article 23 committee, and accelerating the process of solving the property disputes in Kirkuk.

A subsequent workshop was held by the same Foundation in Berlin entitled 'Implementing the Dead Sea Declaration: Just and Durable Solutions to the Challenges of Governance in Kirkuk' from 28 to 30 April 2009. This was later known as the Berlin Accord. The

³⁴ According to Article 23 of the Provincial Election Law, the political and administrative positions of Kirkuk was supposed to be distributed between the three main groups on an equal basis. This article will be discussed in detail in chapter five.

participants agreed on several points and affirmed their commitment to the principles and provisions of the Dead Sea Declaration. They also emphasized the importance of implementing the power-sharing arrangements already agreed upon in the Kurdish-Arab agreement of 02 December 2007 and the content of Article 23. They agreed on equal power-sharing of 32-32-32-4 for public sector employment and for distributing the senior positions as well (Berlin Accord, 2009). As Awat Mohammed Ameen (2013) notes, 'this was the beginning of working with the basics of power-sharing.' The 2007 agreement with the Arabs was activated in 2008 which resulted in stopping boycotts by the Arabs. Thus, the Turkmen remained alone. But at the same time, this deal was a successful 'divide and conquer' strategy by the Kurds that fractured the Arab-Turkmen alliance that had continued since November 2006 (Anderson and Stansfield, 2009: 161). This was the beginning of cooperation between the elites of the Kurds and the Arabs in the city. According to Rakan Saeed (2013), the deputy governor, 'the former chair of the provincial council played a role' in reaching that deal.³⁵ He continues that they 'were also assisted by the international organizations' to hold dialogues, meetings and reaching the agreements. Thus, the Kurdish and Arab local political leaders took important steps towards improving their relations and cooperation with each other at this stage. The Kurdish-Arab agreement paved the way for the later Kurdish-Turkmen deal.

The third phase of understanding started in 2011 when the Kurds gave up the position of provincial council chairmanship to the Turkmen. Awat Mohammed Ameen (2013) described this stage as 'a very important change in Kurdish politics towards Kurdish-Turkmen rapprochement.' In Rebwar Talabany's view (2013), deputy chairman of KPC, 'the situation has been eased since 2011.' Tahseen Kahya, a Turkman member of KPC, viewed the cooperation among the elites of Kirkuk positively and described this new circumstance as based 'on the necessity of creating peaceful coexistence and not allowing others to fish in the murky water to undermine the relations among the groups.' Mohammed Salih, head of the Kurdistan Democratic Party (KDP) branch in Kirkuk and a member of KPC, concluded that 'the Kurdish-Turkmen relations head in a very positive direction.' Since 2011, the representatives of the groups in the KPC cooperate with each other on improving public service in their city. As Sdeeq Kaka Rash (2013), a Kurdish member of the KPC, clarified to me 'all of the group leaders are cooperating with each other on

³⁵ Rzgar Ali from the Kurdish Brotherhood List was the KPC's chairman at the time.

offering local and strategic projects for Kirkuk province.’ In other words, according to Kaka Rash, now ‘there are no disputes on offering services such as electricity, water, health and education to the citizens.’ In terms of political cooperation on the future status of the city, however, there is little evidence that the political leaders have cooperated with each other. Ramlah Al-Ubeidy, the Arab member of KPC stated that all the members of KPC are now ‘discussing and participating in the issue of service.’ She added that ‘things have changed and the situation is not like 2003. Now is much better than before.’ Ramlah’s optimistic statement mainly focuses on the issue of governance, but when it comes to the future status of Kirkuk, she believes that ‘the article 140 has expired constitutionally’. This shows that the local elites of different groups share the same view about the gradual cooperation improvements among political leaders on the governance issue. However, they hold very different views when it comes to the future status of the city.

It seems to me that the time dimension has played an important role in the improvement of relations among local elites of Kirkuk since 2003. The Kurdish-Arab deal at the end of 2007, as noted earlier by Anderson and Stansfield (2009: 161), was ‘a straightforward “divide and conquer” strategy by the Kurds that left the Turkmen bloc outside the council.’ However, one can also argue that this deal was reached as a result of what Zartman (2008) calls Mutually Hurting Stalemate (MHS) in which the situation would be ripe for starting negotiation between conflicting parties. The concept of ripeness, as Zartman (2001: 8) notes, ‘is based on the notion that when the parties find themselves locked in a conflict from which they cannot escalate to victory and this deadlock is painful to both of them (although not necessarily in equal degree or for the same reasons), they seek an alternative policy or Way Out.’ In the context of Kirkuk, as Anderson and Stansfield (2009: 161) point out, ‘with the article 140 process at a virtual standstill, a welcome and unexpected breakthrough in Kirkuk politics occurred’ when ‘a new power-sharing deal between the KBL and the (IRA)’ was announced. This is a clear indication that the deal occurred when the time was ripe and neither Kurds nor Arabs could gain what they wanted unilaterally. The same thing could be true for the Kurdish-Turkmen deal in 2011. The MHS, as Zartman (2008: 232) observes, ‘provides the push to begin negotiations; the Way Out provides the pull into a negotiated solution.’ In other words, both the Kurds and Turkmen reached the conclusion that negotiation is the best way to reach a solution for governing the city. The element of ‘time’ was perceived as important by some of my interviewees. For example, Rebwar Talabany (2013), argued that the discussion in Kirkuk has ‘experienced a kind of

severity and tension but with the passage of *time* this was improved.’ Similarly, Ramlah Al-Ubeidy (2013) observed that ‘with the passage of *time* cooperation and coordination started.’ Thus, after initial frequent deadlocks in governing the city, the elites gradually became accustomed to work and cooperate with each other in the provincial council. This move resulted in turning the initial tense situation into a relatively good accommodation in the city.

However, this does not mean that the elites have reached solutions on all of the problems in the city. Awat Mohammed Ameen (2013), a Kurdish member of the KPC, explains that ‘there is still not a comprehensive agreement among all the three main groups on a common agenda.’ As mentioned earlier, settling the future status of the city is one of the most intractable problems and is still a fundamental point of dispute among the political leaders. Each group, as noted in the first chapter, has its own story for claiming the ownership of the city. However, ‘no group has been able to convince other groups about the projects they believe in’ (Hasan Turan interview, 2013). Due to the different views on the history and future of Kirkuk, as Tahseen Kahya (2013), a Turkman member of KPC, stated ‘the cooperation flowed and ebbed.’ Sdeeq Kaka Rash (2013) drew a distinction between two types of cooperation: 1- cooperation on projects in the governorate and 2- cooperation on settling the fate of Kirkuk. He told me ‘regarding the second point, we do not see any political cooperation among the leaders of different groups.’ In short, the future status of Kirkuk still remains the most difficult issues to be negotiated over by the political leaders of Kirkuk.

Thus, the rapprochement between the groups’ elites and reaching a mutual understanding marked a milestone in improving intergroup relations. Moreover, it can be argued that the relative elite cooperation has been influential in the relative stability in the city. Tahseen Kahya (2003) contended that the sort of cooperation among the elites in the city ‘has prevented a resurgence of violence.’ He explained that ‘Kirkuk was often considered as a time-bomb or a flash-point, but this cooperation did not allow that to happen.’ Mohammed Khalil (2013), an Arab member of the KPC, indicated that there is cooperation and mutual understanding among the groups and states ‘through discussions we reached this stage.’ For Burhan Mazhar (2013) ‘there is now better understanding than in 2003, 2004 and 2005.’ One reason for this, according to Rebwar Talabany (2013), deputy chairman of KPC, is that ‘the political and cultural awareness has been changed’ in the city. In other words,

the experience of more than a decade of political engagement has proved to be effective in getting the views of Kirkuk's elites together and removing the initial tense situation among them. Therefore, it is possible to be optimistic about the prospects for grand coalition as the key element of consociationalism in Kirkuk.

Finally, this section investigated elite cooperation as a favourable condition that is conducive to establishing consociational government and also explained the behaviour of elites in Kirkuk since the fall of Saddam's regime in 2003. The above discussions showed that relations between elites of different groups were very tense at the beginning but with the passage of time they become less radical, particularly on the issues of governing the city together and cooperating on serving the city in terms of public service, etc. This conclusion counters Horowitz's concern about the inclusion of radicals, while it affirms Lijphart's assumption that when radicals are included in the formation of government they will gradually become less radical.

Conclusion

This chapter highlighted the two most prominent features of any grand coalition government: namely inclusion and elite cooperation. Taking the theoretical arguments and empirical evidence together, it is fair to conclude that there is a reasonable prospect of the formal adoption grand coalition in the future. This is partly because the inclusion of the four main ethnic and religious groups in the three provincial councils and, to a lesser degree, governments of Kirkuk have been the defining feature of the post-2003 period. This means that there is already experience of at least a decade of inclusive governments, though, again, they have not been formal consociational ones. What makes the prospect for a successful grand coalition government in the future, if adopted, is the emphasis of all the groups of the necessity of adopting an inclusive power-sharing government. However, as the Kurds press for considering a sort of liberal power-sharing and the Arabs and Turkmen demand a more corporate one, I suggest considering a combination of both. Adopting a hybridity of both corporate and liberal consociations would have more potential to work in the future because in this way the demands of all groups can be addressed and a zero-sum game (winners and losers) can be avoided.

Furthermore, this chapter demonstrated that the relations among elites have slowly but steadily improved in the governorate. This has been mainly due to the elites working

together in the governorate. While the elites had a psychological barrier to even communicate together in the aftermath of the overthrow of Saddam's Ba'ath party, they now work together and vote unanimously in the KPC to approve projects related to public service and the everyday needs of people. That is a considerable achievement for a deeply divided city like Kirkuk. Moreover, this advancement in terms of relations among elites confirm consociationalists' argument that inclusion of the radicals in a government will make them moderate their radical tone and thus become less extreme and more open to compromise. Of course, little has been achieved with regards to reaching a mutual understanding and compromise over the future status of the city. However, it is worth remembering that my focus in this dissertation is on solving the unresolved governance problem in the city not the city's future administrative status. In short, based on discussions and analyses presented in this chapter, one may conclude that adopting grand coalition government would not be overly difficult in the future (though of course a lot can change in politics). However, in order to answer the main question of this research (whether consociation can offer an appropriate institutional mechanism for managing conflict and building a stable government in Kirkuk), one must also study the other three elements of consociation (segmental autonomy, proportionality and mutual veto) before arriving at an overall, determinate conclusion. In the following chapter, therefore, I focus on the segmental autonomy element in Lijphart's consociational model.

Chapter 4. Segmental Autonomy

Consociationalism and civil society approaches are two common models for conflict resolution in divided societies. Consociationalism as an elite-oriented and top-down form of power-sharing starts from a commitment to bridging interethnic conflict at the governmental level whereas the civil society approach, by contrast, is a bottom-up model which starts from a commitment to bridging interethnic contact at the mass level. As far as segmental autonomy is concerned, consociationalism opts for segregated ethnic autonomy for groups in areas like language, religion and education. In other words, consociationalism prefers accommodation in the sense that the cultural rights of every ethnic group would be constitutionally protected within their own discrete spheres, whereas civil society approach favours integration of the different groups by urging groups to have one common integrated outlook in the public sphere. In this chapter, I argue that these two approaches need not be viewed as mutually exclusive. On the contrary, as I contend, segmental autonomy can play a greater role in engendering political stability if it is enhanced with a civil society perspective such as that provided by social capital theory.

More specifically, the analysis of this chapter proceeds as follows. In the first section, I provide an overview of segmental autonomy, its definition and its two main forms (i.e. territorial autonomy and non-territorial or cultural autonomy) and will also discuss a number of relevant cases. The second section examines how the Iraqi constitution and laws deal with the 'segmental autonomy' issue. The situation of religious and ethnic minorities in the post-2003 period is also discussed in this section. The concluding section deals with social capital theory and focuses mainly on the importance of existing and creating 'bridging' (as opposed to 'bonding') social capital at the grassroots level in Kirkuk. This is significant as the city underwent a massive identity change at the hands of successive Iraqi regimes in the past, particularly by Saddam's regime, which has had a negative impact on peaceful coexistence among its communities. Briefly, I will argue that social capital theory is necessary to be considered in Kirkuk as it can help supplement and deepen consociational theory. In this way, the argument presented in this dissertation seeks to go beyond the traditional consociational approach to conflict management.

4.1 An Overview on Segmental Autonomy

Segmental autonomy has a relatively long history. The Ottomans originally used this type of autonomy in the *millet* system to manage religious diversity and allow non-Muslim communities to exercise a considerable degree of autonomy (Coakley 1994:299). The term ‘autonomy’ derives from two Greek words: *auto* (self), and *nomos* (law or rule) (Lapidoth, 1997: 29). From the fifteenth century the Greek Orthodox, Armenian Catholic and the Jewish community were recognized as millets and were allowed to administer their own internal affairs in the domains of religion, education and family law (McGarry and O’Leary, 2011: 255). The millet system was broad and highly effective for co-opting the Christian population under Ottoman rule into a form of consociation (Braude, 2013: 180). It has contributed to the current legal systems in Lebanon, India and Israel where autonomy over family law has been given to different religious communities (McGarry and Moore, 2005: 69). The old Polish-Lithuanian Commonwealth also introduced ‘*Kahal*’ which was an equivalent of the Ottoman’s millet that allowed the Jewish community considerable autonomy over its internal affairs (Coakley, 1994:299). Non-territorial autonomy, thus, has a historical track record which is still used to this day.

A more systematic study of segmental autonomy in the form of national-cultural autonomy was developed by Otto Bauer and Karl Renner at the start of the twentieth century. Their model was based on the ‘personality principle’ which is the idea that ‘communities may be autonomous within a multinational state, regardless of whether they have, or identify with, a particular territory’ (Prina, 2013: 1). This means that the right-bearers are individual communities not geographical territories (Chouinard, 2014: 143). The aim of Bauer and Renner, according to Ephraim Nimni (2007: 346), was to find a solution to the problem of secessionist threats from national and ethnic minorities by accommodating these ethno-national differences and offering those minorities constitutionally guaranteed rights, broad cultural autonomy and non-territorial self-determination. In other words, national self-determination, within carefully circumscribed limits, was considered as inappropriate for the demographic reality of the Austro-Hungarian empire as it constituted intermingled populations of Germans, Magyars, Slovaks, Czechs, Serbo-Croats, Poles, Ruthenians, Jews, and others (McGarry and Moore, 2005: 64). This model was widely implemented in the period between the First and Second World Wars and has been revived again in Central and Eastern Europe since 1991 (Wolff, 2011: 1784). Coakley (1994: 297) argues that

elements of this approach have been present in the contemporary world in efforts ‘to resolve the problems of indigenous minorities.’ Thus, Bauer and Renner played important roles in advancing the concept of non-territorial autonomy in the modern era.

Consociational theory has also paid a special attention to the segmental or group autonomy. Lijphart (1977: 41) defines segmental autonomy as ‘rule by the minority over itself in the area of the minority’s exclusive concern,’ especially in the areas of education and culture. In other words, according to consociational theory, each ethnic community should enjoy ‘some distinct measure of autonomy, particularly self-government in matters of cultural concern’ (McGarry and O’Leary, 2004: 2). The main purpose of the principle of segmental autonomy is that ‘decision making authority is delegated to the separate segments as much as possible,’ however, ‘on all issues of common interest, the decisions are made jointly by the segments’ leaders’ (Lijphart, 1979: 500). The idea of granting autonomy to minority groups is that ‘conflict arises only when they [subcultures or ethnic groups] are in contact with each other’ (Lijphart, 1969: 219). Or as O’Leary (2005: 11) puts ‘good fences make good neighbours.’

Segmental autonomy can play a vital role in bringing about political stability in divided societies. This is because it can help groups to maintain their distinct ethnic identity and through delegating a certain level of power to the political leaders of those groups, it encourages them to support the political system in general and thus helps to maintain political stability (O’Flynn, 2010: 581; Lijphart, 2004: 97). In other words, due to the retention of decision-making power over their own internal affairs along with concurrent participation in the broader decision-making process, the different groups are offered ‘a vested interest in the stable process of the political system and in sustaining interethnic peace’ (McCulloch, 2014: 16). As the ethnic groups in the post-conflict societies will most likely view each other with great suspicion and distrust, it is wise to take the interests of groups into consideration and leave ‘as many decisions as possible to the groups themselves’ (Binningsbø, 2004: 59). Segmental autonomy, in that case, can play an important role in managing ethnic conflicts in such societies.

Territorial autonomy is another kind of autonomy. Weller and Wolff (2005, 12-13) make clear distinctions between the cultural and territorial forms of autonomy. They argue that in territorial autonomy the autonomous entity is defined in territorial terms and thus ‘a population living in a certain territory is granted an autonomous status regardless of

whether the individuals living on this territory belong to one or another ethnic group.’ By contrast, in non-territorial autonomy the autonomous entity is defined in ‘personal’ terms which means ‘a particular (ethnic) group is granted autonomy rights and all its members can enjoy these rights, regardless of where they live on the territory of their host-state’ (Weller and Wolff, 2005: 13). It is worth mentioning that consociational theory has a tendency to prefer cultural over territorial autonomy. This is because cultural autonomy has some advantages over the territorial form. For example, as McGarry and O’Leary (2011: 257) note, membership is voluntary in cases with cultural autonomy in the sense that cultural autonomy applies only to individuals who deem themselves as members of the group for which the autonomy is established. Territorial autonomy, on the other hand, may apply to all inhabitants of a certain region including people who are not members of the group for whose benefit the institution was established (Lapidot, 1997: 39). This, for example, is applied to the minorities like Turkmen, Christians and Arabs who live in the Kurdistan region. As Wolff (2012: 26-27) remarks, non-territorial or cultural autonomy is usually advocated by claimant groups that are territorially not sufficiently concentrated. Moreover, non-territorial autonomy is generally more favoured by the governments and policy makers than territorial autonomy as the latter may eventually push minorities to secede at least in the eyes of governments.

It is important to note that cultural autonomy for linguistic and religious groups, according to Lijphart (2008: 46), has taken three main forms in consociational democracies:

(1) federal arrangements in which state and linguistic boundaries largely coincide, thus providing a high degree of linguistic autonomy, as in Switzerland, Belgium, and Czecho-Slovakia; (2) the right of religious and linguistic minorities to establish and administer their own autonomous schools, fully supported by public funds, as in Belgium and the Netherlands; and (3) separate ‘personal laws’- concerning marriage, divorce, custody and adoption of children, and inheritance for religious minorities, as in Lebanon and Cyprus.

In Iraq, as I shall explain later, the above forms of cultural autonomy have been in existence since 2003.

Non-territorial autonomy arrangements have been adopted in a number of contexts, including Estonia, Hungary, Canada, Cyprus and Belgium. Estonia was one of the first countries that recognized and protected the rights of its national minorities in the post-World War I period. It adopted the Law of Cultural Autonomy in 1925 which was based on the Bauer-Renner proposals (Lijphart, 1979: 507). That law stipulated that each ethnic

minority with at least 3,000 registered members had the right to establish its own cultural council elected by the ethnic group itself (McCulloch, 2014: 16). These councils would have jurisdiction over schools and other cultural institutions such as libraries, museums and theatres. They were provided with state subsidies to ensure that minority schools are funded at the same level as for ethnically Estonian schools (Lijphart, 2008: 71). The second phase of Estonia's cultural autonomy, which is a continuation of Estonia's previous experiences and also based on the original Renner and Bauer premise, started with the enactment of the Act on Cultural Autonomy for Ethnic Minorities on 28 November 1993 (Villiers, 2012: 174). According to the first point of section one in that act, the cultural autonomy of a national minority 'shall mean the right of persons belonging to a national minority to establish cultural autonomy bodies in order to perform culture-related rights granted to them by the Constitution' (legaltex.ee, 1993). The law also provides cultural autonomy to 'the German, Russian, Swedish and Jewish national minority, and persons of national minorities with a population of over 3000 may establish cultural autonomy bodies'. The main purpose of this legislation was to acknowledge the right of national minorities and protect their cultural rights.

It is worth noting that a combination of both territorial and non-territorial forms of autonomy is possible within the same country. Canada and Belgium can be viewed as examples of such a combination. According to Will Kymlicka (2007: 385) Canada is a case where territorial self-government is combined with non-territorial forms of cultural autonomy. He points out that along with territorial autonomy in the French-majority province of Quebec, the Francophones who live outside Quebec can enjoy linguistic and cultural rights. The number of French-speakers living in provinces and territories outside Quebec is estimated to be close to one million (LE'GER, 2014: 418). For Chouinard (2014: 142) the purpose of adopting a federal system in the country, historically, was partly to 'recognize and give certain powers to the French-speaking minority' concentrated in Quebec. Apart from the federal arrangement, the francophone communities can gain public funds to set up French language schools and varying degrees of public assistance are given to religious groups for their own schools (McCulloch, 2014: 17). Thus, the sizeable French-speakers' minority in Canada enjoy a combination of territorial and non-territorial autonomy at the same time. The federal government of Belgium and parliament also address issues of concern for all Belgians, whereas the regional government and parliaments of the Walloon, Flemish and Brussels have authority over certain matters in

their defined territories (Hanauer and Miller, 2012: 17). According to the Belgian constitution, three linguistic communities have been acknowledged (the Flemish, the French, and the German) and each community has councils (articles 115 and 116). Both of articles 127 and 130 grant powers to these communities over linguistic and educational issues.

Such a combination has also been instituted in Iraq in which the Kurds enjoy their territorial region while other ethnic and religious minorities such as Turkmen, Christians and Yezidis have been granted the rights of cultural autonomy. In other words, territorial autonomy necessarily encompasses the non-territorial autonomy. For example, in the Kurdistan region, the territorial autonomy automatically translates into enjoying cultural rights for the Kurds living inside the Kurdistan region. There are some other interesting cases where territorial autonomy of a minority is combined with non-territorial forms of cultural autonomy for individual citizens of the minority who live outside the self-governing region. For example, the Swedes in Finland enjoy both territorial autonomy in the Åland Islands, where they constitute a local majority and non-territorial cultural and linguistic rights elsewhere in the country. In the following section, I will discuss the right of segmental autonomy in Kirkuk in the light of Iraqi legal documents and their practical implementation on the ground.

4.2 Segmental Autonomy in Iraq and Kirkuk

In this section, I shall discuss how Iraqi legal documents such as the Iraqi constitution and various laws and policies by the Council of Representatives (CoR) have dealt with the issue of segmental autonomy for various communities in Iraq. From the outset, it is important to stress that segmental autonomy is already present in Kirkuk which makes the adoption of consociational power-sharing more likely in the future. It is worth noting, however, that the rights of segmental autonomy for different communities in Kirkuk is directly affected by the Iraqi constitution and laws. This is obviously because Kirkuk is one of the governorates of Iraq. The presence of segmental autonomy in the constitution of Iraq is so obvious that even the critics of consociationalism agree that segmental autonomy is the only consociational feature that is clearly present in the Iraqi constitution. Bogaards (2015: 9), for example, who is skeptical of the extent to which Iraq is indeed consociational, regards segmental autonomy as ‘the exclusive consociational feature of the 2005 Iraq consociation.’ Briefly, the section attempts to show how the groups have been given the

rights to govern their internal affairs in Iraq. In order to do so, it looks at the Iraqi constitution and other laws by Iraqi parliament with a placing emphasis on the aspects of groups' rights in the areas of governing their religious, linguistic and educational affairs.

The supreme law in Iraq is the constitution. Therefore, to understand how segmental autonomy has been instituted in the country, one should start looking at the constitution first. The right of self-government for the groups to run their own internal affairs is reflected in various places of the constitution. For example, article 2 recognizes the rights of religious minorities such as 'Christians, Yazidis, and Mandaean Sabians', while article 3 defines Iraq as a country of multiple nationalities, religions, and sects. Article 4 asserts that 'the Arabic language and the Kurdish language are the two official languages of Iraq. The right of Iraqis to educate their children in their mother tongue, such as Turkmen, Syriac, and Armenian shall be guaranteed in government educational institutions in accordance with educational guidelines, or in any other language in private educational institutions.' Article 4 also states that 'the Turkomen language and the Syriac language are two other official languages in the administrative units in which they constitute density of population' and that 'each region or governorate may adopt any other local language as an additional official language.' Article 125 guarantees 'the administrative, political, cultural, and educational rights of the various nationalities, such as Turkomen, Chaldeans, Assyrians, and all other constituents...' Article 43 states that the followers of all religions and sects are free in the 'practice of religious rites' and 'management of religious endowments (*Awqaf*), their affairs, and their religious institutions.' Thus, the above articles indicate that segmental autonomy has been officially entrenched in the constitution of Iraq and national and religious groups can govern themselves in areas of their exclusive domain such as education, language and religion.

