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## A Bicameral Parliament in Iraq and Syria

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Failings in the establishment of a parliamentary democracy in Iraq provides important lessons learnt for the future of both Iraq and Syria. Of particular importance is the fact that the democratic process has been limited to elections that filled the legislative branch with representatives of the majority. In countries like Iraq and Syria, which are characterised by ethnic, sectarian, and religious diversity, such failures will inevitably lead to the tyranny of the majority, and deprive minorities of their right to participate in legislation, governance, and managing state affairs.

Here, we propose that the legislative branch must be based on a bicameral system. This paper presents a concrete form for the upper house of parliament, one that responds to conditions in Iraq and Syria, in order to combine two fundamental principles of democracy. The first principle is accepting the opinion of the majority as expressed in free, transparent elections for the Council of Representatives. The second principle involves enabling community groups who do not have a numerical majority to manage their own local affairs and have an influential say in national decision-making. Such a model will prevent the tyranny of a sectarian or national numerical majority, and vastly reduce tension between these groups.

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The continued violence, chaos, and paralysed state institutions in Iraq have proven that electing a Council of Representatives is not a sufficient prerequisite or guarantee for establishing a democratic political system – even if the electoral process is not plagued by violations, as is often the case. In order to ensure stability, the country’s political system must rely on several pillars. The Council of Representatives symbolises the first prerequisite for democracy: that is, the rule of the majority through freely-elected representatives. The second prerequisite, one no less important, is institutions and mechanisms that prevent the tyranny of the majority, and guarantee that all parts of society enjoy their right to participate in legislation, governance, and management of state affairs. This will ensure that these rights do not become something granted by the ruling authority’s grace, and are instead a duty to which they are bound.

The manner in which Iraq’s ethnic, religious, and sectarian diversity was dealt with, leading to the creation of a system of so-called “sectarian apportionment,” is a fundamental element in the failings in Iraq’s recent history. We argue that the legislative branch should be based on a bicameral system, and propose a concrete form for this proposed upper house (namely, a senate) appropriate for conditions in post-Ba’ath Iraq and Syria. In the short term, a senate will certainly not eliminate the mutual distrust among different ethnic, sectarian, and religious groups, but it will create safeguards against the tyranny of a sectarian or ethnic numerical majority, and greatly reduce friction between these groups. A bicameral parliament itself is not absolutely necessary; however, the things such a system would guarantee are indeed essential.

Surprisingly, Iraq’s constitution, approved in a popular referendum in 2005, mandates the creation of a bicameral parliament. Article 48 of the constitution stipulates, “The federal legislative power shall consist of the Council of Representatives and the Federation Council.” Article 65 stipulates, “A legislative council shall be established named the ‘Federation Council’ to include representatives from the regions and the governorates that are not organised in a region. A law, enacted by a two-thirds majority of the members of the Council of Representatives, shall regulate the formation of the Federation Council, its membership conditions, its competencies, and all that is connected with it.” Eleven years after the constitution was adopted, however, this provision has yet to be implemented, and has never been part of the Council of Representatives’ agenda.

This reality highlights the fact that in countries like Iraq and Syria, the formation of a Federation Council (i.e., a senate) would be met with fierce opposition from the ruling political class, who would likely use every means possible to transform such a body into a slightly modified version of the Council of Representatives. To date, civil society activists and organisations have not demanded that a Federation Council be formed either. This paper is primarily directed at them, and aims to show what a bicameral system could achieve, in light of conditions in these two countries. The paper demonstrates that Iraq and Syria can move the democratic transition process forward if they embark on a project that gives all groups in society a role in creating national policies.

### **Reality in Two Flawed Societies**

As a first step, it is necessary to acknowledge that people of different sects and ethnic groups are fiercely polarised. These fraught social conditions led to struggles to overthrow both Ba‘ath regimes, which resulted in a distressed social reality. While the opposition did not cause this reality, the vast majority of the opposition is nonetheless somewhat to blame, as they entrenched these divisions. Instead of proposing a vision or tangible plan for democracy-building in Iraq or Syria – where the political system would be based on a conception of citizenship that both recognises sects as social identities, and transcends sectarianism – the political opposition benefitted from this polarisation.

Initiatives must be launched to establish democracies that account for the fact that political culture is nonexistent among Iraqi and Syrian citizens. The Ba‘athist regimes in Iraq (1968-2003) and Syria (1963-present) are the two most brutal regimes in the contemporary Arab world. Their effects go beyond the vast number of people who have lost their lives, been subjected to torture in prison, or exiled; these regimes have also warped the political consciousness of two generations. The single party state promoted brainwashing en masse, and spread fear through arbitrary intelligence agencies that infiltrated every aspect of society. In addition, continuous war over the past five years has wrought all manner of atrocities, and the brutality that has been

displayed has also caused Iraqis and Syrians to grow accustomed to a culture of extreme intolerance and cruelty in the treatment of different ethnic identities.

