



Components of State-Building in Iraq Post-2003

Rahman Abdul-Hussain Al-Zaher

Email: drr389087@gmail.com

Fatima Jawad Kazim

Email: Omali1604@uomustansiriyah.edu.iq

Received: November 8, 2021; reviews: 2; accepted: June 29, 2022.

Abstract

Post-2003, Iraq went through an important historical period, which led to radical change at various political, economic and social levels. Especially the question of its transition from a totalitarian dictatorial regime to a pluralistic democratic system. The process of building the state in Iraq required the foundation and dependence on basic components to reach the state of citizenship, institutions and law, and these components are represented by political components represented by democracy, the mechanism of election in the rotation of power, and the adoption of multiparty and political pluralism. The legal components were the existence of the Constitution and its legitimate sovereignty, the preservation of the principle of separation of powers, and the guarantee of rights, freedoms and control.

Keywords

Political components, economic components, state building, Iraq, 2003

JEL Classifications: J11, F43

Introduction

State-building is a fundamental process that requires the essential components, pillars, and bases for its accomplishment. Integrated within the legal, political, economic, social, security, and cultural frameworks, the Components are a set of core components or conditions upon which the success of the state-building objective is predicated. This research focused on the most significant aspects of constructing the Iraqi state after 2003, including the political, legal, economic, social, and cultural aspects that play a significant role in the process of constructing the Iraqi state. Additionally, it seeks to define the

political, legal, economic, and social components. Its effect on the nation-building process in Iraq post-2003. Without a doubt, the Constitution is the legal and political foundation upon which the building of the Iraqi state is achieved.

The research came in two sections:

Theme I: Legal and Political Components

Theme II: Economic and Social Components

I. Legal and Political Components

1) Legal Components: The legal components are regarded as guarantees for the continuation and survival of the state and the organization of societies. The rules of law address everyone in their capacities and not in their names, are devoid of all partial circumstances and fine details and are characterized by being obligatory and accompanied by a material sanction.

Essential of Legal Components

Existing of Constitution and its Legal Authority

Each state has a constitution that outlines the essentials and rules that govern that state. The constitution is the basic rule of the state of law, building its institutions, guaranteeing the freedoms of individuals, and achieving the principles of equality and justice. According to the constitution, the form of the state, whether simple or complex and the form of government, monarchical or republican, parliamentary or presidential, is determined. (Muntasir Billah 2015).

The legal aspect is the source of strength for all other legislation in the country because it plays a role in the formation of state authorities, determining their powers, and establishing limits for each of them so that they do not conflict, as well as providing protections for the freedoms and rights enjoyed by the people.

However, what distinguishes a lawful state from others?

The response is that the majority of countries in the world have written constitutions, but what distinguishes a state of law from others is the dedication of its rulers and all of its residents to its rules and provisions. While moves in the opposite direction on this subject would be detrimental.

One of the most essential responsibilities of the Constitution is to control the legality of legislation, which is one of the most important measures of ensuring respect for the Constitution. This control can be either political or judicial. (Anbaki 2015).

Political oversight: It is conducted by a political entity independent of the legislature and the judiciary, and it is regarded as a preventative check prior to the issuance of laws.

Regarding judicial oversight, it is carried out by a judicial body that is regarded as the best in terms of composition. Its members are chosen from the

legalists, and it has the power to repeal unconstitutional legislation or function as an abstention control, prohibiting a judge from enforcing a law.

Iraq has recently relied on judicial oversight, which is carried out by the Federal Court, which is (a financially and administratively autonomous judicial body consisting of a number of judges and experts in Islamic jurisprudence) according to Article (92) of the 2005 Iraqi Constitution.

Article 94 of the Constitution stipulates that the decisions of the Federal Court are final and binding on all authorities. Article 13 declares that the Iraqi Constitution is the supreme law in the country. (Muntasir Billah 2015).

From the above, it is clear that the existence and sovereignty of the Constitution is one of the most essential legal components of state-building, and that the Constitution must trump all other laws, and that rulers and citizens must adhere to and respect its laws.

The State's Control Institutions

The performance of the functions of the official institutions (legislative, executive, and judicial) in the state and the enjoyment of the privileges and powers they possess under the Constitution can lead to disputes or a departure from legitimacy; thus, oversight is necessary to ensure that the official institutions adhere to the legal frameworks outlined in the Constitution. (Anbaki 2015).

