

Examining Ethnic Accommodation and Coalition-Building Under Alternative Forms of Government in Afghanistan

Mohammad Bashir Mobasher

Table of Contents

1. Introduction
2. Examining the Viability of a Parliamentary Constitution
3. Is a Semi-Presidential System a Better Alternative?
4. Alternative Presidential Systems: Collegial and Proportional Presidentialism
5. Reforming the System and Taming the President
6. Conclusion

Abstract

In post-conflict states like Afghanistan facilitating ethnic accommodation through encouraging inclusive institutions and policies are the first concerns of constitutional designers. While some constitutional choices successfully address these concerns others wholly or partly fail. Afghan Constitution tells a story partly of success and partly of failure. Its success story highlights the formation of cross-ethnic electoral coalitions and the practices of relatively inclusive political distributions. Its failure underlines the less inclusive policies of the government and the inability of electoral coalitions to institutionalize.

Many scholars and politicians link the failures to the presidential system and advocate for adopting a parliamentary or a semi-presidential constitution. Others highlight the advantages of the presidential system and argue against any constitutional change. This article engages the literature by examining both the current system and the alternatives. But it goes beyond the conventional discourse

to examine the optimality of adapting the current presidential system as well.

1. Introduction

Since the inception of constitution-making following the Bonn Conference, the viability of a presidential system for an ethnically divided Afghanistan has been subject to dispute.¹ The two main criticisms against the presidential system are that (a) this system is not inclusive to all ethnic groups, and that (b) this system is not conducive to party development.² The critics have been mainly ethnic Tajiks, Hazaras, Uzbeks and other minorities, who advocate for a parliamentary or a semi-presidential system.³ The proponents of the presidential system have been primarily ethnic Pashtuns, who have advocated for a strong president to overcome challenges coming from the warlords, and to unite the country.⁴

The struggle against the presidential system intensified with the convening of the *Constitutional Loya Jirga*,⁵ the Grand Council that adopted the Constitution.⁶ The Tajik-dominated Northern Alliances attempted to set up a parliamentary constitution; however, the resistance primarily came from Pashtun representatives,

1. Dr. Mohammad Bashir Mobasher is an assistant professor at the American University of Afghanistan, department of political science and public administration since August of 2018. He also worked as a legal advisor for the Afghanistan Rule of Law Stabilization project funded by USAID and Legal Education Support Program-Afghanistan (LESPA) supported by the University of Washington and the INL (US State Department). Dr. Mobasher obtained a B.A. (2007) from the School of Law and Political Science at Kabul University, and his LLM (2010) and PhD (2017) from the University of Washington School of Law. He founded and managed the Afghan Law Students' Association. Conrad Schetter, *Ethnicity and the political reconstruction in Afghanistan 3* (LSE Research Online, Conference Paper, No. 3, 2005) http://eprints.lse.ac.uk/28376/1/Schetter_LSERO_version.pdf.

2. Ali Maisam Nazari, Nizam Parliamani: Nizami Barai Hukumrani Khob, [Parliamentary System: A System of Good Governance] BBC Persian (Feb. 12, 2017) <http://www.bbc.com/persian/blog-viewpoints-38950895>; Mujiburahman Rahimi, Naqdi Bar Sahktar Nezam Dar Afghanistan [A Critique of the Structure of the Political System in Afghanistan] 152-9, 193-206 (2008); International Crisis Group, Policy Briefing 141: Afghanistan's Parties In Transition 4 (June, 2013), <https://www.google.com/webhp?sourceid=chrome-instant&ion=1&espv=2&ie=UTF-8#q=Afghanistan%E2%80%99s+Parties+in+Transition%2Fpdf>; International Crisis Group, Asia Report N 88: From Presidential to Parliamentary Elections, 7 (Nov. 2004), <http://reliefweb.int/report/afghanistan/afghanistan-presidential-parliamentary-elections> [hereinafter, "ICG 88"]; Kenneth Katzman, Congressional Research Service, *Crs Report: Afghanistan: Politics, Elections, And Government Performance*, 1,7 (Jan. 12, 2015), <https://www.fas.org/sgp/crs/row/RS21922.pdf>.

3. Rahimi, supra note 2 at 155; Astru Suhrke, *The Democratisation of a Dependent State: The Case of Afghanistan*, 8 (Chr. Michelsen Institute, Working Paper 51, 2007), <https://www.cmi.no/publications/2810-democratization-of-a-dependent-state>.

4. Rahimi, supra note 2, at 155; Suhrke, supra note 3, at 8.

5. See Constitution, art. 111 (Constitutional Loya Jirga is the only constitutionally legitimate council that can amend the Constitution.)

6. Rahimi, supra note 2, at 159; Thomas Ruttig, *Islamists, Leftists - and a Void in the Center: Afghanistan's Political Parties and where they come from, (1902-2006)*, 1, 20 Konrad Stiftung Adenauer (2006) http://www.kas.de/wf/doc/kas_9674-544-2-30.pdf.

with Hamid Karzai as the leading figure.⁷ At the end, a presidential system was adopted with a concession that the *Wolesi Jirga* (WJ) should have the power to oversee the executive.⁸ This concession, however, has not satisfied the skeptics of presidential system. Since the adoption of the Constitution, several coalitions have declared their objectives to amend the Constitution and replace the presidential system with a parliamentary or a semi-parliamentary system. These coalitions included the National United Front of Afghanistan (2007),⁹ National Front of Afghanistan (2011),¹⁰ the National Coalition of Afghanistan (2013),¹¹ and Electoral Alliances of Afghanistan (2013).¹²

Interestingly, the divide over whether to adopt a presidential constitution was not merely a domestic one. International allies of Afghanistan picked sides during the drafting of the Constitution, often recommending the political system that resembled their own.¹³ For example, experts and diplomats from the United States including its ambassador, Zalmi Khalilzad, advocated for a presidential constitution, whereas the European experts and diplomats pushed for a parliamentary or a semi-presidential system.¹⁴

7. Barnett R. Rubin, *Crafting a Constitution for Afghanistan*, 3/15 *Journal of Democracy* 5–19 (2004) at 11–12; Sonali Kohatkar & James Ingalls, *Bleeding Afghanistan: Washington, Warlords, and the Propaganda of Silence* 142 (2006); Katzman, *supra* note 2, at 7; Rainer Grote, *Separation of powers in the Afghan New Constitution*, 64 *ZaoRV*, 898, 904 (2004).

8. Peter Dimitroff, *National Democratic Institute For International Affairs, Report: The September 2005 Parliamentary And Provincial Council Elections In Afghanistan*, 3 (2006); Suhrke, *supra* note 3, at 8.

9. The International Council On Security And Development, *Decision Point 2009: Afghanistan's Presidential Election: Power To The People, Or The Powerful?* 44 (Mar. 2009), http://www.nps.edu/programs/ccs/Elections/ICOS_elections.pdf [hereinafter, ICOS].

10. Grand Hewad, *The New National Front: A Dark Horse Returns - with Three Riders*, *Afghanistan Analyst Network* (Dec. 1, 2011) <https://www.afghanistan-analysts.org/the-new-national-front-a-dark-horse-returns-with-three-riders/>.