Furthermore, the Iraqi constitution also supports the promotion of territorial autonomy in Iraq. As noted in the previous section, territorial autonomy is also one of the forms of segmental autonomy. Article 117, for instance, recognizes Kurdistan as a federal region and allows for the establishment of new regions in the future.³⁶ According to article 119,

³⁶ The Kurdistan region as a federal region comprises three governorates of Erbil, Sulaimani and Duhok with the population of 5.2 million. For further information on the Kurdistan region, see: <http://cabinet.gov.krd/p/page.aspx?l=12&s=050000&r=300&p=210>

new regions could be formed by a request from one-third of the council members from the relevant governorate or by one-tenth of the voters in the relevant governorate, and the request should be voted on in a general referendum. The new-formed regions will adopt their own constitutions (Article 120), that will have the right to ‘exercise executive, legislative, and judicial powers’ (Article 121). Of course, apart from article 117, other articles (119, 120 and 121) have not been implemented in practice so far. However, the point here is not about the implementation, though it is vitally important, rather it is to illustrate that Iraq’s permanent constitution has adopted a combination of both territorial and non-territorial autonomy such as the cases of Canada and Belgium. Article 119 will be relevant to Kirkuk only after the implementation of article 140 which indicates that the people of Kirkuk will decide upon the future of their city in a public referendum. Without settling its future status in accordance with article 140 which is special to Kirkuk and other disputed territories in Iraq, article 119 cannot be implemented in Kirkuk. Moreover, as Kirkuk is a mixed city, what matters for Kirkuk most is the right of segmental autonomy, not federalism, for its four main communities.

One of the indications of segmental autonomy consolidation in the post-2003 Iraq was the establishment of several religious institutions for various religious groups to run their religious affairs. Even before writing the constitution, the Iraqi Governing Council (IGC) decided to dissolve the Ministry of *Awqaf* (charitable endowment) and Religious Affairs in 2003 and replaced it with administrative offices for the *Awqaf* of all religions and sects (Talmon, 2012: 292). The main reason behind that decision was reportedly the disagreement among the IGC members over who would become the relevant minister and from which religion. Whatever the reason, that decision turned out to benefit religious groups in the control of their internal religious matters. After that decision, three religious *Diwans* (chief administrative office) were created which replaced the dissolved ministry, one for Shi’a, one for Sunnis and the other for Christians and other religious communities (sunni-affairs.gov, 2015). As noted above, the religious groups have been given the right to practise and manage their religious affairs in the 2005 Iraqi constitution.

As for the religious rights of the Christians and other religious communities, the name of the ‘Office of *Awqaf* of Christians and other Religious Communities’ which was adopted in 2003, was later changed into ‘Office of *Awqaf* of the Christians, Yezidis, Sabean-Mandaean Religions’ and the CoR issued a specific law for this new Office (*Diwan*) in

2012 (Law 58, 2012). According to this law, the new Office is directly connected to the Council of Ministers (CoM) that aims to take care of the affairs of worship and worship sites, clergy and religious institutions. The above three religious minority groups are represented in the Office and each manages its own internal religious affairs. The law states that the charitable endowments belonging to these religious groups will be exempt from taxes by government. Moreover, the employees of the Office who are holders of diploma, bachelor and postgraduate certificates will enjoy the same right as the employees who serve in the ministry of education or ministry of higher education. In addition, the CoM issued an 'Order' on 15 April 2014 to form the Offices for each religious group and specify its tasks in accordance with the above-mentioned law (Order 297, 2014). The tasks of each religious group Office, according to the CoM's Order is to take care of the places of worship; to provide for the needs of the clergy and religious institutions and follow up how this order is implemented in the governorates and districts; to contribute to the establishment of schools, orphanages and hospitals; to endorse marriage certificates; to monitor the distribution of subsidies and social grants; to supervise the printing of religious books and magazines; to organize training programmes for its employees both inside and outside Iraq; to prepare research that is pertinent to the Office purposes; to make facility for holding seminars and conferences in Baghdad and other governorates; and to organize religious and national parties. Thus, these Offices have been granted broad rights over the internal affairs of their religious groups in all Iraqi governorates, including Kirkuk. Moreover, provincial authorities funded the construction of the first official Christian cultural centre in Iraq in 2013 which is located in Kirkuk (International Religious Freedom, 2013: 13). This is a significant step for securing segmental autonomy of the religious minorities in Iraq as a whole. The above laws that regulate the rights of the religious groups to practise and manage their religious affairs could be seen as a practical implementation of the above-mentioned article 43 of the constitution. Thus, both the above law and Order by the CoM which are grounded in constitution can be viewed as guaranteeing the segmental autonomy of religious minorities.

Furthermore, the ethnic groups have also been granted autonomy over their linguistic and educational matters in Iraq. For example, the CoR issued a law to regulate both official languages of Iraq and local official languages at governorate level in 2014. The law is called 'the law of official languages' which aims to ensure respect for the constitution and its enforcement, achieving the spirit of pride in the mother tongue and supporting the

development of both Arabic and Kurdish languages and other Iraqi languages such as Turkmani, Syriac, Armenian and Sabean- Mandaean (Law 7, 2014). According to this law, Arabic and Kurdish languages are the two official languages in Iraq, while Turkmani and Syriac languages are official languages in the administrative units where the Turkmen and Syriacs communities constitute the demographic density. The Law allows Turkmen, Assyrian and Armenian citizens to study in their own languages in all educational stages. Moreover, the law states that each region and governorate has the right to recognize any local language as an additional official language if the majority of its population vote for that in a public referendum. Every Iraqi citizen has been given the right to educate their children in their mother tongue. In addition, each community has been granted the right to establish colleges, institutes, cultural centers and scientific academy to serve and develop their languages, culture and heritage. What is important is that the law confirms article 3 of the constitution indirectly, namely that it considers Iraq as a country of many nationalities, religions and sects. Thus, the groups have also been given a considerable autonomy over their linguistic and educational affairs.

The above law is of great importance for Kirkuk. Now, four languages are used in the institutions of Kirkuk. As Hasan Turan (2013), the chairman of the KPC, told me in an interview ‘we have four main official languages in Kirkuk,’ this is because ‘the constitution has given this right to everybody to keep its national and ethnic particularities.’ Therefore, as Rebwar Talabany (2013), the deputy chairman of KPC, asserted during the course of another interview that ‘all of the groups are free to use their language in anything that is readable, audible or visual.’ The former governor of Kirkuk, Abdulrahman Mustafa (2013), pointed out that ‘the four groups are now studying in their languages from primary school until university.’ He also told me that when he was governor of Kirkuk from 28 May 2003 to 3 April 2011, ‘I was usually delivering my speeches in three languages’, i.e. Kurdish, Arabic and Turkmani. As he explained to me, he does not know Syriac language, otherwise he would also have used it. Moreover, ‘in Kirkuk, the signs of the directorates are written in four languages (Tahseen Kahya interview, 2013). Thus, none of my interviewees raised concerns regarding managing their own religious or linguistics affairs. The main reason for that is because the cultural rights of ethnic, national and religious groups are protected by law and the groups enjoy those rights in practice. Ibrahim Khalil (2013), a Kurdish member of the provincial council, explained to me in an interview that I conducted with him that Kirkuk’s provincial council ‘has no problem in this regard [segmental autonomy]’ and

Rebwar Talabany (2013), the deputy chairman of the KPC, emphasized that ‘the issue of cultural rights has been solved practically.’ In short, the communities of Kirkuk govern their internal affairs and practise their religion, language and education and have few concerns in this regard.

However, as I will argue below, the communities of Kirkuk enjoy their cultural rights due to the Iraqi constitution. In the case of Kirkuk, it is important to also adopt segmental autonomy within the governorate. In the case of adopting consociational power-sharing the areas that the communities should have distinctive control upon must be addressed clearly. The local communities should agree upon the policy areas that each community can control, if consociation is to be the favoured system of governance. The communities of Kirkuk should have a distinctive measure of autonomy over their cultural issues such as language, religion and education. Although the 2005 Iraqi constitution has secured the cultural rights of various ethnic and religious groups in Iraq, it is important that those rights would be entrenched constitutionally or in any future agreement over Kirkuk’s unresolved governance problem. Kirkuk is often considered as a small picture of Iraq in terms of its diversity. Therefore, it is vital that this diversity is kept in a formal agreement or enshrined within a constitution if Kirkuk would become an autonomous region in the future.

Further, the people in Kirkuk, regardless of nationality or ethnicity, have the right to study in their own native language and this right is enjoyed in practice. For example, by 2014, there were 437 Kurdish schools in which 79,000 students were studying in the Kurdish language as well as 23 Kurdish kindergartens in the Kirkuk governorate (Al-Amri, 2014). Moreover, the KPC provided one billion and 500 million Iraqi Dinars from the petro-dollar project for reviving Kurdish study in the governorate in 2014 (Al-Amri, 2014). Meanwhile, there are 175 Turkmen-language schools in the governorate (Mohammed, 2010). In addition, according to Law 22 in 2011, which is pertinent to the ministry of education, there are official Kurdish, Turkmani and Syriac directorates within the structure of the ministry of education in Iraq (Law 22 in 2011). This is to ensure that groups can have direct control over their linguistic and educational affairs. There are currently Arabic, Kurdish, Turkmani and Syriac Study Departments within the general directorate of education in Kirkuk. Moreover, to preserve the Syriac language, the Iraqi Ministry of Education decided to include Syriac and Christian religious education in the curricula of 152 public schools in the provinces of Baghdad, Mosul and Kirkuk (Fides, 2014). These practical examples on

the ground, therefore, can illustrate that the groups in both Iraq and Kirkuk enjoy rights to cultural, religious and educational autonomy to a considerable extent.

From the above arguments in this section, we can reach the conclusion that the legal documents of Iraq such as the constitution and the laws by the CoR have secured segmental autonomy rights for different religious, national and ethnic groups in Iraq which automatically apply to Kirkuk. The constitution articles have been regulated in various laws and thus the rights guaranteed by the constitution is enjoyed in practice. Thus, segmental autonomy can be seen as a defining feature of Iraq's consociationalism. In other words, there is segmental autonomy at the provincial level in Iraq. However, in the case of Kirkuk, it is important to also adopt segmental autonomy within the governorate. The local communities should agree upon the policy areas that each community can control, if consociation is to be the favoured system of governance. In Stefan Wolff's words (2010: 1378) 'this involves issues of local administrative capacity (which can be developed) and issues of whether specific competences are exercised jointly by all communities.' This is important, because the existing arrangement, as already noted, springs from the political system that is currently in place in Baghdad. Therefore, if consociational democracy is to be adopted, Kirkuk local elites should agree upon issues that are specific to the city and its ethnic groups.

Yet, this is still part of the story. Due to the particular nature of Kirkuk and the peaceful coexistence between its communities, it is important to also consider bridging interethnic contact in the city. It is all very well having segmental autonomy, but there is always the risk that segmental autonomy may result in polarization rather than greater stability. So, what we need is the right form of segmental autonomy—one that allows groups considerable freedom, but that, at one and same time, encourages bridges to be built. I shall discuss this extension of consociational theory in the following section.

4.3 The Necessity of Social Capital Theory in Kirkuk

This section is interested in the interface between segmental autonomy as an important element of consociational theory and social capital (especially the bridging form of social capital which I shall return to shortly) as a manifestation of a civil society approach. It argues that political stability in Kirkuk requires a hybrid between the two. In other words, it is important to consider social capital in Kirkuk to avoid some of the problems that might

attach to segmental autonomy such as the problems of balkanisation or polarisation. Segmental autonomy may result in isolating groups and may make them think that they are living in different worlds; to counteract that, we need not just bonding social capital, but also bridging social capital. This is exactly what Najat Hasan (2013), a Turkmen member of the KPC, was concerned about when he told me that granting segmental autonomy should not lead to the ‘creation of a wall between the sects and nationalities’. In short, the argument of this section is that segmental autonomy will play a greater role in the stabilization of Kirkuk if it is enhanced with a civil society perspective such as that offered by social capital theory.

Researchers from various disciplines have paid attention to social capital and its effects. The modern scholarly interest in social capital is often attributed to the works of Bourdieu, Coleman and Putnam (Agnitsch et al, 2006: 37). My focus here is on the definition put forward by Putnam (2000) as a political scientist. According to Putnam (2000: 19) ‘whereas physical capital refers to physical objects and human capital refers to properties of individuals, social capital refers to connections among individuals – social networks and the norms of reciprocity and trustworthiness that arise from them’. In other words, social capital is a product of shared norms, networks and trust that allow co-operation between individuals and groups and shape social interaction (Muir, 2011: 959). Accordingly, the positive consequences of social capital can be trust, mutual support, cooperation and institutional effectiveness (Putnam, 2000: 22). The idea here is that intra-ethnic hostility can be avoided if it is replaced by inter-ethnic social networks. Interethnic cooperation and collaboration can be established among members of different groups by generating interpersonal trust and reinforcing community ties. This is crucial in reducing inter-ethnic prejudice and maintaining political stability, particularly in divided societies.

‘Bridging’ and ‘bonding’ are the two most important forms of social capital identified by Putnam. The key difference between the two is whether the social connections are homogeneous or heterogeneous (Agnitsch et al, 2006: 39). Bonding social capital is ‘inward looking and tends to reinforce exclusive identities and homogeneous groups’ (Putnam, 2000: 22). Bonding usually occurs when people socialize with people who are like them in ethnicity, religion, race, etc. That is to say, bonding social capital is exclusive and occurs among homogeneous populations (Leonard, 2004: 929). Bridging, on the other hand, is ‘outward looking networks and includes people across diverse social cleavage’

(Putnam, 2000: 22). Bridging connects people who are different from each other in terms of their ethnicity, religion, race, etc. That is to say, it is inclusive and occurs among (or between) heterogeneous societies. In short, bonding is dense networks within homogeneous groups, while bridging networks is generally weaker which occurs within heterogeneous groups. Some scholars, for example, Patulny and Svendsen, touch on the third kind of social capital which is called 'linking capital'. This means the links formed by communities with political, economic and social institutions (Patulny and Svendsen, 2007: 33). However, Patulny and Svendsen state that treating linking as equal to bonding and bridging seems contentious, since 'linking' is not a part of everyday social interaction. They also point out that linking overlaps with other concepts like trust in government and democratic performance. However, since bridging and bonding only relate to what goes on in civil society, some sort of linking device seems to be important to connect the masses in the 'bottom' to the elites at the 'top' and vice versa (i.e., representativeness and accountability, which are two key principles in democracy). Since segmental autonomy pays attention to only what goes on within the groups, and not what goes on between the groups and the government, these forms of social capital are important to fill that gap. Accordingly, my main focus here is on forming bridging social capital through civil society organization or in the workspaces, markets, neighbourhoods, etc.

Clearly, consociational democracy does not seek to abolish segmental cleavages in divided societies, rather it recognizes them to make plural societies more thoroughly plural (Lijphart, 1977: 42). According to Lijphart (1969: 220), 'a distinction has to be made between essentially homogenous political cultures, where increased contacts are likely to lead to an increase in mutual understanding and further homogenization and essentially heterogeneous cultures, where close contacts are likely to lead to strain and hostility.' As noted earlier, the idea of segmental autonomy is that 'good fences make good neighbours' (O'Leary, 2005: 11). Thus, consociationalists think that the less contact among groups can result in reducing conflict. The logic behind this view is that 'clear boundaries between the segments of a plural society have the advantage of limiting mutual contacts and consequently of limiting the chances of ever-present potential antagonisms to erupt into actual hostility' (Lijphart, 1977: 88). This perspective contrasts sharply with the so-called 'contact hypothesis' which argues that, under conducive conditions, inter-group interaction and social ties between the individuals of different ethnic groups, leads to the reduction of prejudice among groups and while, on the other hand, inter-ethnic contact can lead to

positive inter-group attitudes (Allport, 1954). In short, as Taylor (1992: 5) points out, under consociationalism, ‘ethnic polarization into communal blocs is encouraged, institutionally entrenched and legitimated.’

Of course, critics have questioned the implications of consociational assumptions about the issues of contact and conflict and doubt that consociation and social capital can be combined into a single approach. In other words, critics argue that a civil society perspective, such as social capital theory, is not compatible with consociational theory. They maintain that consociationalism favours the institutionalized separation of the groups, whereas the civil society approach encourages contacts to foster cross-communal reconciliation (Dixon, 1997, 2012 and Tracol, 2015). Noussaibah Younis (2011: 12) criticizes consociation in the context of Iraq and considers it as a ‘short sighted theory’ given its clear tendency to entrench ethnic divisions and its failure to promote cross-communal reconciliation. However, criticisms of this sort miss the liberal/corporate distinction (a point already made in chapter two). Consociationalists, on the other hand, are also concerned about the actual role of civil society organizations on the grounds that it is unrealistic to put much faith in the ability of civil society organizations to counterbalance elite ethnocentrism in the divided societies because these organizations are themselves likely to be ethnically based and appeal to ethnocentrism (McGarry et al. 2008, 74). However, as O’Flynn (2009: 264) notes, ‘a good consociation should create space not just for things that distinguish people from one another (accommodation), but also the things that bring them closer together (integration).’³⁷ That is to say, the existence of both bonding and bridging social capital can enhance consociational arrangements in divided societies.

Bonding social capital is good for mobilizing solidarity and social support, but at the same time it reinforces our narrower selves, whereas bridging social capital can create broader identities (Putnam, 2000: 22-23). For Putnam (2000), by generating strong in-group loyalty, bonding social capital may create strong out-group antagonism. Therefore, a negative external impact of this form of social capital is more likely. A society made up of

³⁷ In their response to O’Flynn’s argument, McGarry and O’Leary (2009b: 378) argue that “consociation may also be considered ‘integrationist’”. Moreover, they assert that integrationists ‘should not be allowed to monopolize a concept with positive connotations.’ This is an indication that consociationalists accept some elements of integration. In fact, McGarry and O’Leary now explicitly argue that consociation can embrace some elements of integration (see, for example, O’Leary 2013). Therefore, my argument to embrace the elements of both consociation and civil society approach in Kirkuk does not necessarily contradict consociationalism, or at least its most recent manifestation.

distinct groups with each characterised by bonding social capital will look like Belfast or Bosnia at their worst, that is, where the groups in question are segregated into mutually hostile camps (Putnam and Feldstein, 2003: 2-3). Too much bonding and not enough bridging in the divided societies can result in many of the negative outcomes hypothesised by social capital (Agnitsch et al, 2006: 39). The problem is that it is harder to create bridging social capital than bonding social capital. Under such a situation, this proverb is applicable 'birds of a feather flock together' (Putnam and Feldstein, 2003: 23). In short, if democracy in divided societies is to survive in the long-run, a combination of consociation 'top-down' and civil society approach 'bottom-up' should be sought. I argue for this hybrid arrangement in the case of Kirkuk. This is important as segmental isolation in the city may deepen mutual suspicions among the four ethnic groups and lead each to stereotype the other.

A combination of both bonding and bridging is important for maintaining peace and stability in divided societies. Quoting Briggs, Putnam (2000: 23) argues that bonding social capital is good for 'getting by,' while the bridging form is essential for 'getting ahead'. As Norris (2002: 3) points out, Putnam's distinction between bonding and bridging should be seen as a continuum rather than dichotomy, as many groups serve both bonding and bridging functions in practice. Networks, she argues, can be classified to be closer to one end of the spectrum or the other. This means that bonding and bridging can be combined together. In addition, in a quantitative study to examine the effects of different forms of social capital (bonding and bridging) on community action, Agnitsch et al (2006) concluded that each of bonding and bridging predict community action separately; however, they are more effective when they are combined. Patulny and Svendsen (2007: 36) warn that if researchers and policy makers assume that the bonding/bridging distinction is strictly mutually exclusive, then the strength of that distinction can change into its weaknesses. In other words, neither bridging nor bonding should be placed over the other. Briefly, the policy makers should consider weaving these two forms of social capital together, especially in divided societies. Therefore, it is crucially important to consider social capital theory along with segmental autonomy in any future consociational arrangements for Kirkuk. As I will explain later, social capital is already existent in Kirkuk, but needs revitalization and enhancement.

It has to be said that the research on whether contact and inter-group interaction encourages tolerance and reduces ethnic violence is mixed. For example, Ashutosh Varshney (2001) argues that interethnic civic and non-governmental associations are essential to preventing ethnic violence. This is partly because ‘the more the associational networks cut across ethnic boundaries, the harder it is for politicians to polarize communities’ (Varshney, 2001: 363). Based on data from six Indian cities, Varshney found where interethnic ties and networks existed, tensions and conflict between Hindus and Muslims had been regulated and thus violence had been avoided. However, the cities where such networks and associations were missing witnessed the most violent communal conflicts. But this conclusion cannot be generalizable to all ethnic conflicts. Esman (2004: 18-19) for example, points to the case of Sarajevo which was hailed for peaceful ethnic coexistence among Muslims, Serbs, Croats and other communities; however, the people of Sarajevo were unable to resist the pressure of war erupting in Bosnia and they also broke apart into separate and hostile camps. I examine below what these claims and arguments would mean in the case of Kirkuk.

4.4 Interethnic Relations in Kirkuk

Most of the literature on the problem of Kirkuk focuses on the elite or top-down institutional solution while giving much less emphasis to the bottom-up mechanisms and arrangements. This dominant and unilateral focus can be found in the works of Anderson and Stansfield (2009), Natali (2008), Rafaat (2008), Romano (2009), Wolff (2010) and Anderson (2013). A small number of other studies on Kirkuk focus only on the bottom-up solution such as the works of Rydgren and Sofi (2011) and Rydgren et al. (2013). This seems to be the case in most other deeply divided places. As Cochrane (2000: 1) notes, the academic literature on political conflicts in Northern Ireland, South Africa and Israel/Palestine ‘has concentrated on the elite level, Track One diplomacy and the struggle between the parties, with little attention being given to the equally important community-based Track Two initiatives, that are essential to building and sustaining peace processes.’ Cochrane (2000: 2) states that ‘politics generally, and conflict resolution in particular, is too often analysed at the elite level, with little emphasis being given to the communities from whom the elite political actors derive their authority.’ Therefore, simultaneously considering *both* bottom-up (micro-level) and top-down (macro-level) solutions seems to be indispensable in most of the deeply divided societies. In the case of Kirkuk, this is

precisely what Dlawer Ala'Aldeen (2015), the president of the Middle East Research Institute (MERI), asserted during my interview with him: 'Kirkuk has to be approached with both top-down and bottom-up processes.' This is crucially important to bring long-term political stability and a lasting peace to the city and the governorate.

As argued in chapter one, the ethnic groups of Kirkuk have lived together peacefully for centuries. This reinforces the argument that diversity per se is not the reason for ethnic conflict. Contrary to the impression that academic literature and journalists often give, peaceful and even cooperative relations between ethnic groups are more common than large-scale violence (for a formal game-theoretic analysis of this type of cooperative behaviour, see Fearon and Laitin, 1996). This has been the case in Kirkuk for a long time. Despite strong in-group ('bonding') connections, interethnic ('bridging') networks have been one of the defining features in Kirkuk. Such networks have been created through intermarriage and contact in the interaction spaces like the neighbourhoods, workplaces, market, mosques, etc. In other words, both bonding and bridging social capital have been in place for a long time and are likely to have that played an important role in keeping peace and stability in the city.

However, the Arabization process negatively influenced interethnic relations in Kirkuk. To dilute the percentage of Kurds and other non-Arab groups in Kirkuk, successive Iraqi governments brought a large number of Arabs to the city. Names of schools and streets were changed into Arabic (Nouri Talabany, 1999: 18-19). Moreover, Saddam's regime distributed 'ethnic identity correction' forms within Kirkuk city and governorate to Kurds, Turkmens and Assyrians that required them to register themselves as Arabs (Human Rights Watch, 2004: 15). Over the period 1991 and 2003, between 120,000 and 200,000 non-Arabs were displaced from Kirkuk and its environs (Human Rights Watch, 2003). As Anderson and Stansfield (2009: 40-41) argue, the Arabization process did not have an effect on changing the demographic balance of the city alone, but also on how communities view each other. Although communal identities had been hardening since the 1950s in the city, the Kirkukis' perception about each other is still affected by the actions taken in the 1970s and 1980s by the regime. In short, the Arabization policy led to a hardening of group identities and deepening ethnic divisions among the communities which resulted in strengthening bonding social capital and weakening interethnic relations in general, i.e. bridging social capital.

Tensions between ethnic groups have also grown at a grassroots level in the post-2003 period in Kirkuk. After 2003, one of the main difficulties in the city was to deal with the issue of returning displaced people. Some 100,000 IDPs (internally displaced persons) returned to Kirkuk city and governorate alone by 2005 (Romano, 2007: 267). When they returned, many found their homes occupied by Arab settlers. Around 46,000 shops, lands and properties of both Kurds and Turkmen were confiscated by Arab settlers in Saddam's era (Daquqi, 2011). This situation has fuelled conflict between expelled Kurds and Turkmen and Arab settlers that has repercussions on social peace among communities. Moreover, over a ten year period (2004-2014), more than 2500 people have been killed and 10,369 persons injured in various terrorist actions in Kirkuk (Faraj, 2014). Although not all of these violent actions were ethnically driven, the people concerned often interpret it as interethnic hostility (Rydgren and Sofi, 2011).