Types of Control

a) **Parliamentary oversight:** The legislative institution (parliament) assumes the task of overseeing the performance of the government, which has been done in parliamentary systems in particular and to a lesser extent in mixed systems.

b) **Constitutional oversight** It indicates that a judicial body bears responsibility for ensuring that other institutions and bodies comply with the constitution and the law.

c) **The people's supervisory:** In any democratic society, the supreme monitoring power is the people's supervisory, It oversees the work of Parliament and the administration in the public interest and strives to enhance the quality and efficiency of legislative and government performance. (Ben jilali, 2016).

The Guarantee of the Fundamental Rights and Liberties

A guarantee and respect for liberties must be accessible to fulfil the process of establishing the state. These rights and liberties are not represented by a single principle, but by multiple principles, including personal freedom, freedom of thought, and freedom of belief. Freedom does not imply that an individual can do whatever he pleases; even the most democratic nations have

restrictions on the freedoms of their citizens in order to regulate them, not eliminate or diminish them. (Abdul Karim, 2021).

The list of liberties is at the forefront of the majority of the world's constitutions, but the problem lies in the seriousness and capacity of these countries to provide mechanisms that ensure the protection of these rights and freedoms, both public and private, including political, cultural, economic, and social rights and freedoms, and the freedom to exercise them by members of society.

The French Declaration of Human and Citizen's Rights of 1789 is the first positivist attempt to articulate fundamental rights and liberties, establishing that humans are born free. In 1948, the United Nations adopted the Universal Declaration of Human Rights.

As for the Iraqi Constitution, Part Two of 2005 / Articles (14-36) outlined numerous civil, political, social, economic, and cultural rights, as well as public freedoms based on the criterion of good citizenship, including the right to life, security, liberty, privacy, inviolability of the home, and the inadmissibility of revocation of nationality, as well as criminal offences and penalties are determined only by the law, and that The accused is innocent until proven guilty. irrespective of religious, sectarian, or national factors. In order to prevent the enactment of laws incompatible with fundamental rights and freedoms, article II of the Constitution prohibits the enactment of any such legislation. (Ghazai, 2019).

2) Political Components:

The process of building the state is primarily a political path, and its contents and objectives vary according to those in charge of the state-building process and the prevailing social and economic context in that country. Therefore, it is evident that the construction process has dimensions that it seeks to achieve according to the prevailing environmental differences and that the process of building the state is linked to the type of state that seeks to be built.

The phase of change that Iraq went through after 2003 included a radical change of the political system and was regarded as one of the most significant periods in Iraq's modern history due to the accompanying results and circumstances at the internal and external levels, whether regional or international, as well as the distortion, ambiguity, and deviation of the democratic experience in Iraq, which was still in its infancy. (Abdullah 2015).

In the process of rebuilding the Iraqi state after 2003, the political components are founded on multiple pillars, including democracy and political involvement, the adoption of elections in the rotation of power, and the social and economic components.

1. Democracy: Prior to entering the concept of democracy, we must familiarize ourselves with its pillars.

1.1 Political participation: As part of the popular contribution, it is one of the pillars of democratic transition and a turning moment in establishing the basis for a democratic society. In addition to the political aspect, popular engagement includes the social, economic, and cultural dimensions.

Political involvement is popular participation, but solely on the political side, since it denotes an action undertaken by citizens to influence political and public affairs decision-making.

Political participation is one of the legitimate sources of the ruling political systems, and it now encompasses the inputs and outputs of the political system in a way that meets the needs of individuals and serves as a criterion for its development and expansion. It outlines the different sorts of rights and freedoms, such as the right to choose the ruling elites, the right to freedom of opinion and freedom of the press, and the freedom to form political parties, groups, and labor unions. (Abdullah 2015).

Active political participation aims to move toward a culture of pluralism and the participation of all parties in the political process, to get out of a state of fragmentation and conflict, to achieve independent institutions and a society governed by the law in accordance with the Constitution, and to be loyal to one's country and people.

1.2 Public Liberties: these are the rights given to citizens by the state through legislation enacted by the law, In a democratic environment, which corresponds to what the Constitution permits. These include fundamental, intellectual, social, economic, and political freedoms, which are one of the prerequisites for building a democracy because it includes at its core a multi-party.

The majority of democratic countries' constitutions, including the Iraqi Constitution of 2005, stipulate public freedoms, as stated in Chapter II of Part Two in Article (38), First: Freedom of expression of opinion by all means. Second, press, printing, advertising, media, and publishing freedom. Third, there is freedom of assembly and peaceful protest. (Amin 2009).

Article 39 stipulates the freedom to organize or join associations and political parties, as well as that no one shall be compelled to join any political party, organization, or association.

Article (45) specifies that the state shall seek to strengthen the role, development, and independence of civil society institutions by peaceful means and that the state is effective in furthering Iraqi tribes and clans in accordance with religion and the law. (Subaihi, 2009).