11. Migration Review Tribunal, *Background Paper: Afghanistan: Political Parties And Insurgent Groups 2001–2013* 5 (Mar. 7, 2013), https://www.ecoi.net/file_upload/1226_1369733768_ppig2.pdf.

12. Jackson Keith, *Institute For The Study Of War, Backgrounder: The Formation Of Electoral Alliances In Afghan Politics In 2014* 5 (Oct. 2, 2013) http://www.understandingwar.org/sites/default/files/Backgrounder_AFGElectoralAlliances_0.pdf.

13. Abdul Ali Mohammadi, *Afghanistan Wa Dawlat Mudern [Afghanistan and A Modern State]* 151 (1394) [2015]; The divide between U.S. experts and diplomats and those from the European Union was also confirmed by Professor Birol A. Yesilada, who was involved in constitution-drafting of Afghanistan (On file with Author).

14. *Id.*; Suhrke, *supra* note 3, at 8–9; Rahimi, *supra* note 2, 158; Barnett R. Rubin, *supra* note 7; see also William Maley, *Executive, Legislative, and Electoral Options for Afghanistan*, 4 (unpublished manuscript, 2003) <http://cic.nyu.edu/sites/default/files/e9execlegiselectoraloptionsmaley.pdf>. (There is no 'perfect' executive form, but a pure presidential system should be avoided. The Executive Government should be based in a parliament, and accountable to it.); Chris Johnson, William Maley, Alexander Thier & Ali Wardak, *UK Department for International Development, Report: Afghanistan's political and constitutional development*, 22–24 (2003), <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/5888.pdf>; Chris Johnson, Jolyon Leslie, *Afghanistan: The Mirage of Peace*, 171–2 (2004).

In its two short periods of democratization, Afghanistan has experienced all three political regimes: a parliamentary system, a presidential constitution, and a *de facto* semi-presidential system. In the first of these periods (1963–1973), Afghanistan embedded a parliamentary system in its – still monarchic – Constitution of 1964.¹⁵ This system, as well as the Constitution, lasted only for a decade, followed by communist regimes, civil war and Taliban. By the fall of Taliban in 2001, Afghanistan began to experience a presidential system, which was also adopted in the Constitution of 2004. However, since the presidential election of 2014, due to the resulting political crisis, the two front-running candidates decided to form a National Unity Government, in the form of a *de facto* semi-presidential system. These brief experiences of different political systems can well be used to examine the viability of each alternative in Afghanistan.

The issue with current legal and political discourse is that the politicians as well as scholars have only focused on whether to keep the current presidential system or adopt an alternative; the prospect for reforming the current system has barely attracted scholarly attentions. It is true that the Afghan presidential model has had some weaknesses; however, failures of this system do not necessarily indicate the need for adoption of an alternative. More often than not, reforming the presidential system may be more feasible than switching to a parliamentary or semi-presidential system.¹⁶ Therefore, in addition to examining alternative political systems, this article explores adapting the current presidential system, ranging from small reforms to radical changes in the system.

2. Examining the Viability of a Parliamentary Constitution

As the proponents of the parliamentary system suggest, there are some merits to this system that current Afghan presidential system lacks. Generally, coalitions tend to be more binding in parliamentary systems than in the presidential systems. It is mainly because in parliamentary systems, the survival of a government is bound by the coalitions holding together.¹⁷ In presidential systems, a president does not

15. Qānoon-i Assāsi-ye Afghanistan [Constitution of Afghanistan], Jareeda-ye Rasmi [Official Gazette] No. 12, 1343 [1964], art. 65, 66, 67, 89, <http://www.afghanpaper.com/info/ghavanin/ghanonasasi1343.htm>.

16. Scott Mainwaring & Matthew S. Shugart, 29/4 Juan Linz, *Presidentialism, and Democracy: A Critical Appraisal*, *Com. Pol.*, 450, 469 (Jul. 1997).

17. *Id.*, at 466; Scott Mainwaring & Matthew Soberg Shugart, *Presidentialism And Democracy in Latin America*, 396–397 (1997); Scott Mainwaring, *Presidentialism, Multipartism, and Democracy: The Difficult Combination* (1993).

necessarily need his or her coalition to stay in office.¹⁸ Neither do presidential allies need to stick with the unpopular president after elections.¹⁹ Like in most other presidential systems with fragmented parties, Afghan presidents tend to begin with the support of absolute majority of the Assembly but lose their support dramatically later on.²⁰ In a parliamentary system, losing the endorsement of a majority in parliament would lead to the oust of the prime minister from office.

A parliamentary system in Afghanistan may require the support of more than one ethnic group mainly because in the parliamentary system the formation and survival of the executive is based on the approval of the majority in the assembly. As such, if ethnic groups are represented proportionally, one ethnic representative cannot alone form a majority coalition in the WJ to form the government.²¹

Nonetheless, there are some major issues with adopting a parliamentary system that need to be addressed here. First, unless the constitution requires explicitly, a parliamentary system may not be conducive to a consociational form of government in Afghanistan. Certainly, a parliamentary system encourages coalitions of more than one ethnic group; however, a coalition of more than one ethnic group is not necessarily inclusive. The simple reason is that a parliamentary system has the tendency for post-electoral coalitions,²² especially those with electoral systems like SNTV (single non-transferrable vote).²³ Since after the elections parties and elites have perfect information about winning seats, and so about the viability of different coalition sizes, they tend to form minimum winning coalitions.²⁴ Indeed, many African countries—e.g., Nigeria, Congo, Sierra Leone, and Togo—experienced breakdown of their democracies because of ethnic-based coalitions winning the majority, leaving others in perpetual oppositions.²⁵ Experiencing civil war due to ethnic-based coalitions,

18. Mainwaring & Shugart, *supra* note 16, at 466.

19. *Id.*

20. Mainwaring & Shugart, *supra* note 17, at 46.

21. Based on CIA Factbook, no ethnic group in Afghanistan has a majority of over fifty percent population. See, CENTRAL INTELLIGENCE AGENCY, *WORLD FACTBOOK: AFGHANISTAN* [hereinafter "CIA Factbook"], https://www.cia.gov/library/publications/the-world-factbook/geos/print/country/countrypdf_af.pdf (last visited March 17, 2016).

22. Mainwaring & Shugart, *supra* note 16, at 466.

23. The post-electoral tendencies of parliamentary regimes can be counterbalanced by some electoral systems. See Danielle Resnick, *Do Electoral Coalitions Facilitate Democratic Consolidation In Africa? 19/5 Party Politics* 735, 740 (2011); Kaare Strøm, Ian Budge, Michael J. Laver, *Constraints on Cabinet Formation in Parliamentary Democracies*, 38/2 *Am. J. Pol. Sci.* 303–335, 315–316 (May 1994).

24. William H. Riker, *The Theory of Political Coalitions* 47 (1962).

25. Donald L. Horowitz, *A Democratic South Africa? Constitutional Engineering in a Divided Society* 205 (1991).

Nigeria decided to abandon its parliamentary system in favor of a presidential constitution.²⁶

A change to a parliamentary regime may give rise to a similar risk in Afghanistan, where a minimal coalition of two ethnic parties to form the government may result in total marginalization of other ethnic groups. Given the current composition of the WJ, a parliamentary system would have led to a number of possible minimal winning coalitions based on ethnic affiliations.