In addition, the civil society organizations could be funded to play a more effective role than now. External funding agencies can, for example, support civil society organization to foster dialogue at grassroots level. This is an important consideration in Kirkuk as it could prevent segmental autonomy deepening ethnic divisions, as critics of consociational theory argue. O'Flynn and Russell (2011: 228) note that creating civil society associations may not be possible in places where there are no such associations; however, weak civil society associations might be strengthened through intervention. This is what Hanauer and Miller (2012: 57) observe in Kirkuk, when they state that although civil society is weak in Kirkuk, it can be fostered. According to Hanauer and Miller (2012:57) 'grassroots-level confidence-building measures and initiatives promoting intercommunal dialogue in Kirkuk have had some success.' They argue that the UN Assistance Mission for Iraq (UNAMI) is suited to support confidence-building measures at grassroots level and to develop intercommunal dialogue in Kirkuk. This is possible, mainly because UNAMI has undertaken many confidence-building measures and initiatives at the local level through its agencies that focus on children, women's rights, labour issues, etc. They (2012: xv) also suggest that the State Department and U.S. Agency for International Development (USAID) could place higher priority on civil society initiatives in Kirkuk. However, the role of outside actors such as UNAMI should be limited, because 'wherever the United Nations have intervened, they complicated the problem' (Latif Mistafa interview, 2013).

As mentioned earlier, apart from civil society organizations, interaction spaces can play important roles in getting people of different ethnic backgrounds close together. In such places, casual contacts have a potential to develop into true contacts and thus into interethnic social capital (Rydgren and Sofi: 2011). Moreover, apart from the existence of heterogeneous interaction spaces, intermarriage and multilingualism can be two other important factors in decreasing intergroup hostility and increasing tolerance. The situation of Kirkuk in this regard is promising. Kirkuk is a multilingual city where each ethnic group has its own language, i.e. four languages are used in the city. Language was not a barrier until the 1970s when the Arabization process intensified and, as argued earlier, a large number of Arabs who only spoke Arabic were brought to Kirkuk. The new generation of returning Kurds since 2003 can also speak only Kurdish. This may give a pessimistic impression at first sight. However, as Mohammed Shwani (2006: 191) points out, by looking at the daily treatment of people from different ethnic groups with each other, one can hardly find even an illiterate person who does not speak two languages or even three languages in Kirkuk. Moreover, intermarriage is still common in Kirkuk. Marriage has become a key element in the unification between the different factions of Kirkuk (Al-Shamari, 2011). Intermarriage between the communities can be one of the main reasons for the peaceful coexistence in Kirkuk, because the members of different groups ‘have become relatives’ (Abdulrahman Mustafa interview, 2013). Moreover, exogamy has been influential in reducing interethnic tensions and hostilities as it has resulted in many people having no strong ethnic sentiment in favour or against any ethnic group (Mohammed Shwani, 2006: 66). In short, multilingualism and intermarriage can be two key factors to bridge the communities of Kirkuk and reduce the risk of segregation that segmental autonomy may create in the absence of robust civil associations and interethnic contact.

It is worth noting that interethnic relations at the grassroots level seem to have prevented elites’ attempts to mobilize their own ethnic group against outgroups. In a study on two north Iraqi cities, Erbil and Kirkuk, which sought to find an association between interethnic friendship and trust and tolerance, Rydgren et al. (2013) found the positive association between interethnic friendship in specific interaction spaces such as neighbourhoods, workplaces, political parties and civil society organizations and interethnic trust and tolerance toward outgroups in these two cities. In another previous work, Rydgren and Sofi (2011) assume that the increase in interethnic contact will reduce the possibility of ethnic conflict. They argue that due to having considerable room for social meeting across ethnic

boundaries, the interethnic relationships and mutual trust situations are not hopeless in Kirkuk. They argue that the micro-level cooperation can be an effective factor counterbalancing the prejudices and the attempts by political elites to demonize outgroups. As the ethnic groups of Kirkuk have many historical and cultural points in common, it is not easy for the local elites to mobilize the members of their ethnic groups against outgroups. In chapter three, I argued that elites have managed to cooperate quite well in Kirkuk. One explanation for that, however, is that they may know that the historic peaceful coexistence among the groups prevents them from mobilizing members of their ethnic groups against members of other ethnic groups. Because, interethnic interaction, as Varshney (2001: 378) notes, can create a circumstance in which ‘polarizing politicians either do not succeed or eventually give up trying to provoke and engineer communal violence.’

My interview materials also demonstrate the good relations among the various ethnic groups at the grassroots level. For example, Rakan Saeed (2013), the Arab deputy governor, thought that ‘the psychological situation among people of Kirkuk is good. In other words, there is no rivalry among people, but there is a political rivalry among the political leaders’. This indicates that the divisions and disagreements in Kirkuk are mainly associated with the political elites, rather than grassroots of Kirkuk’s communities. So, as I asserted several times in different ways earlier, confidence-building measures at grassroots level as a bottom-up approach should be supported to develop intercommunal dialogue as a counterbalance to elite’s political rivalry and to thereby ensure that segmental autonomy facilitates rather than inhibits what goes on at the political level. When members of different ethnic groups have contacts together, they increase first-hand information about the members of ethnic outgroups and this can reduce and falsify xenophobia and prejudices (Rydgren and et al., 2013: 1656-7). In line with Rakan Saeed’s view, the former governor of Kirkuk, Abulrahman Mustafa (2013) stated, ‘I always differentiate between political and social groups. Socially, no problems have existed among ethnic and religious groups. They have lived peacefully in the neighbourhoods, markets and governmental institutions such as the schools and so on. They speak each other’s language and there is intermarriage among them.’ In this way, the good social relation at the grassroots level has been influential in mitigating the political tensions at the elites level in the city.

Nevertheless, as Rebwar Talabany, the deputy chairman of the KPC, noted ‘the former regime destroyed this city for 35 years, just imagine how many hours, days and years are needed to build the bridge of trust among the people of Kirkuk?’ It is for this reason that Jalal Jawhar (2013), a senior official of the Gorran movement (Movement for Change)³⁸, argued that ‘along with normalization in demography and administration aspects, psychological normalization is necessary.’ Despite these concerns, Ibrahim Khalil (2013), a Kurdish member of the KPC, stated that ‘the identity of being Kirkuki is very dominant, otherwise that strong social relations could not remain like now.’ In other words, ‘overarching loyalty’ which is identified by Lijphart (1997) as one of the favourable conditions that is conducive to consociational democracy is already existent in Kirkuk. According to Khalil ‘it is this identity [overarching loyalty] that joins a Christian and a Muslim as neighbours and makes them participate in each other’s feasts and ceremonies’. Despite of Khalil’s optimism, one may observe that the historical injustices conducted by the successive Iraqi governments in Kirkuk has undermined the possibility of the creation of a single public identity in the city to a considerable extent. Khalil’s argument, however, indicates that on the one hand, people of Kirkuk think of themselves in terms of belonging to a particular ethnic group ‘multiple identities’, but the notion of being ‘Kirkuki’ as a ‘single’ public identity also combines them. In other words, there is a prospect for working accommodation and integration together. This supports the argument that ‘integration and accommodation are not mutually exclusive principles’ (O’Flynn, 2009: 264). Thus, a combination of segmental autonomy which publicly recognizes distinct identities of groups and the construction of a single public identity is both possible and desirable in Kirkuk.

Furthermore, in contrast to the mixed cities of Baghdad and Mosul, for example, intergroup relations have been better in Kirkuk since 2003. In Kirkuk, a large number of Kurds speak Turkmani, and a large number of Turkmen speak the Kurdish language (Shwani, 2006: 191). Many Kurds also speak Arabic, but few Arabs speak Kurdish or Turkmani. One explanation for this is that Arabic has been the official language of Iraq, so the Arabs might not find other languages necessary to learn. In addition, many Kurdish families are now sending their children to the mixed schools, whereas this was rare ten years ago. One reason behind this new move by Kurdish families in Kirkuk is their concern that if their children

³⁸ The Movement for Change is a Kurdish political party under the leadership of Nawshirwan Mustafa, founded in 2009 as an opposition to the two powerful ruling parties of the Kurdistan Democratic Party and Patriotic Union of Kurdistan. The Movement for Change is popular mainly in Sulaimaniyah and came second in the last election of the Kurdistan region in 2013.

study in Kurdish schools, then they will not learn Arabic properly and this undermines their chances of getting a good job in the future (Jwan Hussien interview, 2015). However, on the other hand, this is an indication that the Kurds are now less concerned about security of their children and thus there are prospects for improving interethnic interaction. In short, the combination of both segmental autonomy and bridging social capital will be more effective in the stabilization of Kirkuk than concentrating on the segmental autonomy alone. Civil society organization can play a positive role in this process.

Finally, several broad conclusions can be drawn from the above discussions. First, the communities of Kirkuk have lived together peacefully for centuries. However, the Arabization policy in the twentieth century negatively influenced interethnic relations in Kirkuk. As Hanauer and Miller (2012: 7-8) state, ‘the conflict between Arabs, Kurds, and Turkomen in Kirkuk does not stem from “ancient hatreds” but is rather a manifestation of competition for political control, resources, and territory over the past 100 years.’ Second, civil society organizations are largely affiliated with the political parties in Kirkuk and they are mainly structured along ethnic lines. Third, despite that, the situation is far from being hopeless. For example, many of the workplaces are ethnically heterogeneous which can counterbalance the elite attempts to mobilize their own ethnic groups by demonizing outgroups and creating prejudices and stereotypes against them. As Cochrane (2005) notes, the influence of civil society organizations for building healthy and peaceful democracies in divided societies is dependent upon the nature of those societies. In the context of Kirkuk, the weak civil society associations might be strengthened through the support of the international actors such as UNAMI or USAID. Further, intergroup relations seem to have been better in Kirkuk than other mixed cities in Iraq in the post-2003 period. Thus, there are reasons to argue that the opportunity to achieve political stability in Kirkuk will be greater if a hybridity of elements of accommodation and integration are considered.

4.5 Civil Society Organizations in Kirkuk

The US-led invasion of Iraq in 2003 was not only a milestone for political changes in Iraq but also a crucial turning point for Iraqi civil society. After the collapse of the Ba’ath regime, the Coalition Provisional Authority (CPA) showed its active support for civil society organizations (CSOs). Therefore, numerous CSOs were created. This section outlines what is meant by civil society organizations and how they have evolved since 2003 with the focus on Kirkuk governorate. In addition, it examines the

capacity of the CSOs in delivering the sort of bridging social capital which is already outlined in this chapter along with the capacity gap that needs to be addressed.

According to the National Democratic Institute (NDI) (2011: 1), civil society organizations are ‘networks, associations, and organizations composed of members that advocate their common interests through collective action. CSOs include volunteer and charity groups, sports clubs, arts and culture groups, faith-based groups, trade unions, community-based and non-governmental organizations, and issues-based activist groups.’³⁹ It is important to note that both of the terms civil society organization (CSO) and non-governmental organization (NGO) are usually used interchangeably. In this research, they are treated to refer to organizations which work in the following areas: Iraqi organizations engaged in human rights and civil liberties; essential social services; citizen participation in decision-making; improvements in public policies; anticorruption and transparency.

Since their foundations, the CSOs went through three stages. In the first phase, an office entitled ‘NGO assistance office’ was established as part of Ministry of Planning in 2004. According to the Order (45) by CPA in 2003, this office was the authorized entity to oversee the registration of NGOs. In the second stage, this office was transferred from the Ministry of Planning into the Ministry of State for Civil Society Affairs in 2005. This situation continued until 2008. Then, the name ‘NGO assistance office’ was changed into ‘NGO Directorate’ which includes several branches, units, departments, coordinating centers and coordinators from all Iraqi provinces. Currently, the NGO law which is in place in Iraq is (Law no. 12 of 2010). According to the United States Agency International Aid (USAID) report (2012: 11), the new Iraqi Law is regarded as ‘one of the best in the Middle East by international legal organizations.’ The report adds that this law was a result of the Iraqi CSOs attempts with international NGOs to adopt ‘a new NGO law that would be more consistent with international law and best practices’ (USAID, 2012: 9).

³⁹ According to Order (45) by the Coalition Provisional Authority (CPA) in 2003, however, Non-Governmental Organization (NGO) means ‘any organization and foundation that is organized to undertake one or more of the following as its principal activities: humanitarian assistance and relief projects; human rights advocacy and awareness; community rehabilitation and resettlement; charitable works; educational; health, and cultural activities; conservation; environmental protection; economic reconstruction and development; promotion of democratic practices; development of civil society; promotion of gender equality; or any other non-profit activity that serves the public interest.

The emergence of civil society organizations is relatively new in Iraq. As Hayder Saeed (2013) points out, unlike other countries in the region, there is not 'a heritage of analytical research on the experience of civil society in Iraq', because 'Iraq did not have a real civil society experience'. This situation could be understandable as the country went through an authoritarian regime during the rule of Ba'ath Party (1968 -2003). However, due to the post-2003 freedom, many civil society organizations were established which were concerned with social, human, cultural and health issues. For example, in the first years of Saddam's fall, the number of the registered civil society organizations reached (997) and nearly ten thousand unregistered CSOs (Saraj, 2010). Within the years following the invasion, that number increased dramatically. Now the number of CSOs in Iraq is estimated to be somewhere between 8,000 and 12,000 (NCCI, 2011: 15). In Kirkuk, no accurate data is available on the number of CSOs.

The NGOs of Kirkuk are similar to those in other Iraqi governorates in terms of their degree of independence and professionalism. There are few impartial, non-ethnic and non-political NGOs in Iraq. In other words, most of them are proxies to political parties. Kirkuk is not an exception. In other words, nonpartisan organizations are few in the city. As Rydgren and Sofi (2011: 38) point out, in Kirkuk 'civil society is almost synonymous with party politics since most voluntary organizations are extensions of or at least affiliated with the political parties.' This circumstance is predictable in a place like Kirkuk where 'party politics are highly ethnicised' (Rydgren and Sofi, 2011: 38). Appendix F is a list of some of CSOs in Kirkuk. However, the problem is that this list does not include all the existing civil society organizations.

However, despite the concerns about their impartiality, heterogenous CSOs are still common in the city. As Rydgren and Sofi (2011: 27) note, a closer look at workplaces and voluntary organizations suggests reasons for optimism as many organizations are surprisingly heterogeneous. Jwan Hussen (2015), confirmed in an interview that I conducted with her, the heterogeneity of many of the civil society organizations in Kirkuk and explained that part of the reason behind this is because 'the international organizations were mainly supporting the heterogeneous civil society organization after 2003.' It is the case that the role of civil society in engaging people in dialogue and deliberation is limited in Kirkuk. As Jwan Hussen (2015) argues, it is because of 'the dominance of politicians and the negative role of media which has been controlled by political parties' that sometimes create a tense situation among members of ethnic groups. But the fact remains

that many workplaces are ethnically heterogeneous which may counterbalance any exploitative attempts by politicians as they can be places where ordinary people can deliberate and exchange their views together and thus create bridging social capital.

In addition, the civil society organizations could be funded to play a more effective role than now. External funding agencies can, for example, support civil society organization to foster dialogue at the grassroots level. This is an important consideration in Kirkuk as it could prevent segmental autonomy deepening ethnic divisions, as critics of the consociational theory argue. O'Flynn and Russell (2011: 228) note that creating civil society associations may not be possible in places where there are no such associations; however, weak civil society associations might be strengthened through intervention. This is what Hanauer and Miller (2012: 57) observe in Kirkuk when they state that although civil society is weak in Kirkuk, it can be fostered. According to Hanauer and Miller (2012: 57), 'grassroots-level confidence-building measures and initiatives promoting intercommunal dialogue in Kirkuk have had some success.' They argue that the UN Assistance Mission for Iraq (UNAMI) is suited to support confidence-building measures at the grassroots level and to develop intercommunal dialogue in Kirkuk. Such a support by UNAMI is possible, mainly because it has already undertaken many confidence-building measures and initiatives at the local level through its agencies that focus on children, women's rights, labour issues, etc. They (2012: xv) also suggest that the State Department and U.S. Agency for International Development (USAID) could place a higher priority on civil society initiatives in Kirkuk. However, the role of outside actors such as UNAMI should be limited, because 'wherever the United Nations have intervened, they complicated the problem' (Latif Mistafa interview, 2013).

There is a risk that such actors will not make funding available unless organizations follow an agenda that changes civil associations into quasi-regulatory agencies (O'Flynn and Russell, 2011: 231). Unfortunately, this has occurred in Kirkuk. Jwan Hussen (2015), a Kurdish member of the KPC and the head of human rights and children and women committee, asserted to me that these international actors do not support all civil society organizations, rather they 'fund those who follow their strategies.' Moreover, she highlighted another phenomenon which has to do with the corruption of some employees who work for those international funding bodies. For example, she stated that 'sometimes, getting funds from international organizations depends on whether the Iraqi civil society organizations know a person from the staff of those international organizations or not'

which means ‘favouritism exists even within those international organizations.’ In some other cases, external funding agencies create nothing ‘more than a thin layer of professionals adept at writing grant proposals to western foundations’ (Fukuyama, 2002: 35). Therefore, these risks should be considered when it comes to resorting to international community funding of civil associations to foster dialogue among ordinary people in Kirkuk.

Finally, it is noteworthy that two factors have been a hindrance to the CSOs’ capacity to deliver the bridging social capital in Kirkuk. First, apart from the fact that neutral CSOs are few in Iraq and Kirkuk, they have not been successful in building trust with people. One explanation for this, according to a report by USAID (2012: 8), is that ‘many Iraqis perceive civil society’s return following the fall of Hussein in 2003 to have been Western-funded.’ This perception has created a credibility gap between those organizations and people. Moreover, according to a report by National Democratic Institute (NDI), NGOs are ‘hesitant to criticize certain public officials or the government’s policy on certain issues.’ The report states that while the NGOs are generally ambitious, they are ‘pessimistic regarding their ability to affect the actions or behavior of government or political parties’ (NDI, 2011: 11). Second, civil society organizations are largely affiliated with the political parties in Kirkuk, and they are mainly structured along ethnic lines. To solve this problem, external funding agencies could fund civil society organizations in Kirkuk to rescue them from impartiality and following political party instructions. However, the risk that external actors would provide funds on the condition of following a certain agenda should be considered. In addition, it is important that the CSOs in Kirkuk would give much emphasis on fostering dialogue at the grassroots level to deliver the sort of bridging social capital that already discussed in this chapter.

Conclusion

There are generally two forms of segmental autonomy, territorial and non-territorial or cultural (functional) autonomies. The groups of Kirkuk have freedom over areas of their concern such as language and religion. In other words, the right of segmental autonomy has been guaranteed by law and ethnic groups enjoy their educational, linguistic and religious rights in the city. However, to avoid segregation (as opposed to autonomy) and the downside of segmental autonomy, it is important to consider bridging social capital. Although the city has been well known for peaceful coexistence among the members of different ethnic groups, the Arabization policy by the successive Iraqi regimes weakened

that coexistence, i.e. it undermined bridging social capital among the communities while, on the other hand, it enhanced bonding social capital among members of the same ethnic group.

However, the situation is still not hopeless. There are still interaction spaces in Kirkuk which can lead to creating bridging social capital and strengthening the existing ones. Moreover, intermarriage is still common and many people speak more than one or two languages. The civil society organizations can play a significant role in this regard by bringing people from different ethnic groups close to each other, but those organizations should be funded and depoliticized as well. The external actors, if they stay neutral in dealing with civil society organizations, can play a considerable role in cultivating such deepening interactions among member of diverse ethnic groups in Kirkuk. In short, both segmental autonomy and social capital theory are necessary for managing conflict and maintaining political stability in Kirkuk. This is possible, but it needs local and international support. In the following chapter, I discuss another consociational element, i.e. proportionality.

Chapter 5. Proportionality

On 21 April 2014, following the retirement of the previous Kurdish President of Kirkuk University, the Iraqi Ministry of Higher Education appointed a Shiite Turkmen for the position. However, this appointment brought wide Kurdish anger and condemnation in its wake as Kurds believed the post to be exclusively theirs. After two weeks, on 4 May 2015, the new Turkmen president was forced to sign a letter of resignation when a number of armed students attacked his office and threatened him to step down. While the official sources claimed that the resignation was voluntary, the Turkmen say that the resignation was coerced and interpret it as part of the marginalisation and discrimination against the Turkmen in the governorate. This event indicates the sensitivity of taking positions by different ethnic groups but also illustrates the importance of setting clear criteria for distributing the senior and lower positions in the city. Giving the element of proportionality a clear basis (e.g. elections outcome) could be a reasonable solution to the problem that all the groups in Kirkuk have complained about being marginalized or underrepresented in at least one of the public sector institutions in the governorate.

This chapter assesses whether there is any prospect for the adoption of a proportionality element in Kirkuk, if consociation is going to be the future governance arrangement. To do so, the chapter examines two important issues, namely: the electoral systems that have been used in the post-2003 Kirkuk elections and the distribution of the political, administrative and public sector positions. Therefore, this chapter is organized over three sections. The first section presents a general overview of proportionality as one of the four elements of consociational theory. The second section examines the electoral systems that have been used in different elections in Iraq and Kirkuk. The electoral system choice is crucially important in post-conflict divided societies because different electoral systems have different consequences for the inclusion and representation of different ethnic groups and eventually for the political stability in those societies. The last section deals with the representation of the ethnic groups of Kirkuk in the public sector. In this section, I examine whether the positions and resources have been distributed on the basis of proportionality or not. Then, I present my suggestion for how the political, administrative and security positions, resources and public sector employees should be distributed if consociational power-sharing is adopted in Kirkuk.

5.1 Proportionality: An Overview

Proportionality is another important feature of consociational theory governing, for example, the allocation of financial resources, civil service appointments and political representation in political institutions. Thus, the rationale behind proportional representation is to facilitate a fair representation of the groups at all levels of government, i.e. central, regional and local levels. This can be achieved through electoral systems. Therefore, one of the most significant institutional decisions for any democracy is the choice of electoral system (Reilly, 2001:14). This is mainly because different electoral systems have different consequences, either aggravating or managing conflicts in societies. Benjamin Reilly (2002: 156) states that scholars and practitioners alike agree that ‘electoral systems can play a powerful role in promoting both democracy and successful conflict management.’ Lijphart (1995, 412) already asserted this view and reflected the scholarly consensus when he highlighted that ‘if one wants to change the nature of a particular democracy, the electoral system is likely to be the most suitable and effective instrument for doing so.’ One explanation for the profound and effective roles of a particular electoral system on the future political process of a country, according to Reilly (2001: 14), is that once electoral systems are chosen, they tend to ‘remain unchanged for long periods as political interests quickly congeal around and respond to the incentives presented by the system’.

To ensure parliamentary proportionality and the inclusion of members of both majority and minority groups in the legislature, Lijphart suggests proportional representation (PR) electoral system in divided societies. According to Lijphart (2004: 100), PR is the best choice in plural societies because ‘in addition to producing proportionality and minority representation, it treats all groups – ethnic, racial, religious, or even non-communal groups – in a completely equal and even handed fashion.’ In other words, as Steiner (1971: 63) notes, the model of proportionality is one in which ‘all groups influence a decision in proportion to their numerical strength.’ This is because ‘parties are awarded seats in parliament in direct proportion to votes garnered in an election’ (Sisk, 1996: 37). The main thing about PR is that it reduces the disparity between votes cast and seats won, so that, for example, if a party wins 25% of the vote in a general election, it should get roughly 25% of seats in parliament.

In a majoritarian democracy, for example, candidates that represent society's majority generally form the government, and the opposition is formed of minority groups. This involves the monopolization of power by a party, group, faction or even a person—the opposite of power-sharing (O'Leary, 2013: 2). In the deeply divided societies, Lijphart (1999: 31-32) argues, 'majority rule is not only undemocratic but also dangerous,' since minorities are repeatedly denied access to power and this creates a situation in which they feel excluded and discriminated against, which in turn might make them disloyal to the government. Thus, as Lijphart (2008: 78) notes, 'there is a scholarly consensus against majoritarian systems in divided societies.' Therefore, he argues that plural societies need a democratic regime that asserts consensus instead of opposition, inclusion rather than exclusion, and that maximizes the size of the governing majority. Or as O'Leary (2005: 10) puts it, 'consociationalists want majorities – rather than *the* majority or *the* plurality' (emphasis in original).

It is worth noting that there are two major types of PR electoral system: namely, Single Transferable Vote (STV) and Party-List Proportional Representation (PLPR). STV is based around multimember districts which retains the basic logic of PR but adds the preferential dimension in that voters can rank the candidates (as opposed to parties) in order of their preference (McCulloch, 2014: 14). In STV, the count begins by determining a specific 'quota' of votes required to elect a single candidate and any candidate who surpasses the specified quota is immediately elected (Reilly, 2002: 158). In successive counts, votes are redistributed from both votes surplus from successful candidates and votes from candidates with the lowest number of first preferences who are eliminated until all seats for the electoral district are filled (Reynolds et al, 2005: 76). The STV is used in Ireland, Malta, and the Australian Senate (Taagepera, 2007: 35).