Article (46) states that none of the Constitution-guaranteed rights and freedoms may be restricted except by law, so long as it does not undermine the essence of the right or freedom.

1.3 Adopting the Election Mechanism in the peaceful handover of authority: Alternation of power refers to "the existence of mechanisms for the transfer of political office from one person to another, whether the incumbent of

the office is the President of the Republic or to the ministers in presidential or parliamentary systems; this expression has been popularized in Western liberal jurisprudence based on the view of peaceful deliberation as one of the criteria of democratic systems similar to those in the West."

power transitions must adhere to the outcomes of democratic elections. As a cornerstone of the constitutional framework In contrast to a theocracy (religious), which holds that the ruler leaves no room for power-sharing only by death or assassination, which is found in political systems where the leader remains in power until death. Therefore, the peaceful rotation of power is one of the most fundamental components of state-building in any society. A democratic government's rotation of power is based on a set tenure in office, as mandated by laws and constitutions. (Sharqawi, 2007).

The election is a democratic means of transferring power to the ruler, so some jurists associate democracy with the election and believe that there is no democracy unless an election is used to select a ruler. Election gives every citizen the right to participate in the selection of rulers and is general because it is the right of all citizens without exception, provided the citizen meets the conditions stipulated in the electoral law regarding age and nationality, and the right to vote is limited to citizens of the state.

Post-2003 Iraq relied on a peaceful method for the transfer of power, as Article 6 of the Iraqi Constitution stipulates that the transfer of power takes place through democratic means.

The choice of the electoral system is one of the most important decisions of the democratic system, as often a certain electoral system is chosen that leads the political life of the country in question to face serious challenges; therefore, the choice of the electoral system is made through a deliberate process, as opposed to the accidental selection of a system influenced by a set of unusual circumstances, a sudden historical shift, or issues of colonial legacies. (Sharqawi, 2007).

The Historical and Legal Scope of Iraq's Electoral System Selection

Just post- 2003, the occupation authorities issued an electoral law known as the election of the National Council of the Transitional Iraqi Government, which was later renamed the "Iraqi National Assembly" No. (96 of 2004), under which Iraq was considered a unified electoral district in which the election is carried out using a list system that does not cancel individual candidacy and in the manner of proportional representation. (Sharqawi, 2007).

On January 30, 2005, general elections were held throughout Iraq, including elections for the Interim National Assembly, the National Assembly of Kurdistan, and provincial councils. The referendum on the draft constitution (drawn up by the National Assembly), which took place on 15 October 2005, the general elections held under the Constitution on 15 December 2005, the 2010 elections, the 2014 elections, the 2018

and 2021 elections, and this mechanism is effective in the peaceful transfer of power, and it is a key ingredient in the construction of the Iraqi state.

II: Economic and Social Components

The economic and social components are one of the pillars of the state's natural resources and a source of its national power, and depend on the role of society as an actor and watchdog on the performance of the authority to know the extent of its compliance with the law. (Subaihi, 2009).

1. Economic Components: The group of natural and industrial resources supporting the general economy of the State, an important factor in assessing its economy and determining its rank among the countries of the world, and a fundamental indicator in measuring the way the State deals with the global economic crises it faces. It also strategically supports the country's economic sector by influencing global markets by promoting the exchange of goods and the provision of commercial services to and from the countries of the world. (Abdul Karim, 2021).

The change in the Iraqi political system after 2003 was the end of a period that lasted from 1964, during which time the state controlled the economy and directed it towards socialism and the pursuit of Arab economic unity as stated in the Iraqi Constitution of 1964, the Interim Constitution of 1968 and the Constitution of 1970. After Bremer assumed the presidency of the Coalition Provisional Authority, one of his economic advisers gave a summary of the prevailing economic situation in Iraq, which suffers from problems in infrastructure including electricity, water, communications and roads, but the measures taken were superficial due to lack of information, weakness in planning, and lack of good management of the economy. After the end of Governor Paul Bremer's authority on 8/3/2004, responsibility shifted from the CPA to an interim government headed by Iyad Allawi. (Zamili 2019).

During this transitional period, there were no clear provisions on the economic system of the Iraqi state, except for simple references regarding the authority of the transitional government to formulate foreign economic and trade policy, but after the entry into force of the Iraqi Constitution of 2005, the Constitution came with clear and explicit provisions on the economic orientation of the Iraqi state after 2003, as the Iraqi state ensured the reform of the Iraqi economy based on modern economic foundations, as stated in Article (25): The state completes the reform of the Iraqi economy according to modern economic foundations and in a way that ensures the investment of its full resources, diversification of its sources and the encouragement and development of the private sector." In addition to encouraging the private sector and stimulating investments in various sectors," according to Article 26, which stipulates that "the State shall ensure the promotion of investments in various sectors and shall regulate this by law." (Zamili 2019).