After the fall of such regimes, these countries' populations inherit a heavy burden, the effects of which will last for decades. In warping people's mentalities, these regimes leave their mark on how various sections of the population see the nature of authoritarianism and ways to overthrow it. More importantly, the noxious effect of the Ba'athist regimes has influenced what alternatives people are able to imagine: alternatives to the way regimes work, their terms of reference, and the mechanisms that serve to uphold them.

### **Democracy – and Tyranny – of the Majority**

Iraq's recent history since 2003 presents a wealth of lessons – a few of them positive, most negative – of which the Syrian people must take advantage. If the political process succeeds in removing al-Assad and his inner circle from power, Syrians will likely be called to the polls shortly thereafter, as the political powers with the most weight in the opposition have an interest in eliminating a transitional period (as was the case in Iraq). In this scenario, no one doubts that the electoral process will allow extremist Sunni Islamist powers to win a majority of seats in parliament. Decades of marginalisation have resulted in cultural and political impoverishment, and a sense of ethnic or sectarian discrimination. Consequently, broad sectors of the electorate will vote for whoever frames themselves as a representative of these sects or secondary identities – and not for political projects that transcend identity. Holding elections before creating essential institutions (without which democracy cannot be established) will only serve to reinforce this trend and entrench it for years to come.

Non-politicised institutions that stand at a distance from all political actors in conflict and competition with one another are a foundation of democracy. Such institutions must possess legal authority and the ability to compel all parties to act in accordance with the law. They also must have the ability to keep in check anyone who does not abide by regulations. Yet given the proliferation of arms among organised militias, who are able to impose their will through persuasion and intimidation, such an ideal is far from the reality in Iraq today, or in Syria's near

future. These armed groups' funds will enable them to buy the loyalty of large sections of the population who were impoverished by the regime's policies, even before the war claimed what little they had left to make ends meet.

### **Reigning in the Tyranny of the Majority**

A bicameral system is a gateway (meaning an opportunity, not a magic solution) to combine two fundamental principles of democracy: accepting the opinion of the majority as expressed in free, transparent elections for the Council of Representatives; and enabling community groups who do not have a numerical majority to manage their own local affairs and have an influential say in national decision-making. Without such safeguards, ethnic and sectarian polarisation will inevitably lead to disintegration and fragmentation in the country. The potential of the autonomous region of Iraqi Kurdistan gaining full independence is a prime example of what this could entail.

The social makeup of Iraq and Syria differs from all other democratic countries, except perhaps Switzerland. Different ethnicities or sects tend to congregate in regions where they form the majority of the population, meaning that their representation in the Council of Representatives corresponds to the representation of governorates therein (or the representation of districts within governorates), regardless of each governorate's population. Upper houses of parliament, however, play an incredibly important role in maintaining unity in democratic republics, because they are safeguards against the tyranny of the numerical majority. This is because, in general, they are designed to represent different regions of the country, and give each region an equal vote, regardless of population size. In India, for example, the legislative council for each state elects two individuals to represent it in the upper house of parliament, the Rajya Sabha. In Germany, the country's sixteen federal states are all represented in an upper house of parliament known as the Bundesrat. Although the Bundesrat has less power than similar bodies in other countries, the government must present all proposed legislation to the Bundesrat, where it must be approved in order to be passed to the Bundestag, the lower house of parliament. The Bundesrat also has veto power.

The first country to form an upper house of parliament was the United States. The US constitution, which came into force in 1789, created an upper house of parliament (the Senate), made up of two representatives from each state, regardless of the population. The Senate now consists of one hundred members, representing fifty states. This is despite the fact that a third of the US population is concentrated in just four states, and the population of the twenty least populous states accounts for no more than ten percent of the nation's total population. In other words, a third of the population is represented by eight senators, while a tenth of the population is represented by forty senators.

The Senate also has exclusive powers not granted to the House of Representatives, which provides representation proportional to population. International treaties, for example, must be approved by the Senate. The US political system is a presidential one, in which the president chooses members of his government; it is the Senate, though, that consents to or confirms appointments of candidates put forward by the president for cabinet secretaries, federal judges, other members of the executive branch, military commanders, and ambassadors. The Senate also tries federal officials impeached by the House.