Under a party-list PR system, however, voters vote for their preferred party and parties receive seats in proportion to their overall share of the vote in the electoral district, with the winning candidates taken from the lists in order of their position on the lists. (Reynolds et al. 2005: 60). The party lists can be either closed or open. In 'closed list' systems, candidates are elected in the order in which they appear on the list which is determined by the party leaders, i.e. voters select a party only, whereas in 'open list' systems, voters can express their preferences for specific candidates and influence the ranking of candidates (Taagepera, 2007: 18). In the open list, things like reputation and clientelist links with

voters, agenda and access to media would facilitate the election of candidates. While open-list PR gives voters greater freedom over the choice of candidate, due to competition of the candidates with each other from within the same party for votes, it can lead to internal party conflict and fragmentation. Therefore, Lijphart (2002: 53) favours closed lists over open lists, because this strengthens the hand of party leaders, and so makes elite cooperation easier. Moreover, Lijphart argues that closed-list PR encourages ‘the formation and maintenance of strong and cohesive political parties (Lijphart, 2008: 79). However, closed-list PR has some disadvantages. For example, as Reynolds et al. (2005: 71) explain, voters have no choice to determine the identity of the candidate who will represent them, nor can they reject winning candidates in case of poor performance. Moreover, closed-list systems entrench excessive power in the hands of senior party leaderships. But this is precisely why Lijphart commends PR, as consociationalism is basically an elite-oriented theory. Hence, Lijphart recommends PR for the same reason that its critics oppose it as strong political parties and elites are clearly preferable in consociational theory.

There are also different types of majoritarian electoral systems. First Past the Post (FPTP), for example, is the simplest form of plurality/majority electoral system. Any candidate who gains more votes than others is the winner, even if this is not an absolute majority (50 per cent plus one) of valid votes. FPTP uses single-member districts in which the voters vote for candidates rather than political parties (Reynolds et al. 2005: 35). Alternative Vote (AV) is also a majoritarian approach. In Reilly’s words (2002: 158):

AV is a majoritarian system used in single-member electoral districts that requires the winning candidate to gain not just a plurality but an absolute majority of votes. If no candidate has an absolute majority of first preferences, the candidate with the lowest number of first-preference votes is eliminated and his or her ballots are redistributed to the remaining candidates according to the lower preferences marked. This process of sequential elimination and transfer of votes continues until a majority winner emerges.

The difference between AV and FPTP as two majoritarian systems, however, is that AV gives voters more options than FPTP and allows them to mark their preferences on the ballot paper. In other words, unlike FPTP which allows voters to express only a single preference, under AV voters can rank order their preferences between candidates and, for this reason, it is often known as ‘preferential voting’ in the countries which use it (Reynolds et al. 2005: 47). As noted in chapter two, the purpose of AV is to promote vote pooling by candidates across ethnic lines.

Consociationalists, however, challenge this view. From a consociational perspective, Horowitz's (2002) vote-pooling recommendations are not very different from majority-rule democracy. This is because 'the logic and the practical effect of the alternative vote are clearly majoritarian' and thus they doubt the value of AV for the management of ethnic conflict (Lijphart, 2002: 47-48). For example, Lijphart (2004: 98) argues that if Horowitz's model were applied to the Iraqi Governing Council (IGC) in 2003, it would produce a majority Shi'ite body but with the condition that most of the Shi'ite members of that body would be moderate and sympathetic to the interests of Kurdish and Sunni minorities. This is because the Shiites are the majority in Iraq.⁴⁰ Lijphart rightly argues that such moderate representation would not be acceptable to the Kurds and Sunnis in the long run as groups prefer to be represented by the members of their own communities rather than moderate members from other groups. Lijphart's argument could be applicable to the case of Kirkuk. If Horowitz's model were to be adopted in Kirkuk, then a majority of Kurdish moderate representatives would be elected for the Kirkuk provincial council.⁴¹ It is hard to imagine that, in the long run, the Arabs and Turkmen would be satisfied with such moderate Kurdish representation, instead of being represented by the members of their own communities. It is equally hard to imagine that they would ever agree to a constitution that seeks to set up such a system in the future. On the contrary, as O'Leary (2013: 34) points out, 'politicians are more likely to agree to PR than centripetal electoral systems because they can win votes and seats on their own preferred platforms.'

In short, the rationale behind proportionality is the representation of all groups at all levels of government, i.e. in executive, judiciary, legislature, security forces and in the civil service on a proportional basis. For Lijphart, the party-list PR is well suited to realize that aim. In the following two sections, I try to assess both the electoral system used in Kirkuk elections so far and the way that groups are represented in different sectors in the governorate. This is important as it would help us in understanding whether there is any prospect for adopting the principle of proportionality in the governorate or not for the future.

⁴⁰The number of Shiites in Iraq is estimated to be (60%-65%). For further information, see: <https://www.cia.gov/library/publications/the-world-factbook/geos/iz.html>

⁴¹ Although there is no reliable census in Kirkuk, the election results show that the Kurds constitute either majority or plurality in the governorate. For example, Kirkuk has currently 13 representatives in Iraqi parliament. Out of which, 8 of them are Kurds, two Arabs, two Turkmen and 1 Christian as a quota. Moreover, the Brotherhood List which is primarily Kurds constitute the majority of KPC, taking 26 seats out of 41.

5.2 Electoral Systems in Iraq and Kirkuk

The electoral systems and elections of Kirkuk can only be understood through the lens of the country's electoral system. This is because, as a governorate, Kirkuk has been subject to the same electoral systems that have been used in other parts of Iraq. In this section, I discuss the electoral systems that have been used in different elections in Iraq. It should be noted from the outset that a PR electoral system has been used in the elections of Iraq and Kirkuk as well. However, the electoral system in Kirkuk can change by changing the current unresolved status of the city. The possibility of adopting a majoritarian electoral system cannot be entirely discounted, for example, if Kirkuk were to join the Kurdistan region in the future. Therefore, the crucial point here is that the existing PR electoral system should be maintained in Kirkuk, if consociation is going to be the system of governance.

To choose an electoral system and run elections in Iraq, international advice and assistance was necessary. One of the important tasks of the Coalition Provisional Authority (CPA) was that it commissioned experts from the International Foundation for Electoral Systems (IFES) and elsewhere to gain advice on how elections might be administered in Iraq (Dawisha and Diamond, 2006: 89). In the autumn of 2003, the IFES sent a team to Iraq to conduct a pre-election assessment. This team was led by Jeff Fischer, who had previously directed election efforts in Bosnia, Kosovo, and East Timor (Soudriette, 2005: 23). With regard to electoral systems, as Adeed Dawisha and Larry Diamond (2006: 90) explain, all options were on the table for Iraq such as the first-past-the-post system (FPTP); proportional representation (PR); mixed systems; the alternative vote (AV) and the single transferable vote (STV).⁴² However, due to their impracticality or unsuitability to Iraq's political circumstances, most of the electoral system options were quickly discounted.

As noted earlier, there is a scholarly consensus against majoritarian systems in divided societies. Therefore, as a majoritarian system, FPTP was inappropriate for a deeply divided society such as Iraq which needed a system that guarantees the representations of all major groups and minorities. As Arthur Lewis (1965: 71) clearly points out that 'the surest way to kill the idea of democracy in a plural society is to adopt the Anglo-American electoral system of first-past-the-post.' Eliminating FPTP as an electoral system, therefore, was not a surprise. Although AV was appealing in theory it soon became apparent that it would not

⁴² In the early months of 2004, Diamond served as a senior adviser on governance to CPA in Baghdad

be practical, for the simple reason that a new Iraqi electoral administration, regardless of the advice and assistance by the international community, was not going to have ‘the time, the resources, the reliable census data, or the political credibility to draw the boundaries of some 275 individual districts’⁴³ (Dawisha and Diamond, 2006: 90). STV which is a form of PR was also considered impractical. This was likely because of the fact that STV demands a degree of literacy and numeracy and due to its intricacies (for example, it was abandoned in Estonia on such grounds) (Reynolds et al, 2005: 76). In short, a simple ballot and voting process was intended to be adopted in Iraq. Therefore, party-list PR was a compelling choice for Iraq.

Thus, the party-list PR electoral system was chosen by Carina Perelli, the chief of the United Nations Electoral Assistance Division, which was then adopted by the Iraqi Governing Council (IGC). The reasons for choosing the party-list PR system, apart from its simplicity to administer the elections, was that it would ensure the inclusion and the representation of all ethnic and religious groups in parliament. Based on the belief that the proportionality principle in Iraq is both necessary and important, the CPA had already attempted to appoint Shiites, Kurds and Sunnis to the IGC on a proportional basis.⁴⁴ As noted in chapter three, by appointing the broad-based Interim Governing Council (IGC) in July 2003, the CPA tacitly provided a basis for the consociation approach. In other words, as Dawisha and Diamond (2006: 91) argue, one reason for choosing PR was because of its ‘fit with the power-sharing or “consociational” logic of institutional design that Iraq was moving to embrace’. Moreover, they (2006: 91) note that ‘the leaders of the principal Shi’ite and Kurdish political parties were attracted to party-list PR because it promised to reinforce their weight in the political system.’ This confirms the argument of the consociational advocates who claim that the politicians are more likely to agree to PR than other electoral alternatives in post-conflict divided societies.

However, several other issues were yet to be settled. Among those issues were the minimum threshold for entry into parliament and whether Iraq would become one-single

⁴³ According to article 49 of the constitution ‘The Council of Representatives shall consist of a number of members, at a ratio of one seat per 100,000 Iraqi persons representing the entire Iraqi people.’ Thus, the CoR consisted of number of seats at a ratio of one seat for every hundred thousand people based on the latest census submitted by the Ministry of Trade.

⁴⁴ Iraqi Governing Council—whose 25 members represented a delicate balance among Shi’ites, Sunnis, and Kurds in numbers approximating their shares of the population (it also included one member each from the Turkoman and Assyrian Christian minorities)

district or made up of multiple-districts for holding elections. The first electoral system was codified in the 2004 Electoral Law. The law was issued under the order 'number 96' by the CPA which laid the basis for Iraq's first post-invasion national elections. The law established Iraq a single electoral constituency with a closed-list proportional representation. Moreover, due to the fear of excluding small religious minorities and secular liberal forces, the desire to have an inclusive parliament and making sure that radical movements like Muqtada al-Sadr can clear any electoral threshold, no formal threshold was put in the law (Dawisha and Diamond, 2006). Making Iraq a single electoral district offered significant advantages.

Firstly, in the absence of reliable census data, it was the easiest way to hold elections and avoid the problems of drawing electoral districts. The last census conducted in Iraq was in 1997 in which the three governorates of the Kurdistan did not participate. Therefore, one of the important early recommendations by the IFES team was to use the food ration-card database as the basis of the voter registration system because this database was 'the most comprehensive in the country and contained the names of virtually every Iraqi' (Soudriette, 2005: 23). Secondly, a single national district simplified the logistics of voting and vote counting as it avoided the problem of assigning displaced people and voters outside Iraq to electoral districts because 'they would all be voting as part of a single, nationwide district' (Bjornlund et al, 2007: 74). Finally, a single nationwide constituency enabled dispersed communities and groups to 'aggregate their scattered votes' and elect one or more members of parliament 'even if they lacked the electoral weight to do so from any one province' (Dawisha and Diamond, 2006: 93). However, despite these advantages, the nationwide system led most Sunni political parties to boycott the elections. The Sunni parties rejected the 2004 Electoral Law as they were concerned that 'because the Sunni Arab vote is concentrated in a few districts – their electoral power would be significantly diluted in a system using a single national district' (Younis: 2011: 14). After settling the electoral law, the country was ready for the first post-Saddam elections.

On 30 January 2005, two elections were held in Iraq, the elections for choosing the Transitional National Assembly (TNA) and the governorate councils. The TNA which had 275 members, was charged with responsibility to write a permanent Iraqi constitution and prepare the country for general elections in 2005. The provincial elections, on the other hand, were to elect 41 members to each of Iraq's 18 provincial councils (except for Baghdad

which had been designated 51 members). The governorate councils, according to the CPA Order number (96) of 2004, would have some defined powers such as the powers to elect and remove the governor and his or her two deputies, to approve nominations for senior positions and remove senior managers of the provincial administration, to monitor and recommend improvements in the delivery of public services, and to independently generate and collect revenues by imposing taxes and fees. Because the turnout of Sunni voters was extremely low, the national assembly election results were skewed in favour of the Shiites and Kurds and left the Sunnis underrepresented. Thus, the Shiite and Kurd parties won well over two-thirds of the seats in the Assembly while the Sunnis held only 17 seats (about 6% of the total seats). In provincial elections, the Kurds won 26 out of 41 seats in the Kirkuk province (about 60% of the seats), Arabs won 6 and Turkmen won 9. The low turnout of the Sunni Arabs left the Arabs underrepresented in Kirkuk as well. However, using a party-list PR electoral system was still effective at least in the sense that it meant that all of significant groups in Kirkuk were represented in Kirkuk's provincial council.⁴⁵

Table 5.1 Provincial elections results in Kirkuk, January 2005⁴⁶

Entities	Votes	Seats
List of Kurdistan Brotherhood	237,303	26
Iraqi Turkmen Front	737,91	8
Iraqi Republican Group (Sunni Arab)	43,635	5
The Islamic Turkoman Coalition	12,678	1
National Iraq Union (Sunni Arab)	12,329	1

In preparation for Iraq's second national elections and to elect the members for the Council of Representatives (CoR) for the next four years (which was held on 15 December 2005), the TNA made a few amendments to the 2004 Electoral Law. The new law [elections law number (16) of 2005] retained the general system of PR without any threshold for

⁴⁵ The Kurds participated in 2005 provincial elections under the name 'Kirkuk Brotherhood List' (KBL). The 26 members of KBL's provincial council have been distributed as follow: twenty seats for Kurds, three for Arabs, two for Turkmen and one for Christians. Although KBL is a predominantly Kurdish list, it contains 6 candidates from the Arabs, Turkmen and Christians. However, the individual Arabs in the KBL list are considered to be 'discredited Arabs' among the Arab community, while the Turkmen individuals in the KBL are viewed by the Turkmen as 'Kurds speaking Turkmen' (See, Natali, 2008: 438). The other 15 seats held by the Turkmen and Arabs are as follow: Iraqi Turkmen Front (ITF) won eight seats, Iraqi Republic Gathering (Arab) won five seats, Iraqi National Gathering (Arab) won one seat, and Turkmen Islamic coalition won one seat (Hanish, 2010: 18).

⁴⁶ <http://www.washingtoninstitute.org/html/newsletterImages/PF81Annexes.pdf>

representation, but it changed the single constituency in the January elections to governorate-level constituencies. This time the country was divided into eighteen electoral districts corresponding to the pre-existing eighteen provinces. Moreover, Article (15) of this law specified that ‘the House of Representatives shall be composed of 275 members, 230 seats shall be distributed to the electoral districts and 45 of them shall be distributed as compensatory seats.’ According to article (17) of the same law, compensatory seats are allocated to lists that do not win any seat in the election districts but have obtained at least the national average of votes. The national average of votes was calculated by dividing the total number of valid votes by 275. Adding ‘compensatory seats’ in the new amendment was to achieve overall proportionality nationally. Therefore, based on this change in the electoral system ‘regardless of how many people actually went to the polls in their provinces, the Sunnis were effectively guaranteed a certain bloc of seats in the new Assembly’ (Dawisha and Diamond, 2006: 95). This shift in the electoral system pushed the Sunnis to actively participate in the December 2005 elections and thus they gained a fairer representation. According to some scholars (Dawisha and Diamond, 2006; Dawisha, 2010; Younis, 2011), in the 15th December 2005 election, voters turned to their primordial loyalties by choosing lists representing their sects, regions, etc.

In preparation for the third national elections (which was held in March 2010), the CoR also made a few amendments to the Elections Law number (16) of the year 2005. In the new law ‘Election Law number (16) of 2009’, open-list replaced closed-list and ballots carried the names of individual candidates together with their party. Moreover the number of members of the CoR increased from 275 into 325 and the religious minorities were granted a quota of eight seats.⁴⁷ According to the new amendment the vacant seats were given to the largest winning lists which obtained a number of seats based on the percentage of votes they obtained. On the other hand, in preparation to conduct the second provincial elections in 2009, the CoR already passed a new law (Law No. 38) in 2008 which was called the ‘Elections Law of the Provincial, Districts, and Sub-Districts Councils’. Both and this new law and the ‘Election Law number (16) of 2009’ were in favour of open-list.

⁴⁷ The CoR included the compensatory seats at the rate of (5%) and the eight seats were distributed as follow: the Christians, five seats distributed to the provinces of Baghdad, Nineveh, Kirkuk, Dohuk, and Erbil; the Yazidis, one seat in the Nineveh Province; the Sabi’/Manda’ian, one seat in Baghdad Province; the Shabak’s, one seat in Nineveh Province.

However, as noted in chapter three, according to Article 23 of the Provincial Elections Law of 2008, Kirkuk was excluded from participating in the 2009 provincial elections.

Table 5.2 Elections and electoral systems in Iraq and Kirkuk⁴⁸

Elections	Electoral Systems	Specifications
January 2005 Iraqi parliamentary elections	PLPR	One-single district, closed list
December 2005 Iraqi parliamentary elections	PLPR	Multi-district, closed list
2009 provincial elections	PLPR	Multi district, open list
March 2010 Iraqi parliamentary elections	PLPR	Multi district, open list
2013 provincial elections	PLPR	Multi district, open list, Sainte-lague
2014 Iraqi parliamentary	PLPR	Multi district, open list, Sainte-lague

The CoR once again amended its electoral law for the next provincial and national elections which took place in 2013 and 2014. In 2012, the CoR ratified an amendment on the provincial elections law number (36) of 2008 in which it adopted the Sainte-Laguë method.⁴⁹ Before the amendment, the 2008 law (36) mandated that only parties that had already won seats would be eligible to win the leftover seats which was a body blow to small parties. However, the changes to the seat distribution formula and the adoption of Sainte-Laguë method was crucial for small parties to vie for the leftover seats, because under the former arrangement, as Reidar Visser (2012) points out, ‘only parties that had already won seats had the chance to win the “leftover” seats following the initial distribution.’ Changing the counting system from the largest remainder method to the modified Sainte-Laguë method was due to a ruling by the Supreme Court of Iraq which considered the previous method discriminated against smaller parties and thus was unconstitutional. Again, due to the obstacle of article 23, provincial elections did not take

⁴⁸ Compiled by author from various sources.

⁴⁹ The Sainte-Laguë method is named after the French mathematician André Sainte-Laguë. It is a highest quotient method for allocating seats in party-list PR.

place in Kirkuk for the second time in 2013. On the national level, according to Yezinumber (45) of 2013, the CoR also adopted the Sainte-Laguë method for the national elections held in 2014. Adopting the Sainte-Laguë method was to ensure wider representations both in the governorate councils and in the CoR as well. The open-list, however, remained the same in both of the elections.

After the Supreme Court annulled article 23, the CoR tried to design a specific law in order to hold provincial elections in Kirkuk. For this reason, it discussed a proposal draft law in November 2013 entitled ‘election law for Kirkuk governorate council.’ The draft suggests that elections will be held based on the modified provincial elections law number (36) of 2008, but it demands that the senior positions will be distributed based on each election’s outcome rather than being pre-determined. In other words, it suggests a solution which is more compatible with liberal consociation rather than a corporate one. However, the draft has not yet been ratified. The reason for this, according to Mahmood Othman (2015), an independent Kurdish member of the CoR, is because ‘the Turkmen were against it,’ as they believe that ‘the demography of Kirkuk has been changed after 2003’ which will affect the elections outcome in favour of the Kurds. But another reason is that the Turkmen know that, due to the low turnout of the Arabs, they are overrepresented in the KPC and they fear that they will lose their current status in future elections. For example, when I raised the question of Turkmen’s overrepresentation in the KPC at the expense of the Arabs with Arashad Salhi (2013), the president of Iraqi Turkmen Front (ITF), he did not deny this and said that ‘if they [Arabs] had participated [in the 2005 provincial elections] it would likely have changed the current equation.’ In any case, as Mahmood Othman (2015) notes, ‘in order to ratify this law, the components of Kirkuk should not be against it’; however, because the components did not already agree upon the law, ‘it did not pass and it has not become a law yet.’

From the above arguments, we may reach several conclusions. First, a PR electoral system has been used in every Iraqi election, including those held in Kirkuk, since 2005. The many changes that the electoral systems have witnessed in different elections in the country have been about which type of PR should be adopted (specifically, closed list or open-list), rather than adopting alternatives to PR. To ensure that all ethnic and religious groups of Kirkuk are represented in legislation and executive bodies, especially if Kirkuk would become an autonomous region, it is vitally important to formally adopt PR electoral system. It is

important to remember that according to article 140 of the Iraqi constitution, the future status of Kirkuk should be settled in a public referendum. If the voters would choose an autonomous region for their governorate, then the region would enjoy its own constitution. In that case, it is essential to adopt PR electoral system to ensure the representation of all communities of Kirkuk.

Second, the CoR and the governorate councils have been largely inclusive and this is because of the usage of a PR electoral system.⁵⁰ Third, while other governorates in Iraq have held three elections by now, Kirkuk governorate is the only governorate that has experienced only one election since 2005 and thus the Kirkuk Provincial Council (KPC) is now the longest-serving provincial council in Iraq. Mohammed Kamal (2013), a Kurdish member of KPC, told me that ‘the provincial council is a tired council. I am one of the members of the council and say “we are tired”, let a new council come with new members.’⁵¹ For Saman Saeed (2013), a senior member of KIG, ‘the term of the current provincial council is over.’ Fourth, without the consent of the main three groups of Kirkuk, it is highly unlikely to hold provincial elections in the governorate. Finally, the principle of party-list PR should be maintained in any future elections in the city so that the ethnic groups of Kirkuk will be represented in the KPC (or the parliament should Kirkuk becomes an autonomous region).

5.3 Ethnic Representation in Kirkuk’s Public Sector

As noted at the beginning of this chapter, proportionality is not restricted to electoral systems alone, rather it also means the representation of all groups in all levels of government on a proportional basis, including executive, legislature, judiciary, security forces and in the civil service. It can also cover things like oil revenues, taxation, fiscal transfers, housing etc. Considering the proportionality criteria in distributing governmental jobs is vitally important in Kirkuk, because the ethnic groups are so intermingled that discrimination and discrepancies in service delivery and appointing employees could catalyze an intercommunal conflict and destabilize the governorate. Clearly, one of the

⁵⁰ The Sunnis were underrepresented as a result of January 2005 elections, but this is due to their boycott not the electoral system. The small parties were largely marginalized in the 2009 provincial elections and the 2010 national elections, because of using the formula of the largest remainder for distributing the seats. However, this formula was later changed into Sainte-Laguë method which is in favour of small parties.

⁵¹ I also observed that some of the members of KPC were coming to their offices only on Tuesday just for attending the weekly meeting of KPC.

main reasons for ethnic conflict is the struggle between contending parties over access to economic resources. Therefore, economic inequalities in the form of employment discrimination and unfair imbalances in the allocation of public services such as health facilities, roads, electric power and water supply can lead to political violence. As Esman (2004: 78) remarks, ‘those whose grievances are expressed in political language are really protesting their disadvantageous economic situation.’ Hence, applying the proportionality principle when distributing governmental jobs and appointing employees can be crucial in avoiding discrimination. The question remains, however, as to whether there prospects for the allocation of financial resources and civil service appointments on a proportional basis in Kirkuk. The following section answers this question.

To answer the above question, it is important to illustrate the share of each of the three main ethnic groups in different sectors in the governorate. But before discussing that, two important points should be explained. First, as noted in the first chapter, the only reliable and least-politicized census available is the 1957 census which cannot reflect the current reality on the ground as more than half a century has now passed since that census. The number of each ethnic group may, therefore, only be estimated from the elections results. However, this is also problematic because different elections resulted in different outcomes. For example, the Kurds have taken two thirds of the KPC members and out of the current 13 CoR members representing Kirkuk in Baghdad, 8 of them are Kurds, 2 are Arabs, 2 are Turkmen and one is a Christian. Nevertheless, in the 2010 national elections, the Kurds had 6 seats and the Arabs and Turkmen together also had 6 seats. Thus, although all the post-2003 elections indicate that the Kurds either constitute the majority or at least the plurality in the governorate, there is no accurate data to indicate the exact number of each ethnic group. Under such a circumstance of uncertainty, it is not surprising that each group complains that its share in the governorate does not reflect its actual population size.