2. Social Components: It is founded upon the principle of diversity:

2.1 Community diversity. Iraq is a country marked by social disparities and differences. Iraq has included all Iraqi components since ancient times, and they have maintained their cohesion despite division, disintegration, and disharmony that have befallen them at some point as a result of their influence by internal and external political and social factors.

Iraq is characterized by social diversity based on national and religious diversity, as Arab nationalism is the nucleus of the Iraqi state and constitutes the majority of it, and is supplemented by the remaining existing nationalities, including Kurdish, Turkmen, Syriac, and Armenian, who all contributed to the process of rebuilding the Iraqi state, but not on a national basis.

2.2 Religious diversity: It encompasses a wide range of religions and sects, including Islam, Christianity, Yazidism, Sabaeans, and Shabaks, and thus occupies a significant portion of the formation of social components. These religions have played a significant role in the process of state formation, as evidenced by the leadership of power, governance institutions, and political parties. (Zamili 2019).

Social diversity in Iraq is determined by two primary factors: national diversity, which is exemplified by the existence of other nationalities besides Arab nationalism, which has a large and influential social size and has a level of cultural and ethnic specificity; and religious diversity, which is exemplified by the presence of a number of religious groups. The second area is religious and sectarian diversity, which is more complicated than the first due to the multiplicity of sects and the diversity of religions, which has had a clear effect on the social fabric on the one hand, and on the multiplicity of demands of these diverse sects and religions on the other. (Hims 2010).

To achieve the integration of social components in the process of building the Iraqi state, it is necessary to overcome the identity crisis, which requires serious steps by the political authority, and we believe that it lies in the rapid response to the demands of the various social components, and then their absorption into the institutions of the state, and that these sociological components should be endorsed the care and keenness of the state and attention to its demands, and attract sub-identities towards joining its institutions. (Dakhil, 2019).

Conclusion

As a result of what has been discussed above

1. Individuals cannot secure their liberty in the absence of the Constitution.
2. Article 13 of the Iraqi Constitution affirms that the Constitution is the supreme law of Iraq.
3. The Iraqi Constitution affirms that no legislation can be introduced that conflicts with the rights and liberties enumerated in Article Two.

4. One of the political components of the state-building process is a democracy, and one of its cornerstones is political participation.

5. The Iraqi political system relied on elections as a peaceful vehicle for the transfer of power after 2003.

6. Overcoming the identity crisis by promptly reacting to the needs of diverse social components, attracting sub-identities, and integrating them into state institutions.

References

- Abdul Karim, A. A. W. (2021). *Building the State of Iraq Conflicting Currents and Future Visions*, First Edition, Radwan Cultural Foundation, Beirut/Lebanon.
- Abdullah, K. L. (2015). *Building the State in the Thought of Iraqi Political Parties and Forces after 2003 (Components_Obstacles)*, PhD thesis, Faculty of Political Science, University of Baghdad.
- Amin, A. M. (2009). *The Peaceful Transfer of Power in the Salmi System of Government*, Kirkuk University Journal of Humanities. 4(2).
- Anbaki, T. H. H. (2015). *Contemporary Political and Constitutional Systems Their Foundations, Components and Classifications*, Hammurabi Center for Research and Strategic Studies, Second Edition, Beirut, Lebanon.
- Ben jilali, M. A. (2016). *State Building Concept, Theories and Current Questions*, Political Studies, Egyptian Institute for Political and Strategic Studies.
- Dakhil, M. H. (2019). *The Challenges of State Building in Iraq After 2003 Obstacles and Prospects for Solution*, Journal of the Center for Kufa Studies. (55).
- Ghazai, M. M. (2019). *Political Participation and Influencing Factors A Theoretical Study*, Al-Riahin Publishing and Distribution.
- Hims, M. M. (2010). *Building the Iraqi State (A Neutral Vision)*, Diyala Magazine, Issue Forty-Third.
- Muntasir Billah, T. H. M. (2015). *The Problems of Building the State of Law: A Study in Concepts, Components and Foundations*. *Journal of Academia*(3).
- Sharqawi, S. (2007). *Al- Political Systems in the Contemporary Year*, Cairo University, Faculty of Law.
- Subaihi, M. I. K. (2009). *Policies of Building a Civil State in Iraq after 2003*, PhD thesis, Faculty of Political Science, Nahrain University.
- Zamili, Q. K. A. (2019). *Mechanisms of Building a Civil State in Iraq After 2003 (Obstacles Components)*, First Edition, Iraq Center for Studies.