The political system in Switzerland is somewhat different, since, as mentioned above, people of various ethnicities tend to be concentrated in their own regions. Switzerland's Federal Assembly is composed of the National Council, which has 200 members, and the Council of States, which has 46 members. A distinguishing feature of this system is that both houses have identical powers. Members of both houses represent the cantons, but, whereas seats in the National Council are distributed proportional to the population, each canton has two seats in the Council of States (in addition to the six "half-cantons," which have one seat each). Under this system, both houses come together as the Unified Federal Assembly to elect the Federal Chancellor, federal judges, and the Federal Council (Bundesrat), which is the executive branch. Since the number of elected members in the National Council in proportion to the population more than doubles the number of members in the Council of States, the opinion of the majority is maintained.

## **Proposed Models for Iraq and Syria**

How can an Iraqi or Syrian senate help establish a democratic system in which all citizens feel their rights are protected and that they have a stake in the system enduring? History gives us no easy solutions. Generally speaking, every stable country in which the majority feels its interests are legitimate and represented, while minorities feel the system ensures their role is preserved, has only been able to reach that equilibrium through difficult experiences and bloodshed. Nonetheless, we put forward a proposed model for a future Iraqi or Syrian senate:

### ***Powers and Functions of the Federation Council (or Senate)***

1. Holding a vote of confidence on the government and president, in a joint session with the Council of Representatives.
2. Approving laws that have been passed by the Council of Representatives. If the senate rejects a law, it is returned to the Council of Representatives to be amended. If disagreement persists, there is to be a final vote in a joint session with both councils.  
Under these terms, different regions will have a say in the law. However, since there are more members in the Council of Representatives than in the Federation Council, a joint session vote ensures the influence of the numerical majority.
3. Electing the president (or presidency, if this system of government is chosen) and prime minister in a joint session with the Council of Representatives. Each Council will separately elect its own speaker.
4. Approving the appointment of all unelected, minister-level government officials (members of the federal courts, ambassadors, advisors, security and military commanders, etc.).

### ***Establishing the Council and how it is Elected***

Despite our hopes for civil rule, recent history in Iraq has shown that for a long time after the collapse of an authoritarian regime, the electorate will vote according to the social groups to which they belong. It will take time for people to put their identities aside when participating in

the electoral process. This means a given sect or ethnicity could pass its own legislation and appoint state officials who belong to that particular social group. While seats could be granted to others, this would be limited by the preferences of the larger group, as the others' bargaining ability would remain limited.

### ***A Proposal for the Senate to be Composed of Two Groups of Representatives***

The senate must include a group of representatives which we call here the "qualitative group." The formation of this first group should not depend on numerical representation. I propose that the qualitative group should make up at least 20% of senate. The qualitative group should include women's organisations, trade unions, writers, artists, media professionals, university professors, and so on, who will be elected by members of their own groups. Individuals who belong to these organisations will have the option of voting for governorate candidate lists (which will be addressed below) or for qualitative group candidate lists. They should not be entitled to vote in both.

The organisations mentioned above should hold an internal vote, and then present the names of the five individuals who received the highest number of votes to the president, who selects one of these candidates. If these organisations have different numbers of representatives in the senate, they present different numbers of candidates. For example, if the trade unions are represented by two members in the qualitative group, and the doctors' union is represented by one member, then the trade union would present ten candidates, and the doctors' union would present five candidates. The president would then select two individuals from the first group and one from the second group. The president's decision is considered final, and not subject to appeal by the Council of Representatives, unless a candidate violates the terms of the nomination. The qualitative group reflects the fact that groups with qualitative influence in society must be able to express their demands and vision. Electing representatives in this way could be a step towards breaking the trend of voting along ethnic or sectarian lines.

The second group will represent the governorates, and will make up 75-80% of the senate. Here, the complexity of social conditions in Iraq and Syria comes into play, and requires some detailed

explanation. According to general estimations of Iraq's composition, between 55-60% of the population is made up of Shiite Arabs, about 20-25% are Sunni Arab, 15-20% are Kurds, and 3-5% of the population are Christians, Yazidis, Sabeans, and Turkmen. With the exception of a limited section of the electorate, who set secondary identities aside and voted for civil candidate lists, most of the Iraqi electorate voted along the lines of identity, and the composition of the Council of Representatives largely reflects the population breakdown above. This has thrown the work of the state into an intractable crisis, and nearly paralysed its ability to function, because while Shiites represent the largest identity group, other groups are not negligible in size.