Second, Kirkuk has institutional linkages to both Baghdad and the KRG and depend on both of them financially to pay its public servants and to reconstruct the city. Since 2006, Baghdad has used the mechanism of the Accelerated Reconstruction and Development Program (ARDP) in order to transfer money from the federal budget to the provinces. The purpose of the ARDP has been to facilitate short-term projects along with the longer-term budget initiatives conducted by the ministries. Kirkuk Provincial Council (KPC), for example, reserved 25 percent of Kirkuk’s ARDP funding to maximize per capita allocation

for the damaged areas in the governorate (Knights and Ali: 2010, 20-23). The KRG, on the other hand, has actively been involved in the province and acted as a strong external donor through providing financial support to develop various projects. For example, according to one report, of a total of about 1,390 schools across Kirkuk province, 460 of them were funded by KRG in which their curriculums and teaching are entirely Kurdish (Ryan: 2010). This means that both Baghdad and KRG rather than KPC are more influential once it comes to appointing public employees. At the time of writing this chapter, Kirkuk has faced a financial crisis due to a suspension of the ARDP fund by the central government since August 2014. This is because the country has been badly affected due falling oil prices on one hand, and rising Iraqi military expenditure because of fighting with ISIS, on the other.⁵² The central government in Baghdad has stopped sending petrodollars to Kirkuk for nearly two years now, and as a result the salaries of approximately 7,000 contract workers in Kirkuk have been cut for several months (iraqenergy.org, 2015)⁵³ In short, to meet its financial needs, the KPC depends on Baghdad and the RG. I shall return to this point later.

Having said that, it is vital to point out at the outset that each ethnic group is represented in different sectors in the governorate. However, the groups often complain and criticize each other as they think jobs are not distributed proportionally. The common objections of the Arabs and the Turkmen is that the Kurds have monopolized most of the significant political and security positions in the governorate.⁵⁴ In addition, Arabs view themselves underrepresented in the KPC. For example, the KPC estimates that 19 percent of public sector managers are Arab, 26 percent are Turkmen, and 54 percent are Kurdish (Knights and Ahmed, 2010: 25). Unlike their confirmation views with regard to the inclusion of all groups in governing the city and the gradual relationship improvements among the groups since 2003 as shown in chapter three, the respondents for this research had different and often contradictory views regarding the representation of their groups in the key institutions and public sector employment in the governorate. When I asked the Arab members of the

⁵²More than 90 percent of Iraq's federal revenue will come from oil exports in 2015. For more information, see: <http://iraqieconomists.net/en/2015/01/04/analysis-5-key-takeaways-from-iraqs-2015-draft-budget-by-patrick-osgood-ben-van-heuvel/>

⁵³ The petrodollar is a budget specific to provinces that produce oil such as Basra and Kirkuk. The oil-producing provinces are given \$1 for each barrel they produce. According to the amended law number (21) of 2008 which is also called 'Law of governorates not incorporated into a region', revenues for the governorates includes 5 petrodollars per barrel of oil or 150 cubic metres of natural gas. However, due to the crisis of dropping oil price, the 2015 Iraqi budget has allocated an amount of \$2 for each barrel of crude oil produced or refined in the oil-producing governorates and \$2 for each 150 cubic meters of natural gas.

⁵⁴ The Turkmen, as noted in the previous section, have been overrepresented in the KPC because of the Sunni Arab low turnout in the provincial elections in 2005.

KPC about whether they think that their community has been represented fairly in the political, economic and security sectors in the governorate, their answers were negative. For example, Mohammed Khalil (2013) told me that ‘the number of Arabs in the provincial council does not represent the number of Arab population.’ Burhan Mazhar (2013) also expressed his concern in this regard when he said ‘we are six [members] in the provincial council that does not reflect the number of Arabs.’ Similarly, Ramlah Al-Ubeidy (2013) was unhappy about their share ‘our representation is very low which does not reflect our population and our wide areas.’ She added ‘if we take all of the directors of Kirkuk, our rate may not exceed 15 percent [while] our Kurdish brothers have got 50 or 49 percent [of the positions] and in some aspects the Turkmen have got nearly 38 percent.’ Briefly, as Rakan Saeed (2013), the Arab deputy governor, noted ‘the ratio of the Arabs in administrations, provincial council, and security matters are not compared to the Arab population size in Kirkuk.’ In other words, the Arabs feel marginalized and believe that their actual size is far proportionally bigger than their share in the governorate. Consociation, if adopted, could be a suitable solution to fix this problem.

The Turkmen politicians also believe that they are underrepresented in different sectors in the city. They believe that that the Turkmen community has not been represented fairly in the political, economic and security sectors in the governorate. For example, Arshad Salhi (2013), the president of ITF, told me that ‘although we have eligibility for economic and security sectors, we are away from them in Kirkuk as they are dominated by the Kurds only.’ According to Hasan Turan (2013), the KPC chairman, the evidence for Turkmen underrepresentation in Kirkuk is that ‘the numbers of Turkmen in the security leadership of Kirkuk police consist of eight percent only.’ For Tahseen Kahya (2013), the Turkmen have faced ‘unfairness’, ‘marginalization’ and sometimes ‘exclusion’ in the administration and directorates of the city. Najat Hasan (2013) argues that the Kurds and Turkmen were marginalized by the Ba’ath regime, however, after the fall of the regime ‘the Kurdish brothers were compensated, while we, as Turkmen, did not get a chance to get compensation.’⁵⁵ Thus, like the Arabs, the Turkmen have got their own stories and complaints.

⁵⁵ Many of the Arab and Turkmen politicians use the expression ‘Kurdish brothers’ when they refer to their Kurdish counterparts. However, this has often nothing to do with their friendly stance towards the Kurdish demands. Even the most stubborn Arab and Turkmen politicians use this expression!

The Kurds, however, have their own concerns in this regard. The Kurdish view can be summarized in several points. First, they argue that they were largely marginalized and even excluded under the Ba'ath regime; therefore, what happens now is nothing but a case of rectifying past injustices and creating a balance by giving jobs to the Kurds who already suffered a lot and were deprived of jobs by the Ba'ath party due to their Kurdish identity. The former governor of Kirkuk argues that when he was the governor, the number of Kurdish employees was very low. He indicates that the North Oil Company (NOC) had only 18 Kurdish employees, so he increased the Kurdish employees to 1000 (UNPO: 2011). Second, the Kurds acknowledge that there is injustice in the allocation of civil service positions, but they argue that the Kurds are also underrepresented in other sectors. For example, the current Kurdish governor, Najamddin Karim (2013), told me that 'the Arabs may have complaints, but most of the employees of Kirkuk are Arabs followed by the Turkmen.' He also added that 'the Kurds have the least number of employees in Kirkuk,' therefore, he maintained that the Arabs and Turkmen 'should not focus only on their problems and forget others'.' Third, the Kurds argue that the employees are appointed by Baghdad and all of the governmental directorates are under Baghdad authority; therefore, as Jalal Jawhar (2013), a senior politician of the Change Movement, claimed 'it is totally untrue and baseless that the Kurds have dominated everything' in the city. Fourth, some of the Kurdish politicians think that the Kurds are still underrepresented. For example, Sdeeq Kaka Rash (2013), a Kurdish member of the KPC, told me that 'the Arab group has dominated the oil sector', i.e. North Oil Company. Moreover, 'most of the engineers, officials and the retired people are Arabs.' In the meantime, 'the Turkmen have dominated the education and court sectors in Kirkuk,' therefore, 'this indicates that justice has not been regarded.' Similarly, for Khalid Shwani, a Kurdish member of the CoR (2013), 'the Kurds are the most aggrieved and affected group' in the city. Here are some of Shwani's views regarding Kurdish underrepresentation in some sectors and places:

There are 63,000 civil servants in Kirkuk, nearly 32,600 of them are Arabs which is about 60 percent of the number of civil servants, while they consist of only 25 percent of the city. On the security level, I think there are 943 officers in Kirkuk. More than 475 of them are Arabs which is more than 50 per cent. In Hawija with all its sub-districts, there is not even one Kurdish officer. However, within the city in which the Arabs are a minority, there are many Arab officials.

Furthermore, the Kurds argue that they constitute two thirds of the KPC and thus it is their right to hold more positions than Arabs and Turkmen. As Anderson and Stansfield (2009:

220) note, 'the allocation of 48 percent of the governorates administrative posts to the Kurds is fair and reasonably proportional if one accepts that the Kurds comprise 53 percent of the governorate's population.' Likewise, they argue, '28 percent of Kirkuk's administrative posts is a generous allocation for the Turkmen if one accepts that they comprise almost certainly fewer than 20 percent of the governorate's population.' Anderson and Stansfield's argument depends on the election results of January and December 2005 in which the Kurds came out as the first winner in the governorates. However, the problem is that the Arabs and Turkmen do not accept the use of the post-2003 elections as benchmark numbers to assess the proportionality of their administrative and political representation. The Turkmen, as noted earlier, accuse the Kurds of the Kurdification process and the Arabs argue that in the 2005 provincial elections, the turnout of the Arab voters was very low which resulted in the underrepresentation of the Arabs. In Mohammed Khalil's words (2013):

The Arabs were not ready for the elections in 2005. There was instability and there was a threat to the voters on the day of elections and there was pressure from the security forces of the dominant group [Kurds] so that the Arabs cannot reach the station polls. This election resulted in unreal and an unnatural situation in this province. This is unfair per se.

Scholars and researchers on Iraq and Kirkuk have different views about whether the groups are proportionally represented in the governorate or not. For example, Reidar Visser (2008c), argues that the Kurds have monopolized power in Kirkuk and they scotched the provincial elections law in 2008 by using the presidential veto to maintain the power they gained in the controversial January 2005 elections which resulted in their controlling the provincial council. Instead of accepting a power-sharing formula for Kirkuk, he argues, the Kurds want to keep the status quo. However, contrary to Visser's argument and the claims of the Arab and Turkmen leaders, Liam Anderson (2009: 13) illustrates that despite a clear victory in the 2005 governorate election, the Kurds have not monopolized power and have not excluded other groups. For example, the KBL could, theoretically, govern and elect a governor without the support of other parties. Yet, the legitimacy of Kurdish rule originates from reaching some sort of mutually acceptable power-sharing arrangement with other ethnic groups (Anderson and Stansfield, 2009: 128). Thus, there is no clear-cut evidence to prove the domination of one group and the exclusion of others.

Based on the above arguments, several conclusions can be drawn. First, as long as the governance situation of Kirkuk remains unresolved, the complaints and criticisms of the

groups along with their propensities to depict themselves as marginalized and underrepresented will continue. Having no reliable data and the disputed election outcomes make the situation even more complicated. Second, the groups are represented in different sectors in the governorate but there is imbalance in distributing the positions. In other words, the employment rates which are based on ethnicity in public institutions and government, changes from one place to another. For example, the Kurds have dominated the senior positions, whereas the Arabs have taken the majority in the lower positions such as ordinary civil servants and so on. The Turkmen proportion, on the other hand, in the public sector might roughly reflect their actual size on the ground. In sum, then, if a group is underrepresented in one sector, it is overrepresented in another one. Third, Baghdad is mainly responsible for this imbalance, as it has the authority to appoint employees and there is no balance in the employment orders they send to the governorate. For example, due to the position of the general-director of education directorate in Kirkuk, problems arose between Arabs and Turkmen, as the latter thought it is their right to take that position while the former has currently taken this position with the support of the Iraqi minister of education. (Bawabatthiqar website, 2014). Similarly, tensions between the Kurds and Turkmen arose recently when the ministry of higher education decided to replace the retired Kurdish president of Kirkuk University with a Turkmen. Eventually, the new Turkmen president of Kirkuk University was obliged to resign (Al-Yasri, 2015). Fourth, the KRG support for the KPC and mainly the Kurdish areas would clearly increase the proportional number of the Kurdish employees in the governorate which worries the Arabs and Turkmen. Finally, to come out from this conundrum, it is crucially important to hold the second provincial elections in the city as the legitimacy of the current KPC is questionable. Moreover, it is important that the positions should be distributed based on the elections outcome not the equal sharing of the positions (32-32-32-4) among the groups of Kirkuk as the Turkmen and the Arabs demand. However, consociation can be the most appropriate mechanism to address this problem through its element of proportionality.

Conclusion

From what has been argued in this chapter, one can reach the conclusion that a sort of an informal, if in certain respects imperfect or problematic, proportionality has been in place for the past decade in Kirkuk, especially with regards to electoral systems. This is because the Iraqi constitution has already adopted the proportional electoral system and as an Iraqi

governorate, Kirkuk has been subject to the PR electoral system as well. In terms of representations, the ethnic groups of Kirkuk have been represented in the executive, legislative and judicial areas proportionally. Nevertheless, due to a lack of reliable census data in the city and as the disputed outcome of the January 2005, the groups (especially the Arabs and, to a lesser extent, Turkmen) often raise concerns and complaints against marginalization as they think that their actual size is proportionally bigger than their share in the administrative and political representations. Although these concerns spark tensions every now and then, they have not led to inter-communal violence—which is to say that the principle of proportionality needs to be seen in relation to the other principles that we are addressing in this research as well as the broader socio-historical context in which they are located. One more specific explanation for the absence of violence is the fact that none of the groups has dominated the whole public sector. More specifically, a group's deprivation in one sector is counterbalanced by its domination in another. The concerns are more related to the perception of injustice and sometimes discrimination *perception*, rather than raising serious complaints against exclusion.

Taking this into consideration, the possibility of durable peace could arguably be greater in Kirkuk if proportional representation was to be considered formally based on a clear criteria (I would suggest elections results). As there is no reliable census, the elections can be an alternative way of assessing the relative number of the different groups since ordinary voters tend to vote along ethnic lines in Iraq and Kirkuk as well (see Garry 2009 on the case of Northern Ireland and its voting patterns). Briefly, the PR electoral system is already in place and, despite the imbalance in the distribution of jobs and resources, there is a kind of proportionality in general. This research suggests maintaining the pre-existing PR electoral system and agreeing upon clear criteria to distribute the positions and resources as part of a consociational framework. Moreover, proportionality is crucial and should not be treated as a secondary consociational element, as Lijphart now suggests, in any future consociational arrangement. By this point, three elements of consociational theory (grand coalition, segmental autonomy and proportionality) has been discussed in this research. Now, I turn to analyse the last element (mutual veto).

Chapter 6. Mutual Veto

Mutual veto is another important element of consociational theory. It is deemed necessary, along with the other three elements of consociational theory for managing conflict among different ethnic groups. More precisely, consociational theory considers mutual veto as an additional shelter or protection for minorities, as grand coalition alone might not be sufficient to provide a complete protection for minorities (Lijphart, 1977: 36). The main idea of mutual veto is to protect minority segments in a grand coalition government. Although groups are represented in a grand coalition, they may be outvoted once it comes to making decisions in the coalition government by majority vote. Therefore, as Allison McCulloch (2014: 15) states, ‘without the veto, the principle of majority rule can be easily enacted within the power-sharing executive or legislature, thereby defeating the very purpose of the coalition’, and, one might add, of inclusion and proportionality more generally. Thus, the veto along with participation in a grand coalition government ensure that the minority groups would enjoy a genuine, effective participation in the process of decision making.

This chapter assesses the prospects for adopting the element of mutual veto in Kirkuk. As part of that, it considers various different types of veto. To this end, I divide the chapter into three sections. In the first section, I provide an overview of mutual veto, its types and forms, their advantages, drawbacks, and the formal or informal status of veto rights in different places. The second section examines a number of empirical cases with mutual veto. I deal especially with cases that appear to have useful lessons for Kirkuk such as Bosnia, Northern Ireland, Belgium and Brussels. In the last section, I discuss the feasibility of mutual veto institutions in Kirkuk in the future. In this last section, I present a brief overview on how veto rights have been dealt with in the post-Saddam Iraq. Based on that and the learnt lessons from other cases, I examine whether mutual veto would be feasible in Kirkuk.

6.1 An Overview on Mutual Veto

Consociationalists believe that minority or mutual veto provides protection to minorities.⁵⁶ By participating in a grand coalition, minorities may gain important political protection but

⁵⁶ Or to majorities too, especially if they are only slightly bigger than the other side (hence, in Northern Ireland they tend to be called mutual vetoes rather than minority vetoes).

grand coalition alone does not provide a complete protection for minorities (Lijphart, 1977: 36). The reason for this is that the minority's presence in the coalition cannot prevent it from simply being overruled, particularly on issues of vital importance to them, since many decisions are reached by majority vote. In other words, a minority may have the formal chance to present its case to its coalition partners, but its arguments and demands may simply be outvoted by the majority. Therefore, in my interview with Najat Hasan (2013), a Turkmen member of the KPC, he asserted that 'through strong guarantees, powersharing agreement will be enhanced.' Therefore, for a complete guarantee of political protection for each segment, mutual veto has been defended by consociationalists. The existence of a veto option is an important deviation from the majority rule principle in the power-sharing executive. For this reason, Lijphart (1990: 495) has described veto rights as 'the ultimate weapon that minorities need to protect their vital interests.' The importance of mutual veto is that it does not only focus on the initial coalition-building stage and getting the representatives of different groups together in a grand coalition, but also deals with how these representatives behave once together (McCulloch, 2014: 14). Thus, mutual veto is important in consociational theory for, along with the grand coalition element, it provides an additional political shelter for minority protection.

If misused by minorities, however, veto rights can have dangerous consequences. Lijphart (1977: 37) recognizes that a minority veto may lead to minority tyranny, which may limit the cooperation among elites in a grand coalition government as much as the persistent outvoting of minorities. This danger is to be expected. For example, a minority group may be able to veto any decision under the pretext of minority group protection and by arguing that its fundamental interests are threatened, whether or not this is actually the case. That was the concern of some of my interviewees. For example, Najmadeen Karim, the current Kirkuk governor, whom I interviewed with in his office in Kirkuk in 2013, had a negative view on veto. This was clear in his tone when he told me 'No veto. Veto leads to deadlock, it is impossible.' However, once he came to talk about governing the city, he asserted the importance of the inclusion of Arabs and Turkmen in any future powersharing arrangement, 'we have to prove our good intention by offering services to the Arab and Turkmen areas. They should be inclusive now and in the future in running the governorate.' But, as noted earlier, the problem is that if minorities are not given veto rights, they might be outvoted by the majority group in grand coalition governments. Nevertheless, the governor's concerns about veto is shared by Yasin Al-Ubaidi, Iraq's MP from Hawija whom I

interviewed with on 22 January 2015 by phone, when he argued that ‘veto has negatively affected the government performance and legislation, and led the political process to deadlock.’ Thus, a major challenge for powersharing systems is to strike a balance between protecting minority groups and preventing unproductive stalemate and interethnic tension among the governing parties (McEvoy, 2013: 254). While Lijphart (1977: 37) acknowledges the negative side of veto powers, he suggests that the situation is not as serious as it appears for three reasons. First, the veto is a *mutual* veto, so its frequent use is unlikely as it can be turned against a minority too. Second, the fact that the veto is a potential weapon for the minority which gives them a feeling of security, makes the actual use of veto improbable. Finally, groups will not resort to using the veto because they will recognize the danger of deadlock and immobilism. Bieber (2005: 100), however, criticizes Lijphart for dismissing the dangers of veto too lightly. Bieber argues that Lijphart’s assumption is invalid, particularly in post-conflict societies with a political system that is contentious in itself. Lijphart’s argument is based on the rationality of the political parties and their interest in helping rather than hindering the process of decision making.⁵⁷ However, placing too much emphasis on the rationality of elites and political parties in divided societies is problematic.

One reason for this is that in some situations mutual veto might not be able to achieve the purposes that its designers want and expect. For example, Kelleher (2005: 4-6) notes three problems relating to the principle of mutual veto in power-sharing systems. The first problem is related to the identity of the veto holder. A veto may fail to function as a minority protection in places where a number of different ethnic minorities acting as a single veto bloc is granted a veto right. In Macedonia, for example, a number of ethnic minorities have been bundled into a single bloc and given the right of veto. However, only the ethnic Albanians who are larger than others can enjoy this right properly, ‘the smaller ethnic minorities can never veto legislation without the support of ethnic Albanians, so their vital interests are only protected to the extent that they overlap with those of the predominately Muslim ethnic Albanian group’ (Kelleher, 2005: 4). Second, he (2005) refers to problems associated with the definition of ‘vital interests’ of the minority. He argues that if the ‘vital interests’ of a minority are defined too widely, veto rights may be open to abuse; however, if they are defined too narrowly, veto rights may fail to function as a tool to protect the

⁵⁷ Rationality is not the same as goodwill. ‘Rational’ suggests that they avoid deadlocking because they think it will damage their own interests, not because they are interested in the processes of decision making per se.

fundamental interests of a minority such as the cases of Bosnia and Macedonia. Third, he identifies the common critique against mutual veto which is the emergence of crises and political deadlock after the exercise of the veto that is damaging to ethnic relations. Moreover, there is no clear positive correlation between adopting mutual veto and reducing conflict. Despite the existence of veto rights in places such as Iraq, Serbia and Montenegro, there is no reduction in violence, whereas mutual veto has been significant in reducing or preventing conflict in Bosnia-Herzegovina, Macedonia, Burundi and Belgium (Ram and Strøm, 2014: 348-9). In short, the problems and impacts of mutual veto vary from case to case.

However, despite the above criticisms and some others that I discuss in this paragraph, mutual veto is still seen to have potential for encouraging cooperation among elites. Schneckener (2002: 205) asserts the importance of veto rights as an institutional device in the consociational power-sharing model and writes that ‘the aim is to foster consensus-building and the search for compromises.’ However, McEvoy (2013: 257) argues that ‘there is a surprising lack of empirical research on whether this is the case in the real world of power sharing.’ Critics of consociationalism usually raise the problem of deadlock and democratic breakdown that can result from mutual veto. For instance, Horowitz (2014: 7) argues that immobilism is a strong possibility where robust guarantees like minority vetoes are adopted in a consociational system, and ‘it may be very difficult to overcome the stasis that immobilism can produce.’ This is because a veto right allows each participating group in a government to block the demands of other groups. Therefore, under the environments of stalemate and immobilism, it might be unlikely for the elites to show cooperative behaviour. That is what Mohammed Khursheed (2013), a senior KDP politician whom I interviewed in his office in Kirkuk, warned about when he told me, ‘in my opinion, the veto right will be a means in the hands of politicians to use it for their interests and the interests of their political parties.’ However, Schneckener (2002: 221) states that veto rights develop a preventive effect. When I asked Hasan Turan (2013), the Turkmen head of the KPC, about whether they support veto, he replied ‘Of course, this model is applied in many countries.’ Kurshid’s negative opinion and Turan’s supportive view with regard to the necessity of adopting veto in Kirkuk reflects the fact that the Kurds as a numerically major group believe that the existence of veto will diminish their political influence in future while the Turkmen fear that in the absence of veto rights, their interests would be violated.

In Schneckener's view, the threat of a veto pushes the participant parties to find a compromise in the initial stages of decision making to make any veto unnecessary. For example, he refers to the preventive nature of veto right in both South Tyrol and Belgium. In both cases, veto rights such as the 'budget guarantee' or the 'alarm bell procedure', respectively, are de facto scarcely used, but the fact that they exist seems important for finding compromises. This explanation is compatible with Lijphart's above response to the critics of mutual veto. However, it sounds that both consociationalists and their critics are right to a certain extent and this might have more to do with what forms of 'veto right' is in place in certain cases. It may lead to stalemate within the grand coalition government and risk the collapse of the political system if misused. By contrast, it may help foster cooperation among the participant parties in the government if used properly.

The mutual veto can take various forms. It may be informal and unwritten or constitutionally enshrined or entrenched. Under its original consociational arrangement, Belgium had both informal and formal veto arrangements (McCulloch, 2014: 15). The linguistic groups of Belgium received constitutional recognition and guaranteed veto powers on cultural and educational issues, while mutual veto existed informally in the relations among the Socialist, Catholic and *familles spirituelles* (Lijphart, 1977: 38). Bosnia is another example where veto rights are constitutionally enshrined under the Dayton Peace Accord. For example, the presidency is formed by three members of each group and any of its members can effectively block any decision that is deemed to be in violation of a group's vital interest (Dayton Peace Accord, Annex 4, Article v). In the case of Macedonia the veto provisions are embodied in their interim or preliminary constitutional documents, whereas more commonly veto provisions are included in the permanent constitution of the state (Ram and Strøm, 2014: 346). Iraq can also serve as another example in which veto power has been tacitly embedded in its constitution. I will examine Iraq's veto in a further detail in the final section of this chapter. The use of the popular referendum in Switzerland is another example of informal veto in which a certain minimum number of registered voters can force a public vote by signing a petition to suggest repealing existing legislation, constitutional amendment, etc. In short, mutual veto can take a variety of forms—it can be different from one country to another in terms of its formality and informality.