Table I. illustrates the possibility of minimal, oversized, and grand coalitions, considering the current composition of *Wolesi Jirga*.²⁷

Possible Coalitions in the Parliament of 2010–2016		
Coalition of Ethnic Groups	% Coalition Size by	Coalition Size by Optimality
Pashtun, Uzbek	51.985	Minimum
Tajik, Hazara, Uzbek	52.4	Minimum
Pashtun, Hazara	62.42	Minimum
Pashtun, Tajik	65.72	Minimum
Pashtun, Hazara, Uzbek	71.83	Oversized
Pashtun, Tajik, Uzbek	75.13	Oversized
Pashtun, Tajik, Hazara	85.565	Oversized
Pashtun, Tajik, Hazara, Uzbek	94.975	Grand

Under post-election situations, minimal winning coalitions are more desirable because the fewer the coalition partners, the fewer seats a formateur must share with partners.²⁸ Furthermore, minimal coalitions are more coherent in terms of policy and organization since in principle the farmateurs tend to choose partners who are closest to them in policy preferences in order to implement policies and win the next election.²⁹ Minimal winning coalitions (exclusionary coalitions) can also be a response to heated ethnic tensions, which naturally has emerged in every

26. Id. at 210.

27. Id.

28. G. Bingham Powell, JR., *Contemporary Democracies: Participation, Stability, and Violence* 134 (1982).

29. Id.

election in Afghanistan.

Astonishingly, the WJ in the current regime of Afghanistan has shown some tendencies towards excluding some ethnic groups from the executive. This tendency surfaced after the 2009 election, when the WJ had to confirm presidential appointees for cabinet positions. After the presidential election of 2009, Pashtun and Tajik parliamentarians persistently casted votes of no confidence for Hazara and Uzbek nominees for cabinet seats. Their vote of no confidence enraged Hazara and Uzbek representatives in the parliament.³⁰ The representatives boycotted WJ sessions for months. Allies of President Karzai, both Mohammad Mohaqiq and Abdul Rashid Dostum, threatened that they would withdraw all their supports from the government if their ethnic nominees were not approved by the Assembly.³¹ If anything can be learned from this case, it is that minimal and exclusive coalitions would be very likely under a parliamentary system in Afghanistan, and it can lead to political chaos and even ethnic conflicts.³²

Additionally, in circumstances where parliamentary parties are fragmented or when parties are too polarized, government formation is likely to take months and even years under a parliamentary system. For example, in Iraq, after the election of 2010 it took 8 months for the parliament to form a government.³³ In the same year in Belgium, a more consolidated democracy, government formation took an astounding 18 months in the assembly.³⁴ Indeed, the WJ of Afghanistan had a similar experience in 2010 when it had to elect the Speaker of the House. Repeated elections failed for months until the elites decided to set the election aside to compromise on the Speaker.³⁵ Even then, it took several weeks to finally select an Uzbek elite to chair the House.³⁶ This compromise has indicated that a parliamentary system might lead to months and even years of political deadlock at times of government formation particularly because it is very unlikely that larger groups would compromise on premiership of an Uzbek the way that they did for the Speaker of WJ.

30. Afghanistan Parliamentary Assistance Project, Legislative Newsletter (Jan. 18, 2010), http://www.cid.suny.edu/APAP_Newsletter/2010/APAP_Newsletter_January.18.10.pdf.

31. Id.

32. Riker, *supra* note 24, at 48, 53.

33. Sona N. Golder, Government Formation and Cabinets, 8 (Emerging Trends in the Social and Behavioral Sciences, Presentation Paper 2015).

34. Id.

35. Abdul Rauf Ibrahim Ba Hais Rayees Wolesi Jirga Intekhab Shud [Abdul Rauf Ibrahim, Elected As the Speaker of Wolesi Jirga], [Deutsch XXL](http://p.dw.com/p/R4ea), Feb. 27, 2011, <http://p.dw.com/p/R4ea>.

36. Id.

Furthermore, there is no consensus over whether a parliamentary system leads to development of parties and coalitions. Giovanni Sartori has argued that it is the other way around: “[p]arliamentary democracy cannot perform...unless it is served by parliamentary fit parties, that is to say, parties that have been socialized into being relatively cohesive and/or disciplined bodies.”³⁷ In other words, according to Sartori, party development must precede a working parliamentary system.³⁸ Even Juan J. Linz, who advocates a parliamentary system, concurs with Donald Horowitz that parliamentary systems with fragmented, ethnic parties may fail.³⁹ Indeed, Afghanistan’s experience with a parliamentary system during the Decade of Democracy seems to confirm this observation.

Ideologically, parties were more formidable in Afghanistan’s *Decade of Democracy* than are the proto-parties of today.⁴⁰ Unlike today’s parties, parties of the 1960s and 70s could more easily be classified as left or right, based on their ideological and political approaches to government and economics. Moreover, Afghanistan’s right-wing parties, comprising Islamist-traditionalists, were pro-king and pro-government, while leftist parties functioned as opposition groups inside and outside the WJ. Almost all political parties were less or more cross-ethnic and most of them emphasized on equal rights and equal opportunities to all citizens regardless of ethnicity.⁴¹ Although the government refused to pass a party law throughout the decade, based on Article 32 of the 1964 Constitution parties were allowed to engage in political activities; so the parties did engage in recruiting members, publishing articles and even holding demonstrations.⁴² Even so, only a handful of party members were able to win seats in the elections of 1965 and 1969. Candidates tended to disassociate from their parties during the elections as party-affiliates do today. The result of the fragmented, and party-

37. Id.

38. Giovanni Sartori, *Comparative Constitutional Engineering* 94 (1997) (“Indeed, disciplined parties are a necessary condition for the working of parliamentary systems.”)

39. Arend Lijphart, *Parliamentary Versus Presidential Government* 212 (1992) (“The Nigerian system represents a unique method of presidential multi-ethnic ones, but I doubt very much that one could justify it in more homogeneous societies, even in the federal states of Latin America.”)

40. See Faridullah Bezhani, *The Emergence of Political Parties and Political Dynamics in Afghanistan, 1964-73*, *Iranian Studies* 924 (2013) <http://www.tandfonline.com/doi/abs/10.1080/00210862.2013.810074>.