Syria will face a significantly more complicated problem when its citizens exercise their right to democratic elections after the fall of the Ba'athist regime. The majority of the populations – two-thirds – are Sunni Arabs. They are not accepted by large ethnic, sectarian, or religious blocs, who may limit their control of the legislative or executive branches, as was the case in Iraq. Kurds represent about 10% of the population, and although they are Sunni too, they identify far more with their ethnic identity. The rest of the population is made up of 8-12% Alawites, 7% Christians, and 3% Druze, in addition to Armenians, Turkmen, and Ismailis. Regional disparities – which were of little importance in Iraq – will play a much larger role in Syria. These could be positive or negative, depending on the form of the legislative branch that is established. Accordingly, we believe that establishing a senate is of paramount importance for those concerned with Syria's future. In Iraq, the capital, Baghdad, dominated the country's political and economic activities, given the country's dependence on oil revenues. In contrast, the economic heart of Syria lies in its second city, Aleppo. Indeed, Syria may be the only country in the region where the population of the second city is greater than the population of the capital.

Thus, equal regional representation in Iraq and Syria – for the senate to be composed of an equal number of representatives from each governorate – will not solve the problem of the majority sect dominating decision-making. Out of 18 governorates in Iraq, 9 would be entirely represented by Shiite Arabs, 3 would be entirely Kurds, and 2 would be entirely Sunni Arabs. The other 4 governorates would provide mixed representation.

Out of 14 governorates in Syria, 7 would be entirely represented by Sunni Arabs, 1 would be represented by Druze, and the others would be represented by Alawites. Al-Hasakah would be represented by Assyrians and Kurds, and Homs, Idlib, Latakia, and Quneitra would provide mixed representation.

In governorates dominated by a single sect or ethnicity, there must be allocated seats for minorities. In Iraq, seats must be allocated for Christians in Baghdad, Mosul, and Kirkuk; a seat must be allocated for Yazidis in Dohuk Governorate; and for Sabians in Baghdad. In Syria, seats must be allocated for Christians in Damascus, Latakia, Homs, Aleppo, and Hama; for Alawites in Homs; for Kurds in Aleppo; and for Druze in Quneitra.

Beyond this, the administrative borders of some governorates, particularly in Iraq, must be redrawn, not to gerrymander in favor of one sect or another but to reflect social reality on the ground. Iraq has taken a different approach to Egypt and Syria, and split its capital, Baghdad – with a population of over eight million – between two governorates. Sadr City is a district with an overwhelming Shiite majority, and its suburbs are still part of the capital, even though its homogeneous social composition differs completely from Baghdad's diversity. Similarly, Anbar Governorate has an overwhelmingly Sunni majority, made up of two completely different social environments: one is tribal, and in the other (the Upper Euphrates), tribalism does not play a decisive role. Thus, Anbar should also be divided into two governorates.

Such steps would help rebalance representation of sects who do not have a numerical majority in the country. However, it will not ensure that Arabs Sunnis in Iraq, or non-Arab Sunnis in Syria, have a sense that they can influence political decision-making in these two countries. Consequently, the seeds of revolt or uprising will still exist. The bloodshed of the last 13 years in Iraq show that a definition of democracy limited to elections and speeches about brotherhood is the fastest way to make people lose confidence in democracy, and kindle nostalgia for the authoritarian regime they fought to eliminate.

### *Necessary Amendments*

Here, we add two stipulations that could be adopted jointly or individually. The first stipulation is that the constitution and the senate law should determine which laws and decrees require approval of two-thirds of the senate in order to come into force. These would include, most importantly, decrees related to granting or withholding a vote of confidence on the government, and decrees on approving candidates for the federal courts and the Supreme Judicial Council. The second stipulation is that vetoing a law or decree should require representatives from a set number of governorates, greater than the number of governorates represented by the majority sect in the country, in order for the veto to take effect. This means that governorates represented by Kurds or Sunni Arabs in Iraq must include a Shiite Arab governorate on their side in order to enact the veto. Likewise, governorates represented by Alawites, Druze, Assyrians, or Kurds in Syria must include a Sunni Arab governorate on their side in order to enact the veto. This way, minorities can exercise their rights in decision-making, but those rights will not turn into tyranny of the minority. If the senate uses its veto power, the law is returned to the Council of Representatives to be amended.

The proposal outlined here arises from a painful reality, one we must acknowledge if we want to move forward and build a democratic, civil state. We believe that forming a senate as outlined above will represent a great step towards overcoming current reality, and that younger generations must engage with it in order to achieve change. When working towards a goal like this, vested interests that seek to impede such change through a variety of means will of course be encountered. However, the Iraqi civil society movement that has been active over the past ten months demonstrates that optimism of the will can benefit from intellectual pessimism, and also triumph over it.

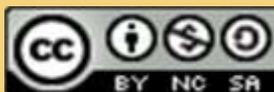
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