Table 6.1 The formal and informal regulation of veto rights in some cases

Country	Formal Veto	Informal Veto
Belgium	✓	✓
Bosnia	✓	
Macedonia	✓	
Northern Ireland	✓	
Iraq		✓

Whether the right of veto is formally or informally introduced, it can be implemented in different ways in practice. Schneckener (2002: 221), for instance, distinguishes between three types of vetoes: 1- delaying veto, 2- indirect veto, and 3- direct veto. The first option aims at delaying decisions by reconsidering a matter via parliamentary mediation or referral to the constitutional court. The second option leads to an indirect veto and requires specific conditions to be met to pass legislation in parliament such as a concurrent majority in the assembly (McEvoy, 2013: 258). The third option allows groups to declare an issue related to their ‘vital interests’ and, therefore, block the decision (e.g., Northern Ireland/petition of concern). He prefers the first two types of veto rights and, based on the Cypriot experience of mutual blockage, he suggests that ‘veto rights should be more restricted in order to prevent their misuse.’ He (2002: 222) also argues that ‘the less veto rights are used, the better,’ as ‘their frequent use can actually be seen as a sign of severe crisis.’ In terms of its extent, McCulloch (2014: 15) also makes distinctions between two main types of veto which are restrictive and permissive vetoes. She argues that ‘restrictive veto rights limit veto use to decisions that affect “the vital interests” of groups, whereas a more permissive approach allows their use on all proposed legislation.’ The problem with permissive vetoes is that they ‘open the door to misuse’ as they could be used for a political agenda ‘unrelated to community concerns’ (Bieber, 2005: 97). Therefore, academics generally favour restricted veto rather than permissive veto rights (McEvoy, 2013: 258). However, the choice between one of these institutional options for veto rights can depend on the context of a specific case. I will discuss this point in the following section with regards to Kirkuk.

The above different types of veto rights and the way they are exercised in practice might be confusing. Therefore, McEvoy (2013: 258-62) has made an attempt to offer a clearer framework. Her framework makes distinction between three elements of the mutual veto: 1- veto players, 2-veto issues and 3- veto points. For McEvoy (2013: 259), *veto players*

(*who* has veto power) are ‘actors who have the capacity to block decisions in the name of group protections’ Such veto players, according to McEvoy (2013: 259), can be identified in two ways: by pre-determination (pre-determined groups specified in the constitution or peace agreement) and self-determination (self-determined on the basis of success in elections). By *veto issues* (*what* issues veto players can veto), McEvoy (2013: 260), means ‘decisions and legislation that groups may choose to block in power-sharing systems.’ She suggests defining veto issues clearly in legislation and restricting them to questions pertinent to identity such as culture, language and symbols. By *veto points*, she (2013: 261) means ‘*where* groups have the capacity to veto the agreed issues covering vital interests.’ Veto procedures may exist at various points in the political process and veto rules may be exercised in the assembly and executive. However, she (2013: 262) suggests avoiding a complex set of veto rules at various points as ‘too many veto points can cripple the system.’ Thus, this framework can be helpful to examine whether mutual veto encourages cooperation among groups in a grand coalition government.

Table 6.2 A framework makes distinction among three aspects of vetoes⁵⁸

Elements of Veto	Extent of Veto	Veto types
Veto players	Restrictive veto (conditional veto)	Delaying veto
Veto issues	Permissive veto (absolute veto)	Indirect veto
Veto points		Direct veto

Now, after presenting the above theoretical framework on veto rights, it is important to understand how vetoes are employed and applied in several cases. This is significant, because without understanding how veto rights are used in other cases, one cannot have a good insight into which type of veto should be adopted in Kirkuk. This is a crucial point, particularly because the whole research is a normative one and without learning lessons from other cases, it is difficult, if not impossible, to be able to suggest a specific type of veto for Kirkuk in the future. The following section, therefore, discusses some cases with veto rights to understand what lessons they may have for the case of Kirkuk.

⁵⁸ Compiled by author from different sources.

6.2 Mutual Veto: Cases and Lessons

As just noted, understanding how veto rights are exercised in some cases with mutual veto is important for Kirkuk. In this section, I discuss the nature of minority vetoes in four cases, Bosnia and Herzegovina, Northern Ireland, Belgium and Brussels. The choice of these four cases is dictated by three considerations. Firstly, these cases are different in terms of entrenching the formality or informality of their minority vetoes. This consideration is useful for Kirkuk normatively, because the main aim of this chapter is to examine what lessons can be learnt for Kirkuk from these cases and if mutual veto as an element of consociation were to be adopted in Kirkuk, should it be formal, informal or a combination of them. Secondly, selecting Brussels is deliberate as it is a regional rather than a national level consociation. The whole of this study argues for making Kirkuk a regional or a governmental consociation within the national consociation of Iraq. The case of Brussels is important to be considered in this respect. Finally, these cases share many features in common with Kirkuk in terms of communal diversity and conflict. In short, policy makers can learn important lessons from these cases for considering mutual veto by taking advantage from the effective examples and avoiding the ineffective ones.

The Dayton Agreement produced a new constitution for Bosnia and Herzegovina in 1995. This constitution embedded veto powers formally which have been one of the contentious issues since then. In terms of *veto players*, the three constituent peoples (Bosniac, Croat and Serb) have the right of veto in Bosnia. These three groups can exercise this right through the Parliamentary Assembly and the Presidency Council (veto points) (See table 3). According to Article IV of the constitution of Bosnia and Herzegovina, the Parliamentary Assembly consists of two chambers: the House of Peoples and the House of Representatives. The House of Peoples comprises five members from each ethnic group whereas the House of Representatives comprises 28 members from the Muslim-Croat Federation and 14 from Republika Srpska that makes decisions on a majority basis (Article IV; Sebastián, 2007: 2). On the other hand, the Presidency of Bosnia and Herzegovina consists of three Members: one Bosniac, one Croat and one Serb (Article V). One of the members of the tripartite presidency or a majority delegation from one of the three constituent peoples in the parliamentary assembly can veto decisions deemed destructive to the vital interests of their respective ethnic group. In other words, with regard to veto issues in the above two chambers, ‘a proposed decision of the Parliamentary Assembly may

be declared to be *destructive of a vital interest* of the Bosniac, Croat, or Serb people' (Article IV, emphasis added).

Furthermore, one of the three members of the Bosnian state presidency can consider a 'Presidency Decision' to be destructive of a vital interest of their respective entity. In terms of *veto extent*, as McCulloch (2014: 46) points out, there are two kinds of vetoes at the state level in Bosnia: the vital interests veto (restrictive) and entity voting (permissive). The vital interests vetoes are mostly related to culture, education, language, use of symbols, personal identification and local self-government (Bieber, 2005: 97). Entity voting, on the other hand, stipulates that decisions in the state parliament require the support of at least one-third of delegates from each of the two entities in both the House of Peoples and House of Representatives (McCulloch, 2014: 46). Finally, once it comes to *veto procedures*, as Schneckener (2002: 221) notes, a direct veto is exercised to block issues deemed destructive to the vital interests of the groups, whereas an indirect veto is used by the Assembly Parliament to block decisions if two-thirds of deputies of one entity (Croat-Muslim federation or Republika Srpska) vote against a piece of legislation. The Parliamentary Assembly, according to Article X, can amend the constitution, i.e. it has been given another indirect veto.

However, veto right is one of the most problematic issues in Bosnia and Herzegovina. Based on her analytical framework mentioned above, McEvoy (2013: 266) notes that veto problems are mainly related to veto issues and veto points. Veto players, she argues, are the predetermined groups which are unlikely to change as the nationalist parties would not agree to move to a system of self-determination. Veto issues, on the other hand, remain a difficult issue as the areas seen as Vital National Interest (VNI) by the groups are too broad. On the other hand, there are many veto procedures at different levels in Bosnia such as the VNI procedure in the presidency, both VNI and entity vetoes in the state parliament, and the procedure for entity voting in the House of Representatives which is particularly contentious. This is so because the House of Representatives lacks a mechanism to prevent deadlock due to not having a mediation mechanism like the joint commission in the House of Peoples. When a majority of Bosniac, Croat, or Serb delegates objects to the veto in the House of Peoples, a joint commission is set up to resolve the issue. If the commission does not agree within five days, the issue is referred to the Constitutional Court for review (Article IV). Without such a procedure, entity delegates in the House of Representatives

are urged to block legislation rather than compromise (McEvoy, 2013: 267). Thus, as Bieber (2004: 7) states, any group in Bosnia-Herzegovina can veto any decision without any specific limitation at the state level which might be the most problematic usage of veto rights.

This controversial mechanism has very negative repercussions on the process of decision making in Bosnia. Bahtić-Kunrath (2011: 899), for instance, argues that entity-voting enables the veto players ‘to “hijack” the parliament for their exclusionary ethnic interests and discourages cooperation and compromise between the veto players,’ and this is a significant factor for ‘the country’s orientation towards the political status quo.’ Moreover, the multiple ethnic veto points have contributed to ‘reinforcing the “ethnification” of Bosnian democracy,’ and made the system susceptible to **entrenched** ethnic and political divisions that provoked and prolonged the conflict (Sebastián, 2007: 16). Thus, veto rights are widely seen as being responsible for the ungovernability of the country (Bieber, 2004: 7). McEvoy (2013: 266) argues that it is necessary to ‘define and clarify the areas of legislation that may be subject to VNI.’ This is important as vital interests can be interpreted broadly, and ‘leaving room for vetoing virtually any decision’ (Bieber, 2005: 97). Moreover, defining and restricting the areas in which VNI veto could be used would ‘remove one of the greatest obstacles to efficient and effective governance in Bosnia’ (Hays and Crosby, 2006: 4). Thus, veto rights have been one of the most serious obstacles in Bosnia that need reform. However, there was justification for veto procedures in Bosnia to end the war, on one hand, and ensure that the Bosniacs, Serbs and Croats would enjoy authentic participation in the decision-making process after the war, on the other hand. In other words, taking the special situation of Bosnia at the time of enforcing Dayton Agreement, can, at least partly, justify the positive sides of various veto points and veto issues in that country. The lesson to be taken from this is that to avoid Balkanization, deadlock and immobilism in Kirkuk, the veto issue and the veto points should be as restrictive as possible in the case of the adoption of consociational power-sharing.

Northern Ireland is another case where power-sharing arrangements have been agreed upon in the Belfast/Good Friday Agreement (GFA) in which veto rights have been informally embedded. According to the GFA, groups are represented by members of the Northern Ireland Assembly who designate as ‘nationalist,’ ‘unionist’ or ‘other’ (GFA, Strand one: No. 6). As for *veto players* (See table 3), a cross-community voting procedure was

introduced in this agreement in which the Nationalist and Unionist groups were granted mutual veto rights for certain *veto issues* in the Northern Ireland Assembly such as the election of the chair of the assembly, the first minister and deputy first minister, standing orders and budget allocations. The Nationalist and Unionist groups (veto players) can enjoy veto rights through two *veto points*: the Assembly and the executive government. To protect the interests of the unionist and nationalist groups, key decisions are required to be taken in the assembly on a cross-community basis: through either parallel consent (i.e. a majority of those members present and voting, including a majority of the unionist and nationalist designations present and voting) or a weighted majority [i.e. a weighted majority (60%) of members present and voting, including at least 40% of each of the nationalist and unionist designations present and voting] (GFA, Strand one, No. 5). Due to putting these conditions to be met to pass legislation in the assembly by the Members of the Legislative Assembly (MLAs), the veto rights in the Northern Ireland could be considered as *indirect veto*. Following from a series of multi-party discussions between the British and Irish governments and Northern Ireland's political parties in 2006, new veto mechanisms were introduced in the St. Andrews Agreement. According to this new and reformed agreement (Annex A, No. 2), 'there would be arrangements to ensure that, where a decision of the Executive could not be achieved by consensus and a vote was required, any three members of the Executive could require it to be taken on a cross-community basis.' Thus, restrictive veto rights over certain veto issues (named above) can be used by the Unionists and Nationalists in both the Assembly and the executive bodies in Northern Ireland.

In other cases, aside from the above-mentioned veto issues, thirty MLAs (out of a total 108) can trigger a 'petition of concern' to vote on any specific issue to be taken on a cross-community basis. The 'petition of concern' measure was designed to protect minority rights in Stormont's power-sharing assembly. When a petition of concern is presented to the assembly speaker, a vote on proposed legislation will only pass if supported by a weighted majority. These procedures (parallel consent, weighted majority and petition of concern) are particularly important to safeguard nationalists from the dominance of unionists (O'Leary, 1999: 1640). However, the 'Other' group is less protected in the Assembly.⁵⁹ They can be outvoted by a simple majority and due to their small numbers, they are unable to trigger a petition on their own which means they hold less political power than Unionist

⁵⁹ The 'others' are non-designated MLAs. As such, they may be 'cross-cutting' in ethnic orientation

or Nationalist Assembly members (Kelleher, 2005: 4; O'Leary, 1999: 1640). This can be seen as discrimination against the 'other' group and contributes to the entrenchment of Northern Ireland's already deep ethnic divisions. However, O'Leary (1999: 1640) argues that the 'Other' group has not been at the heart of Northern Ireland conflict and thus it is not surprising if they are not at the heart of agreements, therefore, he maintains that it is not accurate to claim that they are excluded from the Agreement. O'Leary's argument may be right, but the 'other' group could have played a positive role in the conflict resolution if they had been given a veto right, especially once it comes to avert the Nationalist/Unionist divisions.

Although the record of power-sharing in general and veto rights in particular in Northern Ireland appears to suggest that they have worked relatively better than power-sharing and veto institutions in Bosnia, Northern Ireland's mutual veto has not been without problems. For example, Northern Ireland's controversial Welfare Reform Bill has recently failed to pass at Stormont. Despite the fact that the political parties of Northern Ireland had agreed a deal on Westminster's welfare reform measures last December, Sinn Féin withdrew its support in March 2015 and the Welfare Reform Bill was defeated by a petition of concern lodged by Sinn Féin, the Social Democratic and Labour Party (SDLP) and the Green Party (bbc.co.uk, 2015). Even though a majority of MLAs voted in favour of the legislation (58 MLAs unionists and 'others' voted 'Yes' and 39 nationalists voted 'No'), it fell because it failed to receive the support of a majority of both nationalists and unionist members of the Assembly (niassembly.gov.uk, 2015). Thus, the bill did not pass and this crisis 'has thrown the future of the power-sharing Executive in Belfast into real doubt' (Young and McHugh, 2015). The veto points and issues in Northern Ireland are less than those in Bosnia which is commendable; however, the crisis over the Welfare Reform Bill provides a useful example of how veto rights may become a threat to a power-sharing system even under the best of circumstances. Here, the main lesson for Kirkuk is that the right of veto itself may not safeguard any future power-sharing arrangements in the city; rather, mutual veto works well only when the political elites choose to cooperate and show willingness to compromise. This can be realized only when the parties believe that power-sharing government is better than other scenarios and when they genuinely want to see it succeed.

Belgium is another relevant case. As noted in the previous section, Belgium had both informal and formal veto arrangements under its original consociational arrangement.

Belgium has been divided between its Flemish and Walloon communities.⁶⁰ There are three political regions (Flanders, Wallonia and Brussels) in Belgium and the country has become de facto subdivided into two monolingual regions, i.e. Flanders and Wallonia and one bilingual region of Brussels (Schneckener, 2002: 206). There are also three communities: Flemish community, French community and German-speaking community. The Flemings and the Walloons are Belgiums' veto players. The normal rule of decision making in the parliament is simple majority, but the minority has a veto power called 'alarm bell procedure'. According to Article 54 of the Belgian constitution, whenever three-quarters of the members of one of the linguistic groups believe that a proposal might be harmful to their interests, they can activate the alarm bell. In that case, the parliamentary procedure is suspended for thirty days, during which the federal government would be asked to find a solution within 60 days (Deschouwer, 2006: 902). The importance of the alarm bell is that the government, due to parity in its composition and unanimity rather than majority in decision-making, is obliged to find a negotiated solution and a compromise that is acceptable to both language groups (Deschouwer and Parijs, 2009: 11). One of the advantages of the 'alarm bell procedure' is that the Dutch speakers cannot impose their majority will on the demographic minority of French speakers.

The alarm bell procedure has not frequently been used in Belgium. One reason for this, as Kelleher (2005: 1) notes, is probably because of granting each community a high-level of autonomy over their vital interests such as language, education and culture. Article 2 of the Belgian Constitution, for example, states that 'Belgium is made up of three Communities: the French Community, the Flemish Community, and the German-speaking Community.' This safeguards the vital interests of the groups by law and when the vital interests of communities are guaranteed in the constitution, the likelihood of resorting to veto rights will be less on one hand and the veto issues will be restrictive on the other hand. Kelleher defines the 'Alarm Bell Procedure' as 'soft veto'. He argues that this 'soft veto' encourages mediation between different communities to reach a mutually acceptable solution and end post-veto deadlock, thereby avoiding the destabilizing impact of traditional 'hard vetoes' which create winners and losers. For him (2005, 8), soft veto has the effect of suspending

⁶⁰ The Flemish comprise approximately 58% of the population who speak Dutch and are concentrated in the region of Flanders in the north of the country, whereas Walloons comprise approximately 31% of the population who speak French and are concentrated in the region of Wallonia in the south and also the capital city of Brussels. For more information on Belgian population, see: http://www.belgium.be/en/about_belgium/country/Population/

a draft law or measure but not destroying it, and triggering a formal mediation procedure aimed at a mutually acceptable solution, whereas a ‘hard veto’ is a veto that has the effect of destroying a draft law or measure, creating ‘a clear win/lose situation,’ and which fails to help resolve any political crisis or deadlock that may happen after using veto.⁶¹ Thus, another advantage of the ‘alarm bell procedure’ is that it avoids creating a win/lose situation and reduces the possibility of a political crisis by suspending rather than destroying the draft laws. Despite Kelleher’s praise for the peaceful settlement of political problems in Belgium, as Caluwaerts and Reuchamps (2015: 278) note, ‘the recent elections of 2007 and 2010 have shown that the search for a compromise has become particularly hard.’ The first political crisis was in 2007-2008 when after 194 days the new government was formed. The second crisis was even more complicated when after 541 days of negotiation, parties succeeded in forming the new government. Thus, ‘over a four-year period (2007– 2011), 737 days (196 days +541 days) were days of deadlocks and conflicts’ (Caluwaerts and Reuchamps, 2015: 282). Thus Belgium broke Iraq’s world government formation record of 249 days in 2010. However, the delay in forming governments in Belgium (and Iraq as well) was mainly related to the inability and unwillingness of politicians to compromise rather than the mutual veto per se.

The Brussels region has very similar institutions to those of the Belgian state. Brussels is Belgium’s capital which, in effect, lies across the fault line between Northern Dutch-speaking and southern Francophone areas that is contested by ‘the strong Francophone majority in the city and historic claims of its Flemish’ (Bollens, 2013: 332). In contrast to Bosnia and Northern Ireland, Brussels is a regional consociation within the consociational framework of the Belgian federal state (Wolff, 2004). In Brussels, the Dutch-speaking people are estimated to be ‘15±20 per cent of the nationals’ while ‘80±85 per cent’ are estimated to be French-speaking (Jacobs, 2000: 289). The Flemings and the Walloons are also Brussels’ veto players. The same logic of governing together and trying to avoid a veto by one of the two main language groups has been established in the institutions of Brussels (Deschouwer and Parijs, 2009: 11). For example, elites have separated into two language groups, each group has an equal number of ministers (except for the Prime Minister who is designated for the French speakers) and an alarm-bell procedure has been in place in Brussels (Deschouwer, 2006: 904). However, unlike Belgium as a state, the Dutch-

⁶¹ Kelleher’s ‘soft veto’ and ‘hard veto’ typology appears to be roughly similar to Schneckener’s ‘delaying veto’ and ‘indirect veto’ typology.

speaking Flemish are the minority in Brussels. Yet, they still have the right to invoke an 'alarm bell procedure'. Therefore, the Dutch-speaking minority of Brussels are probably the most well protected minority in the world (Van Damme, 2003: 53). In short, the alarm bell procedure has been built into both Belgium as a state and Brussels as a fully-fledged region. The Francophones are in a minority position in the country, while the Flemish are a minority in the Brussels region. However, both language groups can protect their rights by blocking any decision if they deem it to be in violation of their interests. Brussels is like Kirkuk in that the Flemings in the former and the Arabs in the latter are in a minority position, while at the national level they are in a majority, i.e. the Francophones are smaller than the Flemish community in Belgium and the Kurds are smaller than the Arabs in Iraq. However, one of the main lessons here is that Kirkuk can become a regional consociation within the framework of Iraq just like Brussels within Belgium. McGarry and O'Leary (1993: 35) also emphasize that the principles of consociationalism 'can operate at the level of an entire state, or within a region of a state characterized by ethnic conflict.' In other words, it is possible to have consociational power-sharing, with mutual veto as one of its important elements, both at the national and regional/governmental levels.

Table 6.3 The detail of veto rights in five cases⁶²

Country / City	Formal and informal regulation of veto rights	Veto Players	Veto Issues	Veto points	Extent of Veto	Veto types
Bosnia	Formal	Bosniacs, + Croats and + Serbs	Vital National Interests + legislation + Constitutional amendment	Presidency Council + Parliamentary Assembly (i.e. House of Peoples and House of Representatives)	Restrictive + Permissive	Direct veto + Indirect Veto
Northern Ireland	Informal	Nationalists + Unionists	Election of the chair of the Assembly, the first minister, deputy first minister + standing orders and the budget + any issue can become subject to a petition of concern	The Assembly + The executive (introduced in St. Andrews Agreement)	Restrictive	indirect Veto
Belgium	Formal + informal	Flanders + Walloons	Legislation	House of Representatives	Restrictive	Delaying Veto + Indirect Veto
Brussels	Informal	Flanders +	Legislation +	Parliament + government	Restrictive	Delaying Veto +

⁶² Compiled by author from different sources.

		Walloons	decision making			Indirect Veto
Iraq	Informal ⁶³	Shiites + Kurd + Sunnis	Constitutional amendment	Council of Representatives	Restrictive	indirect Veto

⁶³ Veto was formally entrenched in the interim constitution of Iraq and it was practised from 2005 until 2009 by the Presidency Council which consisted of a Kurd (president) and two Shiite and Sunni deputies.

In conclusion, several broad lessons can be learnt from the implementation and use of minority vetoes in the above four cases. Firstly, as illustrated in the case of Bosnia, the more restrictive the veto issues and the veto points, the better it is for the functioning of a consociational power-sharing. In short, fewer vetoes are better than more. In the case of adopting mutual veto, reducing these two issues would be advisable in Kirkuk, mainly to avoid immobilism and deadlock. Secondly, as McEvoy (2013) suggests, it is preferable that veto players would be self-determined groups rather than pre-determined. One of the advantages of this is that assigning veto players on the basis of self-determination gives 'equal chances to *all* ethnic or other segments' and it avoids 'fixing groups' representation on the permanent or semi-permanent basis' (McEvoy, 2013: 259). This is in line with Lijphart's preference (1995) of self-determination of groups to predetermination. Thirdly, the willingness of political leaders to cooperate is essential so that mutual veto can work. Even in the case of Belgium which is often praised for its 'Alarm-Bell' procedure as a soft-veto, immobilism can occur. By considering these points in the case of Kirkuk, mutual veto might be able to foster inter-group cooperation. I now turn to discuss in more detail the possibility of adopting such a kind of veto in Kirkuk in the light of the lessons learnt from the above cases and the inspiring case of Iraq itself.

6.3 The Feasibility of Mutual Veto in Kirkuk

Before dealing with the feasibility of mutual veto in Kirkuk and what lessons can be learnt from other cases with mutual veto, it is important to shed light on how mutual veto has been adopted in the post-Saddam Iraq. The Transitional Administrative Law (TAL) which is also known as the 'Law of Administration for the State of Iraq for the Transitional Period' came into effect in 2004 in which the Kurds were able to include some provisions that gave them an effective veto over amending any future Iraqi constitution. For example, Article 61 (c) of the TAL stated 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.' As Iraqi Kurds constitute a majority in the three provinces of Sulaymaniyah, Erbil and Dohuk, this provision gave them an important veto power. Moreover, according to article 36 (c) the decisions of the Presidency Council (President of the State and two Deputies) must be unanimous which means giving each member a veto power. In addition, that council also had limited powers to veto legislative bills (article 37). Since 2005 the office of the president of Iraq has been held by a Kurd and

his two deputies have been Shiite Arabs and Sunni Arabs. Thus, the major communities could block any legislation opposed to the interests of their respective groups.

Furthermore, the Kurds and Sunni Arabs were given an effective veto later in the Iraqi permanent constitution. According to article 142 of the constitution, constitutional amendments require the support of the majority of voters and must not be rejected by two-thirds of the voters in three or more governorates. As noted above, the Kurds make up the vast majority of voters in three governorates; therefore, this article could be translated into a de facto Kurdish veto. This would be the same for the Sunni Arabs. If they were unified they could reject the constitution in 2005, as they constitute the majority in at least three provinces in Iraq. The Shiite Arabs can easily veto any constitutional amendment if they wish to since they constitute the majority in ten Iraqi governorates. Moreover, Article 138 of the constitution extended retaining the right of veto by the members of the Presidency Council for the first term after approving the constitution, i.e. from 2005-2009. During that time a number of legislative bills were vetoed by the Presidency Council members. For example, as mentioned in chapter three, the two members of the presidency council (Kurdish president, Jalal Talabani, and his Shiite deputy, Adel Abdul Mahdi) vetoed Law 24 of the provincial election by the Iraqi parliament that called for an equal power-sharing formula in Kirkuk on the basis of a 32-32-32-4 distribution of positions among the main groups (Visser: 2008a). Thus, the attempt to mandate equal power-sharing for Kirkuk was blocked by using the veto right by the Presidency Council.