41. Id.

42. Constitution, art. 32 (“Afghan citizens have the right to form political parties, in accordance with the terms of the law, provided that: (1) The aims and activities of the party and the ideas on which the organization is based are not opposed to the values embodied in this Constitution. (2) The organization and financial resources of the party are open. A party formed in accordance with the provision of the law cannot be dissolved without due process of the law and the order of the Supreme Court.”)

less assemblies was a decade of unstable governments.⁴³ The governments would hastily rise and fall in the Decade of Democracy. Under the parliamentary system, Afghanistan experienced six government changes in less than a decade comparing to two relatively stable governments in the first ten years under the current presidential constitution.⁴⁴

Table II. shows the duration of each government under a parliamentary system during Afghanistan's Decade of Democracy (1964-1973)⁴⁵

Prime Ministers	Beginning	End	Duration by Days
Dr. Mohammad Yusef	25-Oct-1965	29-Oct-1965	4
Mohammad Hashim Maiwandwal	2-Nov-1965	12-Oct-1967	709
Nor Mohd. Etemadi (1 st Round)	15-Nov-1967	2-Dec-1969	747
Nor Mohd. Etemadi ((2 nd Round	2-Dec-1969	16-May-1971	562
Dr. Abdul Zahir	26-Jul-1971	12-Dec-1973	389
Mohammad Musa Shafiq	12-Dec-1972	17-Jul-1973	218
Average by Days			438.1
Average by Years			1.6

As Table II shows, on average, parliamentary executives lasted for less than a year and half each in the Decade of Democracy. In fact, the first government could sustain itself for only four days.⁴⁶ Although most governments resigned for different reasons and excuses, the historical records indicate that they resigned in anticipation of receiving votes of no-confidence from the Wolesi Jirga.⁴⁷ Indeed

43. Thomas Barfield, *Afghanistan: A History of Cultural and Political Studies* 24 (2010).

44. See Sabahuddin Kushkaki, *Daha Qanoon-e-Asasi: Ghaflet Afghanha Wa Fersat Talabi Rusha* [The Decade of Constitutionalism: The Negligence of Afghans and the Opportunism of Russians], 32-110 1996 [1375].

45. Id.

46. Id.

47. Marvin G. Weinbaum, *Afghanistan: Nonparty Parliamentary Democracy*, 7/1 *J. Developing Areas* 57-74 (Oct. 1972).

most prime ministers did recognize the importance of having a parliamentary alliance to keep their governments stable, and they even formed parties such as *Wahdat Mili* (National Unity Party) and *Afghanistan-i-Mutaraqi Party* (Progressive Afghanistan Party); however, the unaccountable King dismantled their efforts repeatedly.⁴⁸

To draw a conclusion, since today's Afghan proto-parties are at least as fragmented as the parties in the Decade of Democracy, and since no cross-ethnic parliamentary coalitions have developed, it can safely be argued that the adoption of a parliamentary system may lead to unstable governments and political chaos. Therefore, a parliamentary system does not seem to be a better alternative to reckon with in Afghanistan.

3. Is a Semi-Presidential System a Better Alternative?

In Afghanistan, the common perception is that non-Pashtuns have little chance to gain the highest executive office in the presidential system.⁴⁹ It is assumed that if the post of prime minister is created, it will reduce the power of the president and allow other ethnic groups to share the power at the highest level of government in Afghanistan.⁵⁰ It is not surprising that most Tajik, Hazara, and Uzbek elites support a semi-presidential system while most Pashtun elites resist changing the presidential system.⁵¹ But would a semi-presidential system allow non-Pashtuns to win the prime minister office?

Under a semi-presidential system, it is likely that a non-Pashtun candidate would become the prime minister. However, since the premier is typically elected by the legislature under a semi-presidential system, it is also likely that the prime minister would be from the same ethnic group as the President.⁵² Therefore, there is no guarantee that the president and the prime minister would be elected from two different ethnic groups. Perhaps, the election of the Speaker of the Wolesi Jirga in the current regime can better illustrate how a prime-minister would be elected under a semi-presidential system.

After first parliamentary election in 2005, Yunis Qanooni became the Speaker of the House by a difference of only five votes from Rasul Sayyaf.⁵³ After two

48. Bezhani, *supra* note 40.

49. James Ingalls, *supra* note 7, 142.

50. Rubin, *supra* note 7, 11; Katzman, *supra* note 2, at 7.

51. James Ingalls, *supra* note 7, at 143.

52. Mainwaring & Shugart, *supra* note 17, at 16.

53. Ramin Anwari, Yunis Qanooni Rayes Majlis Numayendagan Afghanistan Shud [Yunis Qanooni Became

rounds of elections, Qanooni, a Tajik elite, won 122 votes while Sayyaf, a Pashtun candidate, won 117 votes.⁵⁴ Had Sayyaf won three of the five votes, Afghanistan would have a Pashtun President and a Pashtun Speaker of the House. After the 2010, parliamentary election, the Wolesi Jirga struggled over a month and half to elect a Speaker.⁵⁵ Again Qanooni and Sayyaf were the leading candidates.⁵⁶ Four rounds of elections were held but no candidate won the required votes.⁵⁷ Finding that they were unable to elect a Speaker, the MPs compromised by selecting a Speaker from the Uzbek community outside of the proper electoral procedure as provided by the Rules of Procedure.⁵⁸ Had this been an election for prime-ministership, WJ members would have been less likely to compromise on a Prime Minister from an Uzbek minority.⁵⁹ On the other hand, the Pashtun and Tajik candidates had equal opportunity to win the election. Therefore, including a post of Prime Minister in the political system does not ensure that a non-Pashtun candidate wins the second highest office in the government.

An alternative to an elected prime-minister is an appointed one by the President. In fact, the first draft of the Afghan Constitution provided for a prime minister appointed by the President.⁶⁰ In one proposal the prime minister had to be approved by the Wolesi Jirga and in another he or she had not.⁶¹ Given that a presidential candidate needs cross-ethnic votes, it is likely that viable presidential candidates appoint their prime ministers from different ethnic groups in exchange for their endorsement during elections. Indeed, this system is to some extent similar to the current National Unity Government (NUG) in Afghanistan.

Based on an agreement, which eventually led to the establishment of NUG, a post of Chief Executive Officer (CEO) - which is not foreseen in the Constitution - was created.⁶² The front-runner of the second round became the president and

the Speaker of the Wolesi Jirga], BBC Persian, Dec. 21, 2005, http://www.bbc.com/persian/afghanistan/story/2005/12/051221_s-qanooni-lowerhouse.shtml

54. Id.

55. Deutsch XXL, *supra* note 35.

56. Id.

57. Id.

58. Id.

59. Uzbeks are a relatively smaller group than Pashtuns, Tajiks and Hazaras. See Central Intelligence Agency, World Factbook: Afghanistan, https://www.cia.gov/library/publications/the-world-factbook/geos/print/country/countrypdf_af.pdf.

60. Mohammad Ashraf Rasuli, A Review of The Constitutions of Afghanistan [Moruri Bar Qawanin-e-Asasi Afghanistan] 183-4 (2009).