Regarding the question of mutual veto and the possibility of adopting this element of power-sharing in Kirkuk, like many other divided societies, Kirkuk has experienced antagonism and mistrust between its ethnic groups. As McGarry et al. (2008, 60) explain, rigid consociations created amid high historic antagonism and mistrust may grant veto rights to each partner to the consociation to enable them to block constitutional or legislative changes that threaten their vital interests. In other words, for a complete protection of minorities, both the inclusion of the minorities in the grand coalition government and providing veto rights are deemed necessary. However, as noted in chapter four, the vital interests of the groups (i.e. segmental autonomy) in Iraq have already been protected in the constitution, at least to an appreciable extent. Hence, one may ask that if the cultural rights of the groups have already been guaranteed, then why provide for veto in the first place? That is a fair question. However, as I explain in more detail below,

protecting cultural rights and designing an informal veto should not be mutually exclusive. If veto rights are going to be adopted in Kirkuk, some crucial questions should be answered. For example, what precise form or forms of veto should be adopted? What issues should be eligible for veto? Who should become veto players? How might political gridlock be avoided as a result of using veto? The following paragraphs, in the light of the typologies shown in table 3, try to answer these questions in the context of Kirkuk.

In terms of *formal* and *informal* regulation of veto rights, an informal veto appears to be preferable for Kirkuk for three reasons. First, the constitution of Iraq has recognized the cultural rights of the minorities which makes it different from the case of Bosnia in which these rights are considered ‘vital national interests’ which are protected by the formal veto right. In other words, as the cultural rights of the groups have already been guaranteed in the constitution, entrenching formal veto would be unnecessary in the context of Kirkuk. In this sense, Kirkuk could be similar to Belgium in which the cultural rights of the Dutch-speaking Flanders and Francophones have been protected by the Belgian constitution and thus an informal veto of the ‘alarm bell procedure’ has been designed to protect the interests of the groups in areas that have not been explicitly mentioned in the constitution. Secondly, the fact that an informal veto is already in place in Iraq makes such a veto more likely to be adopted in Kirkuk as well. In other words, replicating a pre-existing Baghdad institution in Kirkuk should be easier than establishing a new one from the scratch. Thirdly, a kind of informal and unwritten veto has been in place in the post-2003 Kirkuk. As Jwan Hussen (2013), a Kurdish member of the KPC, explains, ‘there have been issues that have not been passed because of the veto of Arabs and Turkmen.’ However, one may question that the constitutional recognition of minorities’ cultural rights can make veto rights unnecessary in the first place. One answer for such a question is that only cultural rights of the groups have been guaranteed in the constitution. In other words, like Belgium or Brussels, there are other issues in Kirkuk which I turn to below that are important for all parties but not mentioned in the constitution. In that case, a sort of informal veto would be necessary. In short, as not all rights of the groups have been protected in the constitution, veto appears to be important. Once it comes to choosing the form of veto that is advisable to be adopted, I would suggest the informal veto for the three reasons mentioned above.

The question of *veto players* is another important issue that should be settled if veto rights are to be adopted in Kirkuk. In her assessment, as mentioned earlier, McEvoy (2013)

prefers veto players to be self-determined groups rather than predetermined ones. As shown earlier, veto players in Bosnia are the predetermined groups of Bosniac, Serbs and Croats. In Kirkuk, groups might not agree upon a self-determined form of veto, because the nationalist parties are strong and they probably favour a predetermined veto. However, a mix of self-determined and pre-determined vetoes could also be acceptable. This would be possible by allowing the four ethnic and religious groups (Kurds, Arabs, Turkmen and Christians) to enjoy veto rights, but at the same time allowing any other group that may emerge as a result of winning elections in the future to enjoy the same veto right. The crucial point here to consider is not to impose particular form of veto rights in general and veto players in particular. In an interview that I conducted with Abdulrahman Mustafa (2013), the former governor of Kirkuk, he told me that 'if all of the groups agree upon mutual veto, it could be possible.' In other words, any veto arrangement should be a domestic demand in the first place. In short, it seems to be reasonable to go for a combination of self-determined and pre-determined veto players if mutual veto were to be adopted in Kirkuk. This recommendation is in line with the solution that I already suggested in chapter three in which I argued in favour of the same solution once it comes to adopting power-sharing, i.e. a mix of corporate and liberal forms of consociation.

As Table 3 illustrates, *veto issues* and *veto points* are two other important aspects that should be considered once mutual veto is the preferred choice. The policy areas that should be subject to *veto issues* should be restricted to sensitive issues related to local self-government such as the election of the governor, his two deputies and the election of the KPC chairman, electoral reforms and the budget. The case of Northern Ireland can be inspiring for Kirkuk in this regard. Any veto should be based on gaining the consent of the majority and avoiding the creation of political deadlock in Kirkuk. With regards to *veto points*, policy makers should avoid adopting the multiple ethnic veto points of Bosnia in Kirkuk in order not to reinforce the lines of ethnicity and not deepen the political divisions in the city. Veto points could be specific to either the provincial council (if Kirkuk becomes an autonomous region in the future) alone or could be exercised on both the provincial council and the election of the governor and his two deputies. Based on the experience of other cases, one can safely suggest that the fewer the veto issues and veto points, the better for the governability of the city.

Furthermore, a *restrictive veto* with a *delaying* or an *indirect* effect can be effective in better protecting the interests of the minority groups on one hand, and preventing a dysfunctional power-sharing government on the other hand. As noted earlier, the permissive nature of veto in Bosnia that gives the right to groups to veto a broad number of issues is problematic, while the Belgium and Brussels vetoes are much more restricted. Taking this into consideration, a constraint form of veto appears to be necessary in Kirkuk. This is to avoid political outbidding and using a veto for the political agenda by the ethnic players. To avoid such a consequence, a restrictive veto to some specific veto issues, as suggested in the previous paragraph, is recommended for Kirkuk. In terms of veto types, the choice is recommended to be between a delaying veto and an indirect veto. As noted earlier by Schneckener (2002: 221), the delaying veto aims at delaying decisions by reconsidering a matter via parliamentary mediation or referral to the constitutional court, whereas an indirect veto requires specific conditions to be met to pass legislation in parliament such as a concurrent majority in the assembly. The ‘Alarm Bell Procedure’ in Belgium and Brussels is an example of delaying veto while Northern Ireland’s veto can be seen as an indirect one. Either would be better than the direct veto which blocks the decisions, however, an indirect veto would probably be easier to adopt in Kirkuk, partly because a sort of an indirect veto is already in place in Iraq (See table 3).

Table 6.4 A proposed veto procedure for Kirkuk in case of adopting consociational power sharing

City	Formal and informal regulation of veto rights	Veto Players	Veto Issues	Veto points	Extent of Veto	Veto types
Kirkuk	Informal	Kurds + Arabs + Turkmen + Christians + any other group that can win seats in elections	Elections of the governor, his deputy and chair of KPC (or speaker of parliament if Kirkuk will become an autonomous region + Electoral reform + Budget	Governorship board (governor + his deputy + Chairman of KPC) + Kirkuk Provincial Council (or parliament, should Kirkuk becomes an autonomous region).	Restrictive	An indirect veto or a delaying veto

Further, it is important that the mediation process will be activated once a veto is invoked. As Bieber (2005: 99) notes, a veto without mediation puts an end to the respective law or decision and thus can cause gridlock in the decision-making process. He (2005: 99) adds, if there are no mechanisms to bridge policy gaps, 'the use of the veto can exacerbate interethnic relations.' If Kirkuk becomes an autonomous region, it might be necessary to establish a constitutional court to interpret the articles of the constitution of such a region and settle the disputes between the political parties of different ethnic groups. Or a committee representing all participant parties in the provincial council (or Assembly) should seek to negotiate a compromise and settle any dispute or conflict between communities once a veto is invoked. If the committee does not reach a compromise, the issue should be referred to the constitutional court as a higher body. Another option is to take advantage from the experience of Macedonia in which there is a body called 'the Committee for Inter-ethnic Relations' that includes seven Macedonians and Albanians and one representative from other communities. This body is responsible for mediating disputes arising from the double majority system (Bieber, 2008: 25). Thus, these are some theoretical normative suggestions that could be useful for Kirkuk if it were to adopt veto in the future. However, a more detailed work will be necessary in practice that should be left for negotiation between the communities.

Finally, three broad conclusions can be drawn from the above discussions. First, providing legal protection for the cultural rights of the ethnic groups in Kirkuk would not exclude the possibility of adopting a veto. Second, whatever kind of veto is adopted, it is important to choose the one that is preferred by all parties and avoid a winner/loser situation. Third, there is a mixed reaction by the elites of different communities of Kirkuk regarding the veto issue. The Kurds generally reject the idea of adopting mutual veto but support providing legal guarantees for all the groups of Kirkuk. Khalid Shwani's (2013) opinion, which is compatible with the view of the governor of Kirkuk, may reflect the overall view of the Kurds when he told me 'I am not going for veto, but each nation should be given legal and constitutional rights.' The Arabs and Turkmen do not have a uniform view on this issue. While, as noted earlier, some of the Turkmen elites support the idea of veto rights, Tahseen Kahya (2013), a Turkmen member of KPC, thought that 'the problem of Kirkuk is solved through consensus among the groups without veto rights. Veto means having no consensus among the constituents.' Nevertheless, unlike Yasin Al-Ubaindi, for example, Mohammed Khalil (2013), an Arab member of the KPC

told me, ‘we are for veto for all. Each group should have veto in Kirkuk to resort to it when a right of any group is violated.’ I noticed that the opponents of mutual veto had a formally entrenched Bosnian- style veto in mind when opposing the idea of veto rights for they fear the Balkanization of politics in Kirkuk. In other words, I believe that they have problems with a hard, formal and permissive veto with a direct effect on blocking decisions, whereas they could be more open to a soft, informal and restrictive veto with either a delaying or an indirect effect as proposed in table 4.

Conclusion

Although mutual veto is now considered a secondary element of consociation, it is recommended to be adopted as part of any power-sharing arrangement in the future in Kirkuk. The adoption of veto rights is possible as veto was formally embedded in the post-Saddam era in TAL and tacitly enshrined in the Iraqi constitution later. Moreover, although the Iraqi constitution has guaranteed the cultural rights of the minorities, there are still other issues such as budget and self-government institutions that are of great importance for the ethnic groups of Kirkuk. Therefore, I suggest that key decisions would be taken on a cross-community basis. This is important, because a power-sharing arrangement without veto leaves an awful lot to the goodwill of the majority, which is a fairly unstable basis for power sharing. The case of Kirkuk is similar to Belgium and Brussels in that cultural rights of minorities have been guaranteed by the constitution but the difference is that in Belgium and Brussels, along with that guarantee, groups can use veto rights in some areas which are not mentioned in the constitution, while veto is not still in place in Kirkuk. Therefore, an informal and an indirect veto which is restricted to a specific number of issues is suggested to be adopted. These issues could be settled via negotiation and compromise between the groups themselves and the international actors can help them to do so.

In terms of veto players, it is important to design a mix of self-determined and predetermined veto rather than a predetermined-based veto such as the case of Bosnia. Although a self-determined-based veto seems to more attractive in theory, it might prove problematic in practice, mainly because the strong nationalist parties from different groups might not open to go that far in this stage. A veto based on a mix of the predetermined and self-determined veto players, however, could be more likely. If the communities’ elites are assured that they retain the veto right, they might be more open to allow any other group, that may emerge as a result of winning elections, to enjoy the same right in the future. To prevent political deadlock, the

veto points are suggested to be restricted to the legislature body and government. Moreover, it is important that the mediation process will be activated once a veto is invoked. This could be done by forming a committee representing all groups or by establishing a constitutional court (if Kirkuk were to become an autonomous region) to settle the disputes that may arise between the political parties once a veto is invoked.

Conclusion

The issue which this thesis has sought to address is to analyse whether consociation is an appropriate institutional mechanism for managing conflict and providing political stability in Kirkuk. The research reached two broad conclusions. Firstly, it found that the background conditions for power-sharing in Kirkuk were far from being unfavourable, i.e. prospects for adopting consociational power-sharing are reasonably good. Secondly, consociation is a necessary, but insufficient, requirement for a stable government in Kirkuk. It has to be supplemented by elements of integrationism of the sort entailed in a civil society approach. In other words, although consociation is often seen as the standard prescription for protracted ethnic conflicts in divided societies (O'Leary, 2005), a genuine political stability and a sustainable peace cannot be achieved in Kirkuk merely by adopting consociational power-sharing. These conclusions were deduced based on conducting interviews with 29 prominent local and national elites in Kirkuk and Baghdad and consulting Iraqi legal documents, including the Iraqi constitution and the various laws issued by the CoR. The themes of this conclusion are discussed in three sections. In the first section, I summarise key findings of the research. Section two discusses the theoretical and policy implications of the findings. In the final section, I discuss limitations of this study and outline directions and recommendations for further research.

Summary of Findings

In this section, I present the overview of the significant findings of this study. Some of the findings reinforce existing research, while others suggest new scholarship and policy in both theoretical and practical respects. Theoretically, some of the findings suggest developments to the theory of consociation. Practically, these findings could be useful for policy makers with regard to solving the problem of governance in Kirkuk. I will illustrate the summary of the findings of this research in eight points.

1- The roots of ethnic conflict in Kirkuk

The political and economic conflicts and developments that afflicted Kirkuk after World War 1 shaped the identities of the different ethnic groups in the city. In the late 1920s when oil was discovered in the city, the lines of ethnicity became visible and gradually politicized until they eventually hardened. The theories of ethnic conflict such as instrumentalism rather than the theories of ethnicity (primordialism and constructivism) should be utilized when it comes to

understanding the current politicized ethnic identity of the groups in Kirkuk. In addition, it should be noted that different strategies have been tried in Kirkuk with the aim of eliminating ethnic differences, ranging from ethnic expulsion and one party rule, to genocide under Saddam's regime. These strategies proved to be dangerous as they undermined the historical peaceful coexistence among different communities in the city. Therefore, a new strategy which manages the ethnic differences peacefully and democratically should be formally adopted to replace the past ones. Formalizing a consociational power-sharing in a legally binding agreement is important so that the disputed parties will remain loyal to the principle of an inclusive government and not relinquish it under any pretext. The problem with the current existing political arrangement is not because of its power-sharing nature, rather it is because the existing powersharing is temporary and has not been entrenched in any document. Therefore, as noted in the introduction of this research, the Kurds have now taken the position of the KPC chairman for over a year and do not intend to pass it over to the Turkmen. According to the informal agreement between the Kurds and Turkmen in 2011, this position belongs to the Turkmen. To prevent such scenarios in the future, it is important that the parties will adopt power-sharing formally and preferably under the supervision of an international actor such as UNAMI.

2- The feasibility of adopting consociational power-sharing

The findings indicate that consociation is not only the most appropriate solution but also the most likely to be accepted. In short, the prospects for the possibility of its adoption are more likely than other alternatives. It is worth mentioning that there are no legal obstructions with regard to adopting consociation in Kirkuk. The TAL established the foundations for a democratic state based on consociation for the first time in the history of Iraq in 2004. For O'Leary (2005b: 68-69), the TAL marked an overall defeat for the integrationists who were arguing for a national, centralist and majoritarian federalist structure in Iraq. In other words, it was a victory for the advocates of the consociational approach who were seeking a consensual, decentralized and a multi-national federation for Iraq. The 2005 Iraqi constitution also reinforced the consociational option as a preferred political system for the country. In addition, the consociational experience at the state level can make its duplication in Kirkuk more feasible. Further, the small size of the city and the prior existence of a tradition of elite accommodation can be promising [two of Lijphart's (1977) famed 'favourable conditions'].

More than a decade of elite accommodation makes Kirkuk distinctive even within Iraq: whereas consociation was adopted in Iraq soon after the fall of Saddam's regime without any prior accommodation among political leaders, the political leaders of Kirkuk have worked together for more than a decade prior to that fall. This does not only make the adoption of consociation feasible, but can also make it sustainable in the future, if adopted. More importantly, all of the 29 respondents for this research asserted that the city cannot be run unilaterally by one ethnic group and, therefore, they called for an inclusive government in which decisions are made unanimously. This could be an indication that the situation is ripe for embracing consociational power-sharing. Moreover, the elite demand for consociation makes Kirkuk different from cases where consociation has been imposed by outside actors such as the case of Bosnia. Hence, the local demand for consociational power-sharing can make its establishment and functioning thereafter more likely. Thus, the background conditions are promising (or 'favourable'). However, without examining the four major elements of consociationalism separately and deeply, one cannot confidently suggest prescribing consociational power-sharing. The findings of this study show that the prospects for adopting each of those elements individually are also good.

Grand Coalition: As noted in chapter two, in theory, grand coalition governments have two fundamental features, namely inclusion and elite cooperation. These principles have been present in the post-2003 Kirkuk to a large extent. For example, the four ethnic and religious groups in Kirkuk (Kurds, Arabs, Turkmen and Christians) have been included in the three municipal and provincial councils formed in the city since 2003. Moreover, cooperation among political elites of these groups have gradually improved in the past 12 years. In other words, a sort of informal grand coalition has already been in place. Therefore, the important point is to adopt grand coalition either through an agreement among the ethnic groups of the city or by entrenching it in the future constitution if Kirkuk were to become an autonomous region. Finally, as I shall reiterate below, I suggest adopting a combination of corporate and liberal forms of consociational power-sharing in Kirkuk. This can be achieved by distributing the three senior positions (governor, deputy governor and KPC chair) between the three main groups and distributing other lower positions based on the elections outcome.

Segmental autonomy: The Iraqi constitution explicitly recognizes the cultural rights of the religious and linguistic groups in the country. This right has been unequivocally entrenched in the constitution and the relevant laws issued by the Council of Representatives (CoR). Now,

four languages are practically employed in the institutions of Kirkuk. This means, among other things, that each group can speak and educate their children in its own language. In addition, the signs on the governmental institutions have been written in four languages. More importantly, none of my interviewees raised concerns regarding protecting the cultural rights of their groups. As Sisk et al (2001: 76) put it 'as long as the rules are regarded by all people in the community as fair, and no major group seeks to change the rules, the conflict is considered resolved.' Hence, one can argue that there is no problem related to protecting the cultural rights of the ethnic and communal groups of Kirkuk. However, the communities of Kirkuk enjoy these rights as a result of entrenching the right of segmental autonomy for ethnic and religious groups. These rights can be defined more clearly and expanded in a way that fit Kirkuk, once consociation is adopted. The local communities of Kirkuk should be given a chance to determine which areas they want to have exclusive rights to run. In short, it is fair to conclude that the principle of segmental autonomy is already being exercised in the city and the ethnic groups, if consociation were to be the choice, will face little difficulty to adopt it as part of a power-sharing arrangement.

Proportionality: This element of consociation involves political representation of different groups, the allocation of financial resources and public sector employment. The proportional electoral system facilitates fair political and economic representations of the groups at all levels of government. Taking this into consideration, this study indicates that, just like the grand coalition element, an informal proportionality has been in place for the past decade in Kirkuk. The only governorate election of Kirkuk in 2005 and the other elections to elect Kirkuk's representatives for CoR have been conducted based on a PR electoral system. In other words, the consociationalists' preferred PR electoral system has already been adopted in Iraq which is applicable on Kirkuk as well. In terms of representations, the three main groups (Kurds, Arabs and Turkmen) are represented in the executive, legislative and judicial areas. However, the main problem in this regard is that each group claims that they have been underrepresented in one or more sectors. This can be solved if the groups can agree upon a clear criteria to distribute the positions among themselves within a consociational power-sharing arrangement. Therefore, it is fair to conclude that the conditions are favourable for adopting proportional representation formally. My suggestion is that any group (ethnic or not) that may win elections in the future should be proportionally represented in government.

Mutual veto: The adoption of veto rights is also far from being impossible. Veto rights were formally embedded in 2004 in the TAL and tacitly entrenched in the Iraqi constitution in 2005. The Arab and Turkmen boycott of the KPC during 2006-2007 can be seen as a kind of veto as any decision by the Kurds in the KPC without the endorsement of them would not gain legitimacy. Comparing this to the other three elements of consociational theory, my respondents in this research showed less enthusiasm for adopting mutual veto. One explanation for this, however, is that they seemed to have a formal, direct and permissive veto in mind which, experience suggests, usually results in immobilism and political deadlock, as in the case of Bosnia. This study states that the political leaders would probably be more open for an informal and an indirect veto that would be restricted to a specific number of issues. To avoid the experience of Bosnia, as argued in chapter six, this study suggests embracing a combination of self-determined and predetermined veto rather than a predetermined-based veto. Moreover, this study argues that the less complex the veto regulation the better for functioning vetoes and avoiding political deadlock. However, a better understanding of mutual veto by political leaders is essential before its possible adoption in Kirkuk. Future negotiations aiming to solve the problem of governance would address this issue and perhaps convince the conflicting parties, especially the Kurds, of the importance of mutual veto before adopting it.

Importantly, as noted in chapter two, Lijphart (2004) now makes a distinction between primary and secondary elements of consociation and considers proportionality and mutual veto as secondary ones. However, this research suggests that proportionality and mutual veto should not be treated as secondary elements in any future consociational arrangement in the context of Kirkuk. In other words, the possibility of durable peace could arguably be greater in Kirkuk if the four elements of consociation are adopted together, i.e. making no distinction between primary and secondary elements as some advocates of consociationalism now suggest.

3- The inclusion of radical political parties in the legislative and executive bodies of Kirkuk has been effective in moving those parties to take a more moderate position.

One of the main criticisms of centripetalists against consociational theory is that consociationalism favours inclusion over moderation which, in turn, negatively affects the realization of political stability in divided societies. Centripetalists consider the inclusion of the extremes in the grand coalition government as a threat to the government's stability. However, the case of Kirkuk disproves this claim. It seems from the Kirkuk case that there is

evidence that inclusion has not posed threats to the political stability in the city, rather it has even encouraged moderation. All major parties of the three main ethnic groups have been included in the three municipal councils formed in the post-2003 period. While many of the political elites had an extreme view towards other ethnic groups in the aftermath of the fall of Saddam's regime, they have now moved to the centre ground in a way that they may be viewed as 'moderate'. As noted in chapter three, the local elites now work together and vote unanimously in the KPC to approve projects related to public service and everyday needs of people. Thus, the gradual and steady improvement of relations between political leaders of different communities confirm consociationalists' argument that inclusion of the extremists in a government will make them moderate and less extreme.

4- Adopting a hybridity of corporate and liberal forms of consociation is both necessary and feasible

The findings indicate that a combination of the two forms of consociation (corporate/ liberal or pre-determined/self-determined) is both necessary and feasible in Kirkuk. It is necessary in that it can lead to the overcoming of the problem of governance in the city. As already mentioned, there has been a sort of an informal grand coalition government in the city for the last decade. One reason for not formally adopting consociational power-sharing has been the inability to agree upon a precise form of government. While the Kurds prefer governing the city based on the outcome of elections which is compatible with liberal form of consociation, the Arab and Turkmen push for a pre-determined power-sharing on the 32-32-32-4 basis among the four ethnic groups. This research bridges this gap by suggesting a hybridity of the elements of both corporate and liberal forms of consociation in the city. Based on my research, my claim is that the three senior positions in the city (governor, deputy governor and the KPC chairman) should be given to the Kurds, Arabs and Turkmen respectively. Other lower positions should be divided among the communities of Kirkuk based on the results of the elections. I extend the same suggestion once it comes to identifying veto players in case of embracing mutual veto. Such a hybridity can work better than just adopting either corporate or liberal consociation. In this same spirit, McCulloch (2014b: 509) shows that, 'if we turn to the cases that combine aspects of liberal and corporate rules, they, on average, appear as considerably more stable.' In the context of Kirkuk, such a hybridity would have the potential to work in the future. By adopting a combination of corporate and liberal forms of consociation, the demands of all groups can be addressed and a zero-sum game would also be avoided. More importantly, this

combination appears to be feasible in Kirkuk for two reasons. Firstly, as noted in chapter three, some of my respondents called for such a solution. Secondly, the adoption of a hybridity consociational arrangement would be able to address the demands of the Kurds on one hand and the Arabs and Turkmen on the other hand. Hybridity choice, thus, is a form of 'halfway house' between the liberal and corporate models of consociation that can be expected to work better than the choice of either corporate or liberal forms of consociation alone.