61. Id.

62. Agreement between the Two Campaign Teams Regarding the Structure of the National Unity Government, Sec. B, L.A. Times, Sep. 21, 2014, <http://documents.latimes.com/agreement-between-two-campaign-teams->

the runner up became CEO.⁶³ Procedurally, the President appointed the CEO⁶⁴ although based on the agreement, each office had the right to appoint half of the cabinet members.⁶⁵

Whether a political system with an appointed prime minister (or CEO) is a *sedarati* (semi presidential system) is subject to dispute. In fact, according to Mainwaring, in a real semi-presidential system “the cabinet is responsible to parliament and not the president and cannot be resolved by president.”⁶⁶ Regardless, such a political system has proven problematic for several reasons. The first and most significant of all is the problem of cohabitation. Cohabitation is narrowly described as the situation where the president and the prime minister are from two opposing parties;⁶⁷ broadly, it is described as the situation where the president and the prime minister diverge on who is the legitimate source of constitutional authority.⁶⁸ By either definition, cohabitation does exist in the NUG: The president and the CEO are from two opposing coalitions. After the establishment of the unity government, they have continuously made conflicting statements and challenged the constitutional authority of each other.⁶⁹ Particularly, CEO Abdullah Abdullah has long accused President Ghani of marginalizing him and making appointment decisions without his counsel.⁷⁰ Once Abdullah angrily denounced Ghani as unfit to govern and warned against his unilateral decisions.⁷¹ In response, Ghani repeatedly claimed that constitutionally he had the sole authority as the President.⁷² Their confrontation and counter-challenges have led to political stalemate and halt of policy implementation.⁷³ For example, it took the president and CEO over seven months to agree on cabinet nominees.⁷⁴ Yet, their cabinet was not

regarding-structure-national-unity-government/.

63. Id.

64. Id.

65. Id. sec. C

66. Mainwaring supra note 17, at 16.

67. Robert Elgie & Iain McMenamin, Explaining the Onset of Cohabitation under Semi-Presidentialism, *Political Studies*, 1-20, 1 (2001).

68. Id.

69. Frud Bezhan, Crisis Looms as Clock Winds Down On Afghan ‘Unity Government’ Deal, *Radio Free Europe*, Sep. 4, 2016, <https://www.rferl.org/a/afghanistan-crisis-looms-expiring-unity-government-deal/27966465.html>.

70. Id.

71. Id.

72. Ikhtelafat Miyan Ghani Wa Abdullah Subat Afghanistan Ra Mutazalzil Karda Ast [The Conflict Between Ghani and Abdullah Is Destablizing Afghanistan], *Sputnik*, Apr. 11, 2017, <https://sptnkne.ws/eyTD>.

73. Bezhan, supra note 69.

74. Shanzda Wazir Jadid Kabina Afghanistan Sawgand Khordand [The New Sixteen Minister of Afghanistan Take the Oath of Allegiance], *BBC Persian*, Apr. 27, 2015

http://www.bbc.com/persian/afghanistan/2015/04/150421_k03_afghan_cabinet_memebers_sownr.

completed for almost two years until finally they confirmed an individual as the minister of defense, which was the most important appointment decision given the ongoing conflict with the Taliban.⁷⁵

The problem of cohabitation is not peculiar to Afghanistan's NUG. All political systems with dual executive offices tend to encounter cohabitation.⁷⁶ In their article, *Explaining the Onset of Cohabitation under Semi-presidentialism*, Robert Elgie and Iain McMenamin describe cohabitation as "[o]ne of the most recognizable features of semi-presidentialism."⁷⁷ France, which has been the original model of semi-presidentialism, has also been known as a "cohabitation model."⁷⁸ Many recent studies have indicated that cohabitation is more likely to happen in younger democracies than in more advanced democracies; meanwhile cohabitation is more damaging for vulnerable, younger democracies than for more matured ones.⁷⁹

The problem of cohabitation stems from the fact that both the president and the prime minister tend to interpret constitutional provisions the way that enhances their own power vis-a-vis the other. The idea of adopting a dual executive system in Afghanistan would encourage Pashtuns to insist on more powers for the president as much as it would encourage non-Pashtuns to insist on more authorities for the office of prime minister.

An additional problem with the dual executive is the fact that it does not include all major groups. This will raise concern among Hazaras and Uzbeks, who would then demand some guaranteed highest offices for themselves. Indeed, advocating for this kind of power-sharing in his book, *Afghanistan and A Modern State*, Abdul Ali Mohammadi proposed that a political system should be designed where the Pashtuns get to elect the President and Tajiks the Speaker of the House; meanwhile, Hazaras should be able to elect the Chief Justice of the Supreme Court and Uzbeks the only Vice President of the President.⁸⁰

Mohammadi's proposal resembles the consociational model of governments in

75. Namzudan Wuzarat Dufa Wa Riyasat Amniat Mili Afghanistan Muarfi Shudand [The Nominees of the Ministry of Defense and National Security Council Were Introduced [to Wolesi Jirga]], BBC Persian, May 5, 2016, http://www.bbc.com/persian/afghanistan/2016/05/160504_zs_ghani_introducing_defence_intelligence_heads.

76. Chun-Hao Chang, *Cohabitation in Semi-Presidential Countries*, 2/3 *Social Sciences*, 31-43 (2014).

77. Elgie, *supra* note 67.

78. Chang, *supra* note 76, at 32.

79. L. Kirschke, *Semi-presidentialism and the Perils of Power-Sharing in Neopatrimonial States*, 11/40 *Comparative Political Studies*, 1372-94 (2007); Robert Elgie, *supra* note 67 at 2.

80. Mohammadi, *supra* note 13, at 375.

Lebanon and Iraq. In Lebanon, a consociational system was arranged in 1943, under which the presidency was allocated to a Christian Maronite, the premiership to a Sunni, and the Speakership to a Shi'ite.⁸¹ In 2005, different Iraqi communal groups reached an agreement, the Iraqi National Pact, reserving the presidency for the Kurds, the premiership for a Shi'ites, and the Speakership for Sunnis.⁸²

There is some value to this power-sharing model. First, this system arranges the most consociational form of government that Afghans can ever have. All major ethnic groups are guaranteed a special high office in the state. Additionally, this system reduces the likelihood of ethnic conflict during elections to a significant degree since ethnic groups will not be competing for the same office. By the same token, ethno-political elites are likely to form stable coalitions based on policy rather than on winning elections. However, this model of power-sharing has some shortcomings as well. First, such an arrangement would not likely be appreciated by the public, given the dominance of centripetal tendencies in Afghanistan. Second, this constitutional arrangement effectively leads to the ranking of ethnic groups to first, second, and third, based on which ethnic group is provided what office. It is also an exclusive arrangement, where aspirants of other groups cannot compete for an office that is assigned to a specific group. Additionally, this system leads to polarization when an extremist individual from an ethnic group attains any of the offices. If one government institution is ethnicized, so will other government institutions.⁸³ As a result, instead of bridging between communities, this ethnic-based arrangement may further polarize them.

This model of power-sharing has failed in both Lebanon and Iraq. In Lebanon, it led to immobility in the state affairs where the state was unable to implement its policies.⁸⁴ More importantly, the officials were unable to solve minor ethnic tensions given the rise and importance of chauvinism due to divisions among government offices.⁸⁵ In Iraq, ethnic distribution of the highest offices did not lead to proportional representation of groups across government institutions.⁸⁶

81. Imad Salamey, *Failing Consociationalism In Lebanon And Integrative Options*, 2/4 *International Journal of Peace Studies*, 83-105, 83 (2009).

82. Eduardo Abu Ltaif, *The Limitations of the Consociational Arrangements in Iraq*, 38 *Ethnopolitics Papers*, 6-7 (2015).

83. Donald L. Horowitz, *Ethnic groups in conflict* 302-305 (2nd ed. 2000) (If one ethnic group moves towards the extreme, other ethnic groups will follow.)