5- Complex consociation ('consociational plus') rather than simple consociation

As noted above, consociation is the most appropriate mechanism to manage conflict over Kirkuk. It is also feasible. However, a simple consociation with the four elements (i.e. grand coalition, segmental autonomy, proportionality and mutual veto) would be unable to realize an authentic political stability in Kirkuk. Therefore, this research suggests that if consociation were to be adopted (which I suggest) in Kirkuk, it should be 'consociation plus,' or 'complex consociation' rather than simple consociation. As noted in chapter two, complex consociations 'involve at least one additional strategy other than consociation' (O'Leary, 2005: 34). In order to promote stability, as McCulloch (2014: 147) concludes, 'consociation should be used as part of a wider package of conflict-management tools known as complex consociation.' Northern Ireland's consociation is an example of complex consociation where, for instance, cross-border institutions have been mandated to enable both the Irish and the British governments to be involved in the Good Friday Agreement in general and the management of cross-border and all island issues in particular. In Kirkuk, apart from the adoption of the four elements of consociation, Baghdad and Erbil should be involved in any future settlements, because without their involvement, consociation might not work. All Kurdish political parties in the city, for example, are rooted either in Erbil or Sulaimani and may not be able to act against the will of their political leaders in the broader Kurdistan region. The UNAMI seems to be well positioned to play the facilitator role in any future agreement as it has already been involved in trying to find a solution for the problem of Kirkuk. Complex consociation or consociational plus, thus, is important since the problem of Kirkuk extends well beyond its local stakeholders. In other words, consociationalism appears more likely to promote political stability in Kirkuk but only on condition that it be implemented in a revised, more extensive or encompassing form, i.e. consociation plus.

6- Embracing both top-down and bottom-up strategies

The findings suggest that consociational power-sharing can play a greater role in the stabilization of the city if it is enhanced with some integrative elements based on, or in the spirit of, social capital theory. A civil society perspective, especially creating bridging social capital at the grassroots level, is vitally important in the context of Kirkuk to rectify the bitter experience of the Arabization policy which has negatively influenced the historic peaceful coexistence. In this way, one of the major findings of this study is that the ability of power-sharing institutional design (alone) to facilitate political stability in divided societies is insufficient. Authentic political stability and lasting peace, however, needs both top-down (consociational power-sharing) and bottom-up (bridging social capital) simultaneously. In other words, a consociational power-sharing arrangement at the top, supported by the community-based initiatives at the bottom, could be the most appropriate way of realizing an authentic peace in the city. Taking advantage of elements of different approaches is important for Kirkuk because the ultimate purpose here is to realize political stability, democracy and sustainable peace in the city. This finding is consistent with the argument of Cochrane who highlights that ‘peace-building needs to be a proactive endeavour and one that connects grassroots communities through civil society representatives to the political elites’ (Cochrane, 2012: 187).

7- Empowering local elites and compromise

Given the ability of local elites to work within the current existing political system in the city and the interviews that I have conducted for this research into consideration, I believe that local elites are more likely to compromise than elites from Baghdad and Erbil. They are also expected to be able to lead their communities to accept compromises, partly because they live in the same place and feel the daily needs of their constituents and better know how to convince the members of their ethnic communities. However, at the moment, senior politicians (at least in the case of Kurds) outside of the city determine whether they make compromises or not. Therefore, although Baghdad and Erbil need to be involved, local leaders should be given a greater role in any future agreements over the city. Empowering local elites undermines various Iraqi parties’ nationalist rhetoric who give themselves the right to speak for their ethnic kinsmen in Kirkuk. It is important to put an end to the divisive rhetoric that those parties tend to develop to strengthen their position within their communities. This finding is compatible with the conclusions reached by Hanauer and Miller (2012) who call for strengthening local elites vis-à-vis the national parties. They (2012: 48-49) argue that if local elites are given a

greater voice in discussions over the fate of Kirkuk, ‘they may be better able to promote a negotiated settlement... which would reduce the chance that interethnic violence would erupt in the city.’ The local political leaders should also be empowered once it comes to solve the problem of governance in the city.

8- The need for compromise and a grand bargain

In the absence of concessions by Kirkuk’s key stakeholders, no solution will be reached. One reason for not being able to reach a solution to the problem of governance in the city until now is because it is usually linked to the question of territory, i.e. the future status of the city. The settlements of ethno-territorial conflicts have generally proven difficult and solutions to conflicts over territory are generally more elusive than those over political interests (Engström: 2011). In Kirkuk, due to the emotional and historical claims over disputed territories and the centrality of territory in the problem, even if leaders could reach an agreement, they find it difficult to justify compromises to their constituents. With regard to finding a solution for the problem of Kirkuk, Anderson and Stansfield (2009: 243) point out that ‘there are two crucial dimensions of compromise with respect to Kirkuk. The first pertains to its administrative location (inside or outside the Kurdistan region), and the second involves its governance (power-sharing or majority control).’⁶⁴ A real solution can only be achieved through a compromise in which all the disputed parties make concessions in order to reach an agreed outcome.

The problem of governance, therefore, should be solved as part of a grand bargain by addressing both the problems of governance and the future status of the city with the involvement of both Baghdad and the KRG. A grand bargain such as the example of the Good Friday Agreement in Northern Ireland (in which apart from the internal communities of Northern Ireland, both the British and Irish government were involved in forming a grand bargain) appears to be important to follow in the case of Kirkuk. Such a grand bargain is crucially important in the context of Kirkuk, because both Baghdad and Erbil have generally

⁶⁴ As noted in the introduction of this dissertation, oil constitutes one of the three elements which together form the problem of Kirkuk. However, Anderson and Stansfield (2009: 234-5) rightly argue that ‘there is little about Kirkuk’s recent history that can be understood without reference to oil. Despite this, the post-2003 struggle for Kirkuk has had very little to do with oil’. Their conclusion is not surprising, as the constitution of Iraq has already settled this issue in article 112, by distinguishing between ‘present’ and future oil fields, ‘the federal government, with the producing governorates and regional governments, shall undertake the management of oil and gas extracted from present fields, provided that it distributes its revenues in a fair manner in proportion to the population distribution in all parts of the country.’ The oil fields of Kirkuk obviously lie within the category of ‘present’ field.

taken the position that ‘nothing is agreed to until everything is agreed to’ (Kane, 2011: 3).⁶⁵ The disputed parties should compromise through making concessions over one of these two afore-mentioned issues (i.e. future status of the city and its governance problem). This is important, as one of the essential features of compromise is to make concessions, i.e. it is unlike outright victory or capitulation which is unilateral; rather all the claimants ‘agree to’ a compromise and ‘enter into’ it (Jones and O’Flynn, 2013: 119). Taking the post-Mosul political situation into consideration which strengthened the Kurdish position, it is difficult to expect the Kurds to share power with the Arabs and Turkmen while Kirkuk remains outside the Kurdistan region. The reasonable compromise could be achieved by joining Kirkuk to the Kurdistan region (based on article 140 of the constitution) and, in return, the Kurds should give a special status to Kirkuk within the Kurdistan region. In other words, adopting formal consociational power-sharing and giving the two senior positions of deputy governorship and the chairmanship of KPC to Arabs and Turkmen respectively. In short, in trying to find a solution for the governance problem, it is important to avoid a win-lose equation. This can be achieved through compromise in which every party should make some concessions for the other or others and gain something in return. Finally, it is worth mentioning that the grand bargain might have a better chance of succeeding if it is supported by bridging social capital at the mass level.

Implications of the Findings

In the following section I will highlight implications of the research for expanding the theory of consociation, suggesting policy for policy makers and taking lessons from Kirkuk to other cases.

Theoretically, the findings of this research take us beyond traditional consociational theory, which tends to take a sceptical view of the role of civil society in managing conflict (O’Leary, 2005, 2013). For example, McGarry et al. (2008, 74) are sceptical about the role of civil society organizations in resisting elite ethnocentrism in the deeply divided places because these

⁶⁵ Caroline Hartzell and Matthew Hoddie (2003) argue that the more conflict settlements institutionalize power-sharing across four dimensions—political, economic, military and territorial the more stable they are. Reaching an agreement on the future status of Kirkuk and its governance problem covers two of these dimensions, i.e. the territorial and political ones. Oil and military forces (e.g. Peshmerga) could be part of the grand bargain that I suggest, and thus the four dimensions identified by Hartzell and Hoddie will be covered and thus a more sustainable political stability might be brought about. Despite that, I already suggested a bottom-up societal initiative, if a more durable political stability and a lasting peace is to be the goal in Kirkuk.

organizations are likely to be ethnically driven and appeal to ethnocentrism. However, this research challenges this view. It argues that if civil society organizations, at least in the context of Kirkuk, are supported by the external actors such as UNAMI, they will be able to play a significant role in authentic and sustainable stability in the city. This is important because I do not defend just my application of consociation to the case of Kirkuk, but also additional developments that I apply to the theory of consociation itself. One important development is the idea that accommodation (consociation) and integration (social capital theory characterized in civil society organizations) should *not* be seen as mutually exclusive principles, rather they can be reconciled and applied together on a particular case to maximize the chance of stability and peace. In other words, authentic sustainable stability and peace requires both. This research suggests expanding the theory of consociation further and argues that a good consociation should adopt favourable elements from other theories. In this way, one of the implications of this research is that both accommodation and integration can be combined so that they together play a greater and a more influential role in bringing a sustainable political stability in divided societies. Reframing the consociational approach in this way to also embrace the elements of the civil society approach in Kirkuk does not necessarily contradict consociationalism; rather, it enhances it.

In terms of policy making, this study is timely and well suited to be utilized for solving the governance problem in Kirkuk. As noted in chapter two, consociationalism was essentially an empirical or descriptive theory but later morphed into a normative one. In other words, this theory has important evaluative implications and can have clear impacts on the ground. To date, many solutions have been proposed to solve the problem of Kirkuk such as the UNAMI and the ICG recommendations discussed on in the introduction of this research. These solutions have been mainly dedicated to settling the administrative future status of the city. However, there is no academic research available dealing with solving the problem of governance in such a comprehensive and lengthy way as laid out here. Therefore, this research could be utilized by the policy makers and UNAMI for settling the problem of governance in the governorate. In other words, this study can serve as a road map for those who are charged with finding a reasonable solution to govern the city.

The case of Kirkuk may also be inspiring for other cases. It seems to be that the academic literature predominantly focuses either on a top-down or a bottom-up solution in divided societies. However, the case of Kirkuk suggests that the two approaches should be pursued

simultaneously to realize a durable settlement for the conflict over the city. In other words, alongside the emphasis on the role of elites in solving ethnic conflicts, a bottom-up civil society approach should be considered in tandem. In terms of grassroots-level initiatives, civil society organizations that can create cross-communal ties and promote intercommunal dialogue should be encouraged rather than those that are dominated by single ethnic groups. Because, the former can reduce tensions among multiple ethnic groups, whereas the latter are effective at mobilizing along ethnic lines and thus complicate ethnic tensions. Crucially, by reducing interethnic tensions, civil society organizations can set the stage for politicians to make compromise without having to fear being undercut by hard-line rivals from within their own community for appearing 'soft'. In those places where ethnically-mixed civil society organizations are absent or weak, authentic political stability and peace is far from being realized. Jerusalem is a case in point in this respect. Therefore, the findings of this research implies that considering both bottom-up and top-down approaches is probably a wise solution to be pursued in other divided societies.

Limitations of the Study and Recommendations

This study has particularly investigated the problem of governance in Kirkuk, specifically focusing on finding an appropriate democratic institutional mechanism to tackle that problem with the aim of realizing political stability in the city. However, as noted in the introduction of this thesis, the issue of governance constitutes only one aspect of the problem of Kirkuk. The future status of the city and its vast amount of oil constitute two other crucial aspects of the Kirkuk problem. The investigation is thus limited to one aspect of the problem of Kirkuk. The findings throughout the research have inspired us to recommend that future research might need to examine some important but underdeveloped aspects regarding the issue of Kirkuk and addressing new developments that have recently occurred in Iraq which could have ramifications for Kirkuk in the future. Therefore, I propose future research in the following areas:

- A) Data limitations only permit us to look at top-down elite-level solution in any detail in this study. The analysis in this thesis is constrained by the available data. I have relied on qualitative interview data to examine the problem of governance and thereby suggest an appropriate institutional mechanism to tackle it. Elite interviewing takes us a long way by providing important insights on the current situation and what should be done on the political level. In future research, however, individual level data on 'grassroots'

social contacts will be necessary. The scarce resources at my disposal made it impossible for me to also collect individual level data in this study. However, this research has demonstrated, in theory, the usefulness of a civil society approach to ethnic conflict and conflict resolution in Kirkuk. I hope that this study will inspire future research to continue along these lines, to further test its normative and theoretical claims.

- B) On June 9, 2014, the ISIS captured Mosul, Iraq's second largest city. Since then, the political landscape has changed in Kirkuk which has weakened the positions of both Arabs and Turkmen and strengthened the Kurdish position. At the time of concluding this dissertation, the predominantly Arab areas in western Kirkuk province such as Hawija, Rashad, al-Abbasi, al-Zab, and Riyadh are under ISIS control. The vast majority of Arabs live in these areas. Currently a small number of Arabs live inside Kirkuk city that they do not have a big political impact. In other words, the post-Mosul political situation is different from the pre-Mosul period. Therefore, further research will be needed to address the implications of the new era on the problem of Kirkuk in general and the governance problem in particular.
- C) The current Iraqi Prime Minister Haider al-Abadi announced sweeping political reforms on 9 August 2015. The reforms included the elimination of several high-ranking posts such as the removal of the three deputy Prime Ministers (one Shiite, one Sunni and one Kurd) and the three Vice Presidential posts (two Shiites, one Sunni) which resulted in the elimination of Maliki's position as Iraq's first vice president (the former prime minister). The reform asserts that political appointments should not be based on sectarian or party quotas. The reform package has passed the Council of Ministers (CoM) and been ratified by the Council of Representatives (CoR). Al-Abadi's decisions to reform came as a response to the massive demonstrations that took place in Iraq over electricity and water shortage and were supported by Iraq's *most revered* cleric, Ayatollah Ali al-Sistan. The reform aimed at combating corruption and removing officials from their positions regardless of their ethnic background. However, this move may have critical consequences for the future of power-sharing in the country. On 10 August 2015, the governor of Kirkuk announced his support for Al-Abadi's reform package and called for finding a strategy to uproot sectarianism and appointing people in the public sector based on competency in the city. It is important that future research should investigate the implications that these reforms may have on the future of power-sharing in Iraq as a whole and the future of governance in Kirkuk in particular.

Overall, this study argues that consociationalism can offer an appropriate institutional mechanism for managing conflict and building a stable government in Kirkuk. However, as the issue of governance is linked to the future status of the city, this research recommends that all the disputed parties make concessions to each other in a grand bargain. The scenario that is most likely to work in the future is that Kirkuk becomes part of the Kurdistan region and the Kurds, in return, give up their political control over Kirkuk and allow establishing a genuine power-sharing arrangement among the four ethnic groups as entrenched in a formal agreement. The most crucial point to reiterate is that the current interim and fragile political arrangement is unlikely to continue taking the post-Mosul situation into consideration. Consociational power-sharing is a suitable solution but on the condition that a combination of corporate and liberal forms of consociation are adopted. Further, consociational power-sharing on the political level should be supplemented by the grass-roots level of creating bridging social capital so that a durable political stability is achieved in the city. Only in these ways will a lasting peace be realized in Kirkuk.

Appendices

Appendix A: Article 58, Transitional Administrative Law (TAL)

(A) 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. To remedy this injustice, the Iraqi Transitional Government shall take the following steps:

(1) With regard to residents who were deported, expelled, or who emigrated; it shall, in accordance with the statute of the Iraqi Property Claims Commission and other measures within the law, within a reasonable period of time, restore the residents to their homes and property, or, where this is unfeasible, shall provide just compensation.

(2) With regard to the individuals newly introduced to specific regions and territories, it shall act in accordance with Article 10 of the Iraqi Property Claims Commission statute to ensure that such individuals may be resettled, may receive compensation from the state, may receive new land from the state near their residence in the governorate from which they came, or may receive compensation for the cost of moving to such areas.

(3) With regard to persons deprived of employment or other means of support in order to force migration out of their regions and territories, it shall promote new employment opportunities in the regions and territories.

(4) With regard to nationality correction, it shall repeal all relevant decrees and shall permit affected persons the right to determine their own national identity and ethnic affiliation free from coercion and duress.

(B) The previous regime also manipulated and changed administrative boundaries for political ends. The Presidency Council of the Iraqi Transitional Government shall make recommendations to the National Assembly on remedying these unjust changes in the permanent constitution.

In the event the Presidency Council is unable to agree unanimously on a set of recommendations, it shall unanimously appoint a neutral arbitrator to examine the issue and make recommendations. In the event the Presidency Council is unable to agree on an arbitrator,

it shall request the Secretary General of the United Nations to appoint a distinguished international person to be the arbitrator.

(C) The permanent resolution of disputed territories, including Kirkuk, shall be deferred until after these measures are completed, a fair and transparent census has been conducted and the permanent constitution has been ratified. This resolution shall be consistent with the principle of justice, taking into account the will of the people of those territories.

Appendix B: Article 140, Iraq Constitution, 2005

First: The executive authority shall undertake the necessary steps to complete the implementation of the requirements of all subparagraphs of Article 58 of the Transitional Administrative Law.

Second: The responsibility placed upon the executive branch of the Iraqi Transitional Government stipulated in Article 58 of the Transitional Administrative Law shall extend and continue to the executive authority elected in accordance with this Constitution, provided that it accomplishes completely (normalisation and census and concludes with a referendum in Kirkuk and other disputed territories to determine the will of their citizens), by a date not to exceed the 31st of December 2007.

Appendix C: Article 23 of Elections Law No. 36 (2008)

First: The elections of Kirkuk governorate and its affiliated Districts and Sub-Districts shall be held after implementing the process of dividing the administrative and security powers and public posts including the position of the chairman of the Provincial Council, governor and deputy governor, among the components of Kirkuk governorate in equal percentages among the main components. The component with the majority in the Provincial Council shall have the right to choose one of the highest three positions: the Governor, the Deputy Governor or the chairman of the Provincial Council.

Second: A committee, made up of two representatives from the main three components of Kirkuk governorate, shall be established from among the COR members representing the Kirkuk governorate and selected by the representatives of the three components in the Council of Representatives and one representative for the Christian component no later than November 1, 2008. The Committee shall have the right to seek the assistance of two experts from each component, the representatives for the parliamentarian blocs and relevant ministries in order to give advice and consultation in addition to the UN technical assistance. The Committee shall

take decisions by agreement. The operation of the Committee shall not conflict with any Article of the Iraqi Constitution that is relevant to Kirkuk. The Committee shall submit its report to the COR concerning the following affairs: The mechanism of division of powers in Kirkuk as stated in (First) above. Identifying the trespasses on the public properties in Kirkuk before and after April 9, 2003. The Iraqi government shall guarantee correction of such trespasses through the mechanism used all over Iraq in accordance with the applicable laws. Reviewing and scrutinizing all data and records related to the demographic situation including the registry of voters and submitting binding recommendation by agreement to the Independent High Electoral Commission, based on the results reached. The Committee shall submit its report to the COR no later than March 31, 2009. The COR shall oversee and follow up the operations of the Committee.

Third: The election of Kirkuk Provincial Council shall be held after the Committee has submitted its recommendations and concluded results to the COR, according to which the COR shall enact a law for the election of Kirkuk Provincial Council for one term.

Fourth: The Federal Government and the Local government in Kirkuk shall equally pledge to provide all requirements for the Committee to accomplish its functions in accordance with the law.

Fifth: The present Kirkuk Provincial Council shall continue to exercise its functions in accordance with the laws that were valid before the enforcement of Law No. 21 of 2008. The status of Kirkuk governorate in accordance with the Constitution shall remain as it is until elections are held there.

Sixth: The Provisions of Article 55/Second of the Law No. 21 of 2008 shall apply to Kirkuk Provincial Councils.

Seventh: In case the Committee failed to submit its recommendations to the COR, the Council shall enact a law for the elections of the Kirkuk Provincial Council. If this cannot be done, the three presidencies (The Presidency Council, the Cabinet's Presidency and the COR Presidency) shall specify, with international assistance through the UN, the appropriate conditions for holding elections in Kirkuk.

Appendix D: The governorates of Iraq, including Kirkuk and the provinces of KRG.



Adapted from: Law of governorates not incorporated into a region' by USAID. Available at: http://iraq-lg-law.org/en/webfm_send/765

Appendix E: List of Interviews

Names	Ethnicity	Institutional Position	Date and Place
Abdulrahman Mustafa	Kurd	Former governor of Kirkuk (2003-2011)	2 September 2013, Kirkuk.
Abdul Satar Al-Ka'bi	Arab	Independent writer based in Baghdad	15 January 2015, via Facebook.
Adward Orah	Christian	Member of KPC	8 September 2013, Kirkuk.
Arshad Salhi	Turkman	President of ITF and member of CoR	23 September 2013, Kirkuk.
Awat Mohammed Ameen	Kurd	Member of KPC	10 September 2013, Kirkuk.
Burhan Muthir	Arab	Member of KPC	2 October 2013, Kirkuk.
Dlawer Ala'aldeen	Kurd	President of Middle East Research Institute (MERI)	20 February 2015, via email.
Gulen Ahmed	Turkman	Member of KPC	11 October 2013, Kirkuk.
Hasan Turan	Turkman	Chairman of KPC	16 September 2013, Kirkuk.

Ibrahim Khalil	Kurd	Member of KPC	22 August 2013, Kirkuk.
Khalid Shwani	Kurd	Member of CoR	19 September 2013, Kirkuk.
Jalal Jawhar	Kurd	Senior political leader of Movement of Change	6 October 2013, Sulaimani.
Jwan Hussien	Kurd	Member of KPC	1 April 2015, via Facebook.
Latif Mistafa	Kurd	Member of CoR	12 September 2013, Sulaimani.
Mahmood Othman	Kurd	Member of CoR	17 February 2015, via telephone.
Mohammed Kamal	Kurd	Senior member of KDP and Member of KPC	23 September 2013, Kirkuk.
Mohammed Khalil	Arab	Member of KPC	1 October 2013, Kirkuk.
Mohammed Khursheed	Kurd	Senior political leader of KDP	9 September 2013, Kirkuk.
Najat Hasan	Turkman	Member of KPC	15 September 2013, Kirkuk.
Najmadeen Kareem	Kurd	Current governor of Kirkuk	16 September 2013, Kirkuk.

Rakan Saeed	Arab	Deputy governor	25 September 2013, Kirkuk.
Ramla Al-Ubeidy	Arab	Member of KPC	10 September 2013, Kirkuk.
Rebwar Said Gull	Kurd	Senior member of KIU in Kirkuk	2 September 2013, Kirkuk.
Rebwar Talabani	Kurd	Deputy chairman of KPC	15 September 2013, Kirkuk.
Rzgar Ali	Kurd	Former chairman of KPC and PUK's politburo member	8 October 2013, Sulaimani.
Saman Abdullah Saeed	Kurd	Senior member of KIG in Kirkuk	13 September 2013, Chamchamall.
Sdiq Kaka Rash	Kurd	Member of KPC	3 September 2013, Kirkuk.
Tahseen Kahya	Turkman	Member of KPC	15 September 2013, Kirkuk.
Yaseen Al-Ubaidi	Arab	Member of CoR	19 January 2015, telephone call.

Appendix F: PUK's Organizations and Associations in Kirkuk—Separated by Ethnicity

Organization or association	No. of members	Kurds	Arabs	Turkmens	Christians
Teachers	1555	695 (45%)	350 (23%)	425 (27%)	85 (5%)
Students (high school)	12,800	8033 (63%)	3420 (27%)	754 (6%)	593 (5%)
Rural engineers	433	272 (63%)	81 (19%)	74 (17%)	6 (1%)
Health (employed)	1493	1013 (68%)	243 (16%)	212 (14%)	25 (2%)
Photographers	523	373 (71%)	40 (8%)	100 (19%)	10 (2%)
Ferh Centre	233	168 (72%)	49 (21%)	12 (5%)	4 (2%)
Workers	4177	3120 (75%)	596 (14%)	430 (10%)	31 (1%)
Geologists	147	125 (85%)	5 (3%)	14 (10%)	3 (2%)
Students (college and university)	6998	6412 (92%)	386 (5%)	143 (2%)	57 (1%)
Artists	171	157 (92%)	3 (2%)	6 (3%)	5 (3%)
Roj Handicap Centre	1150	1086 (94%)	34 (3%)	26 (2%)	4 (–)
Technicians	908	857 (94%)	23 (3%)	23 (3%)	5 (1%)
Chemists and physicists	150	143 (95%)	2 (1%)	4 (3%)	1 (1%)
Young people (Azadi Lawan)	9872	9472 (96%)	200 (2%)	150 (2%)	50 (0.5%)
63+ (retired persons)	2000	1950 (97%)	20 (1%)	30 (2%)	–
Farmers	16,596	16,507 (99%)	81 (0.5%)	8 (–)	–
Total	59,206	50,383 (85%)	5533 (9%)	2411 (4%)	879 (1.5%)

Source: Anderson, L. and Stansfield, G. (2009) Interethnic relations in Northern Iraq: Brokerage, social capital and the potential for reconciliation. Anderson and Stansfield have adapted these figures from PUK's Bureau of Democracy (Kirkuk) in 2006.

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