84. Malcolm Kerr, *Political Decision Making in a Confessional Democracy*, in *Politics in Lebanon*, 187-212 (Leonard Binder, ed., 1966).

85. Salamey, *supra* note 82, 85-6.

86. Ltaif, *supra* note 83, 7-9.

The absence of equal distribution of power at the lower level was due to political extremism of office holders at the top. For example, by inciting fear among Shi'ites against the Iraqyia Party, dominated mostly by Sunnis, Nouri al-Maliki gained their support to become the Prime Minister.⁸⁷ After becoming the Prime-Minister, Maliki retreated from his commitment to other groups and dropped their nominees from the cabinet list.⁸⁸ This led to political crisis and eventually to destabilization of the state.

Therefore, any explicit distribution of power based on ethnicity is an ethnicizing arrangement, which tends to favor ethnic extremists, deepen ethnic division, and sustain ethnic consciousness. In the long run, such an arrangement is likely to switch the political culture from political centripetalism to centrifugalism in Afghanistan.

4. Alternative Presidential Systems: Collegial and Slate-Proportional Presidentialism

Linz criticizes presidential elections as zero-sum games, where the winner wins the office and losers have to step aside with empty hands.⁸⁹ This effect of presidential elections becomes particularly problematic when candidates from a single group win the election every time.⁹⁰ This leads to frustrations in other ethnic groups,⁹¹ which in turn hinders *depoliticization* of ethnic affiliations.⁹²

With just three past presidential elections,⁹³ frustrations have already grown among different ethnic groups in Afghanistan as Pashtun candidates have consistently won the office.⁹⁴ These concerns have been reflected in the writings of Kenneth Katzman, who posited that the “president will always be an ethnic Pashtun.”⁹⁵ Indeed, one of the main reasons the Northern Alliance⁹⁶ proposed a parliamentary and a semi-presidential system instead of a presidential

87. Id. at 7.

88. Id.

89. Mainwaring, *supra* note 95, at 450.

90. See *id.*

91. James Ingalls, *supra* note 6, at 142.

92. For understanding the concept and process of politicization and depoliticization as well as participation and de-participation of ethnic groups refer to Heather Stoll, *Changing Societies, Changing Party Systems* 23, 37-45 (2013).

93. In fact, four presidential elections have been held since 2001. The first election was held in an Emergency Loya Jirga for choosing the head of a temporary government. This election has not been studied in article since it was not a direct popular election.

94. James Ingalls, *supra* note 6, at 142.

95. Katzman, *supra* note 3, at 7.

96. The Northern Alliance consisted mainly of Tajik, Hazara, and Uzbeks parties.

constitution⁹⁷ is that other ethnic groups wanted to make the highest executive office accessible to their candidates.⁹⁸

To ensure that major ethnic groups are entrusted with the government, constitutional designers in some presidential democracies have engineered unorthodox constitutional arrangements. For example, Switzerland's Constitution introduced *collegial presidentialism*,⁹⁹ which is a federal council of seven members where the presidency is rotated annually among its members.¹⁰⁰ This collegial executive was created to reflect the socio-political heterogeneity of Switzerland at the highest level of government.¹⁰¹ A similar system was tried twice in Uruguay but did not work.¹⁰² Cyprus at one point (1960–1963) adopted a system of co-presidency, where the president and vice president were from different ethnic groups and they shared equal constitutional powers.¹⁰³

An alternative presidential system is what I refer to as a *slate-proportional presidency*. A proportional presidency enables a slate of two candidates to share the same presidential term, although with their own administrations in a sequence. It is a *slate presidency* because each coalition introduces a slate of two presidential candidates and the voters vote for a slate first and for a candidate in that slate later; and, it is a *proportional presidency* since the span of each president's administration must be proportional to the votes s/he receives.

In order to have an optimal outcome, this system must have certain characteristics. First, under this system, one presidential term should be at least five years to allow each administration to have a life span of at least a year and half. Second, the life

97. See Migration Review Tribunal, Background Paper: Afghanistan: Political Parties and Insurgent Groups 2001–2013, 5 (Mar. 7, 2013), https://www.ecoi.net/file_upload/1226_1369733768_ppig2.pdf; International Council on Security and Development, Decision Point 2009: Afghanistan's Presidential Election: Power to the People, or the Powerful? (2009), http://www.nps.edu/programs/ccs/Elections/ICOS_elections.pdf; Gran Hewad, The New National Front: A Dark Horse Returns with Three Riders, Afghanistan Analyst Network 1 (Dec. 2011) <https://www.afghanistan-analysts.org/the-new-national-front-a-dark-horse-returns-with-three-riders/>; Jackson Keith, Institute for the Study of War, Backgrounder: The Formation of Electoral Alliances in Afghan Politics in 2014, 5 (2013), <http://www.understandingwar.org/>.

98. Id; see also Hether K. Gerken, Keynote Address: What Election Law Has to Say About Constitutional Law, 44 Ind. L. Rev. 9 (2010) ("It is not difficult to imagine why... minorities would desire a chance to be in charge for reasons that have nothing to do with political outcomes or the distribution of tangible goods.").

99. David Altman, Collegiate Executives and Direct Democracy in Switzerland and Uruguay: Similar Institutions, Opposite Political Goals, Distinct Results, 14 Swiss Pol. Sci. Rev. 483, 484 (2008).

100. See Bundesverfassung [BV] [Constitution] Apr. 18, 1999, SR 101, art. 174-176 (Switz.).

101. See Altman, *supra* note 179, 484; Arend Lijphart, Democracy in Plural Societies: A Comparative Exploration, 31 (1977).

102. See id, Lijphart, at 212-13.

103. Shugart & Carey, *infra* 184, at 99-100.

span of each president's administration should be proportional to the votes each president receives. Fourth, if the vote share of the second candidate falls short of providing him or her a year and half length of administration, the first winner gets to be the president for a full presidential term. Fifth, the president with a higher percentage of vote runs the first administration and the one with lower percentage of votes runs the second.

Assuming that Abdullah and Ghani were both introduced by a coalition in the same ticket, a slate-proportional presidency would have led to a single round of elections in 2014 in Afghanistan. Under a five-year presidential term, Abdullah would have taken the office for almost three years, proportional to his forty-five percent votes. Subsequently, Ashraf Ghani would have been the president for a little over two years (see Table III). Electoral fraud and ethnic tension would have been less likely since there would not have been a second round and all stakeholders would have been sure about the presidency of their candidates.

Table III. shows the duration of Abdullah and Ghani's presidencies (in accordance with their votes) under an eight-year proportional presidency model.

Proportional Presidential Under an Eight-Year Term		
Candidates	Votes	Years in Office
Dr. Abdullah	45%	years 2.9
Dr. Ghani	31.6%	years 2.1

The *slate-proportional presidency* is different from the *collegial presidentialism* seen in countries like Switzerland and Uruguay.¹⁰⁴ In Switzerland, there is a council of seven-members who rotationally lead the country as the president every year.¹⁰⁵ Proportionality in collegial presidentialism indicates that the number of the presidents is proportional to the social cleavages and respective political parties.¹⁰⁶ In *slate-proportional presidency*, however, proportionality

104. Matthew Soberg Shugart & John M. Carey, *Presidents and Assemblies, Constitutional Design and Electoral Dynamics*, 96 (1992).

105. Lijphart, *supra* note 181, at 76.

106. See Wolf Linder & Isabelle Steffen, *Forum of Federation, Swiss Confederation 7* (2006), <http://www.thomasfleiner.ch/files/categories/IntensivkursII/Switzerlandg3.pdf>.

determines the longevity of each administration by the share of votes that each president wins.

The *slate-proportional presidency* is also different from co-presidency, which was implemented to some extent in Cyprus (1960–1963).¹⁰⁷ Under a co-presidency, as proposed by Matthew Shugart and John Carey, the president and vice president are elected on the same ticket by voters.¹⁰⁸ They form the same administration, although they represent different ethnic groups and clearly have equal powers.¹⁰⁹ *Slate-proportional presidency*, however, suggests separate administrations on the basis of vote shares of two presidential candidates. In this way, a proportional presidency avoids the *cohabitation*¹¹⁰ that exists in co-presidency, as Shugart and Carey willingly admit.¹¹¹

This system has a number of advantages. First, although candidates' votes would determine the length of their presidencies, both presidents would be from the same coalition. Since both presidents are off the same coalition (slate) this will help congruity in administrations' policies. It is mainly because they are more likely to follow the same political agenda and less likely to reshuffle the whole executive or cabinet when the second president takes office.

Another major advantage of proportional presidency is the fact that it properly responds to the frustration of ethnic groups by allowing their candidates to possibly run an administration in different presidential terms. Knowing their candidates can win elections, voters have little incentive to stay in their ethnic boxes and elites have little justification to mobilize their ethnic groups.¹¹² However, this advantage does not equally apply to all ethnic groups; for instance, Hazaras, Uzbeks, and other minorities still have little chance to win elections as presidents.¹¹³ As a solution, including two Vice Presidents in the slate would

107. Shugart & Carey, *supra* note 184, at 99-100.

108. However, in Cyprus, the president and vice president were elected separately and by different constituents. See *id.*, at 99.

109. *Id.* at 99-100, 103-105.

110. Cohabitation refers to situation where a political confrontation occurs between the president and prime minister and/or parliament. See Jayadeva Uyangoda, *The Dynamics of Coalition Politics and Democracy in Sri Lanka*, in *Coalition Politics and Democratic Institutionalization in Asia* 211 (E. Sridharan eds., 2012); Terrence E. Cook, *Nested Political Coalitions: Nations, Regime, Program, Cabinet* 166 (2002).

111. Shugart & Carey, *supra* note 184, at 104.

112. T. Clark Durant & Michael Weintraub, *An Institutional Solution for Ethnic Patronage Politics*, 26 *Journal of Theoretical Politics* 59 (2014) ("insofar as a citizen expects to spend some time "in" and some time "out," then it is easier to come to a time-consistent consensus to create a socially productive scope of office.")

113. Sven Gunnar Simonsen, *Ethnicising Afghanistan? Inclusion and Exclusion in Post-Bonn Institution Building*, 25 *Third World Quarterly* 707, 714 (2006) ("In a deeply divided society it is difficult for someone from a small

allow each presidential ticket to represent at least the four large ethnic groups. Allowing the two vice presidents to remain in the office for a full presidential term, regardless of president alternations, would lead to three positive outcomes. First, it would help with the continuity of policy implementation when the second winner becomes the president. Second, the supporters of vice presidents would likely cast merit-based votes when their vice president candidates are members of the slate rather than nominees of individual candidates. Third, the ethnic groups represented by the Vice Presidents would be satisfied with the fact that although their representatives in the executive do not have as much power as the presidents, their terms in office would exceed those of the presidents.

A somewhat similar arrangement to slate-proportional presidency was experienced by Mauritius. In this country, one executive term was divided equally between two prime ministers, although through an agreement between the coalition partners rather than through some constitutional provisions.¹¹⁴ Thanks to this agreement, for the first time in Mauritius, an elite from a minority group—a non-Hindu—was able to become the prime minister.¹¹⁵ Colombia is another country that followed a similar approach. In 1958, in order to put an end to civil war, the two dominant parties of Colombia agreed on a consociational form of government.¹¹⁶ Under this consociational arrangement, they rotated the presidency every four years and split seats in the Congress, as well as other government agencies, evenly for over sixteen years.¹¹⁷ Nonetheless, one major difference between these arrangements and the slate-proportional presidency is that the latter is a constitutional design and not a temporary arrangement between rival parties. In effect, the latter is likely to generate incentives for long-lasting coalitions.

5. Reforming the System and Taming the President

Contrary to the conventional perceptions, Afghan governments have reflected less or more ethnic distribution in Afghanistan under the current presidential

group to be elected president.”)

114. Denis Kadima & Roukaya Kasenally, *The Formation, Collapse and Revival of Political Party Coalitions in Mauritius: Ethnic Logic and Calculation at Play*, in *The Politics of Party Coalitions in Africa* 82 (Denis Kadima ed., 2006).

115. *Id.*

116. Arend Lijphart, *Thinking About Democracy: Power Sharing And Majority Rule In Theory And Practice* 29-30 (2008).

117. *Id.*; Scott Mainwaring, *Presidentialism, Multiparty Systems, and Democracy: The Difficult Equation* 7 (Kellogg Institute, Working Paper No. 144, 1990).

system (see Table IV). It has been mainly due to the presidents' returning of favor to their electoral allies through portfolio allocation. In fact, political distribution has been the main bargaining chip for pre-electoral coalitions under the current presidential constitution.¹¹⁸ In addition to portfolio allocation on the cabinet level, presidents have used secondary posts such as governorship of provinces, ambassadorial positions, and positions in other ministerial and non-ministerial agencies to satisfy their coalitions at the lower level, especially the elites from smaller groups.¹¹⁹ Inclusive governments have also been because the presidents have needed the approval of the WJ for cabinet formation.

Table IV: shows ethnic representations in different cabinet formations as well as after cabinet reshuffling.¹²⁰

Cabinet Reshuffles	Portfolio Allocations									
	Pashtun		Tajik		Hazara		Uzbek		Other	
The 2004 Government	8	30%	10	19%	5	19%	2	7%	2	7%
Cabinet Re- (shuffle (2005	9	36%	9	12%	3	12%	3	12%	1	4%

118. Id. at 144-145.

119. Timor Sharan, Dynamic Quadrat Shabaka Hai Seyasi Dar Intekhabat Ryasat Jamhuri 2009 [The Dynamics of Political Networks in the Presidential Election of 2009], in *Democracy Afghani: Fursat Ha Wa Chalish Ha* [Afghan Democracy: Challenges and Opportunities] (Mohammad Nabi Ahmadi & Majid Ismaelzada, eds., 1393) 146-7 [2014].

120. U.S. Welcomes Afghan President Karzai's Cabinet Appointments, *Global Security* (Dec. 27, 2004) <http://www.globalsecurity.org/military/library/news/2004/12/mil-041227-usia04.htm>; Karzai To Replace Foreign Minister, *Dawn* (Mar. 23, 2006) <http://www.dawn.com/news/184473/karzai-to-replace-foreign-minister>; Chris Hawke, Karzai's Cabinet Picks Get Green Light, *Associate Press* (Aug. 8, 2006) http://archive.boston.com/news/world/articles/2006/08/08/karzais_cabinet_picks_get_green_light/?camp=pm; Cabinet List 2005-2009, *Afghan Bio*, http://www.afghan-bios.info/index.php?option=com_afghanbios&id=364&task=view&total=2455&start=455&Itemid=2; Martine van Bijlert, The Cabinet Vote: Fourteen In, Eleven To Go, *Afghanistan Analyst Network* (Jan. 16, 2010) <https://www.afghanistan-analysts.org/the-cabinet-vote-fourteen-in-eleven-to-go/>; Cabinet List No.4 20100628, *Afghan Bio*, http://www.afghan-bios.info/index.php?option=com_afghanbios&id=367&task=view&total=2467&start=468&Itemid=2; Cabinet List No.1 20100102, *Afghan Bio*, http://www.afghan-bios.info/index.php?option=com_afghanbios&id=364&task=view&total=3405&start=657&Itemid=2; Cabinet List No.2 20100109, *Afghan Bio*, http://www.afghan-bios.info/index.php?option=com_afghanbios&id=365&task=view&total=3405&start=658&Itemid=2; Cabinet List No.3 2010, *Afghan Bio*, http://www.afghan-bios.info/index.php?option=com_afghanbios&id=366&task=view&total=3405&start=659&Itemid=2; Kate Clark, The Cabinet and the Parliament: Afghanistan's Government In Trouble Before It Is Formed, *Afghanistan Analyst Network*, <https://www.afghanistan-analysts.org/the-cabinet-and-the-parliament-afghanistans-government-in-trouble-before-it-is-formed/>; Who is who In Afghanistan: *Afghanistan Biography*, <http://www.afghan-bios.info/database.html>.

Cabinet Re- shuffle (2008- (09	10	40%	7	12%	3	12%	4	16%	1	4%
The 2009 Gov- ernment	9	35%	9	15%	4	15%	4	15%	0	0%
Cabinet Re- (shuffle (2010	9	35%	9	12%	3	12%	4	15%	1	4%
Cabinet Re- (shuffle (2012	9	35%	9	12%	3	12%	4	15%	1	4%
Cabinet Re- (shuffle (2013	10	38%	8	12%	3	12%	4	15%	1	4%
The 2014 Gov- ernment	10	38%	8	19%	5	19%	2	8%	1	4%

However, inclusive cabinets have not led to consolidation of cross-ethnic coalitions. Neither, have the presidents valued the support of their allies for policy development or even approval of their policies in the legislature. In fact, the reason that the presidents have been committed to inclusive executive but not inclusive policies, is that presidents have been depended on legislature's approval for the former but not necessarily for the latter. Afghan presidents have broad legislative powers. Studies have indicated that the presidents with fewer legislative powers are more prone to parliamentary coalition-making and inclusive government than the presidents with more legislative powers.¹²¹ Managing this issue would require amending the Constitution and reducing or abolishing some legislative powers of the President. For instance, Afghan presidents have item veto power, which is not common in presidential democracies. A study by Shugart and

121. Mariana Llanos, Explaining Coalition Performance in Presidential Systems: The Importance of (a Parliamentary-style) Coalition Management, 12-13 (European Consortium of Political Research, Presentation Paper, 2006) ("In particular, the organisation of the legislative work (centralised or decentralised), the president's legislative powers, especially his or her powers over the budget (to what extent they allow the president to decide discretionary on the implementation of local projects), and the president's capacity to distribute posts in the federal government are usually used to explain different coalition types and the performance of coalitions in delivering congressional party discipline."); Cecilia Mart nez-Gallardo, Out of the Cabinet : What Drives Defections From the Government in Presidential Systems? 45 Comparative Political Studies, 64 (2011); Eduardo Alem n & George Tsebelis, Political Parties and Government Coalitions in the Americas, 1/3 Journal Of Politics In Latin America, 3-28, 11-12 (2011) ("Shugart and Carey's (1992) seminal work differentiated presidential systems according to executive authority, and argued that high legislative powers gave presidents opportunities to sidestep congress, opening the door to regime instability.")

Mainwaring indicates that among 23 Latin American countries, 15 constitutions do not provide the president with item vetoes. Item veto provides the president with leverage over the assembly, enabling the president to keep his or her favored items in the law while removing the unfavorable items without needing to compromise with the assembly.¹²² Following the majority of presidential constitutions, a reform in the Afghan Constitution would require abolishing the item veto power of the President.

Additionally, requiring a quorum of two-thirds of the WJ to override a presidential veto is a high threshold for WJ to fulfill.¹²³ Afghanistan is one of the very few presidential democracies where the constitution requires a supermajority of the WJ to repeal a presidential veto. The threshold for veto overriding is a simple majority in Venezuela, absolute majority in Nicaragua, absolute majority of joined houses in Brazil and Colombia, and absolute majority of present members in Uruguay.¹²⁴ Perhaps not coincidentally, with the exception of Brazil, all these countries have stable coalitions or party systems. In Indonesia and Sri Lanka, the presidents have no veto power or their veto power can be reversed by only a simple majority of their legislatures.

Additionally, Afghan presidents have strong legislative decree authority. Using this authority, Afghan presidents have been able to bypass the WJ to make laws on their own. To reduce this power, the Afghan Constitution should reduce the veto override threshold to a simple majority to limit the legislative power of the president. A further constitutional reform should reduce the items, on which the President would have legislative decree authority.

6. Conclusion

This study examined alternative forms of government in Afghanistan to explain what political regime can best accommodate power-sharing, social integration, and institutionalization of cross-ethnic coalitions. In its short history of democratization in two waves, Afghanistan has experienced all three political regimes: a parliamentary system (1963–1973), a presidential constitution (2004–2014), and a *de facto* semi-presidential system (2014–present). These

122. John M. Carey, The Impact of Constitutional Choices on the Performance of Presidential Regimes, *J. of Soc. Sci. & Phil.* 116 (1999); Gabriel L. Negretto, Government Capacities and Policy Making by Decree in Latin America The Cases of Brazil and Argentina, 37 *Comp. Pol. Stud.* 531, 540 (2004).

123. Constitution, art. 94.

124. John M Carey, Presidential versus Parliamentary Government, in *Handbook of New Institutional Economics* 91, 107 (Claude Menard & Mary M. Shirley, eds., 2008).

experiences of Afghanistan were used to examine the role of alternative political systems in ethnic accommodation. It concluded that parliamentary and semi-presidential systems may remedy some of the flaws of current presidential system but they instigate other problems. For example, a parliamentary system is likely lead to unstable and less inclusive governments; and, a semi-presidential system may lead to cohabitation and political deadlock to say the least. Therefore, the present author proposes reforming the current presidential system through a constitutional amendment rather than replacing the system with an alternative. Particularly, he recommends reducing the legislative power of the president.