



Re-Building a nation-state: Iraq's reconstruction after Saddam

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by

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Abstract

This is a study of the development of post-war Iraq after the downfall of former President Saddam Hussein in 2003. The thesis examines the actions and consequences of the coalition led by the United States to facilitate the re-construction of Iraq as a democratic nation-state. The thesis examines the geo-political, economic and ideological motivations behind the US actions in Iraq in order to explain why the coalition plans to reconstruct the country along the lines of a democratic nation-state have failed so profoundly. The thesis develops a typology of policies that lead to successful nation-state building in post-authoritarian and post-conflict scenarios and applies this typology to the actual policies implemented by the US-led coalition after the fall of Saddam in 2003. The thesis illustrates that many of the policies implemented by the coalition undermined successful nation-state building. These policies failed to ensure the security and stability of Iraq after the invasion and thereby hampered economic development. Rather than re-defining Iraqi nationhood in democratic terms, the implemented policies enshrined ethno-sectarian divisions in the political landscape and in the social fabric of Iraq. The new Iraqi state lacked a stable constitutional and legal foundation and a functioning judiciary to ensure the rule of law. Finally, the political order established by the US-led coalition is marred by partisan conflicts and Kurdish independence tendencies which weaken the central government and the operation of its various departments and further threaten the territorial integrity of the Iraqi state. The thesis argues – based on evidence gathered through a nation-wide survey, in-depth interviews with influential stakeholders in the public sectors and other material – that Iraq after 2003 has become a failed state.

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List of Acronyms

| NAME | ACRONYM |
|--|----------|
| African National Congress | ANC |
| Central Intelligence Agency | CIA |
| Council on Foreign Relations | CFR |
| Convention for a Democratic South Africa | CODESA |
| Coalition Provisional Authority | CPA |
| Constitutional Nation-Building | CNB |
| Depleted Uranium | DU |
| European Union | EU |
| European Union Force | EUFOR |
| Facilities Protection Service | FPS |
| United States General Accounting Office | GAO |
| Gross domestic product | GDP |
| Iraq Communications and Media Commission | ICMC/CMC |
| Iraqi Governance Council | IGC/GC |
| Implementation Force | IFOR |
| International Police Task Force | IPTF |
| International Monetary Fund | IMF |
| Iraqi National Congress | INC |
| Iraq Relief and Reconstruction Fund | IRRF |
| Islamic State in Iraq and Syria | ISIS |

| | |
|--|---------------|
| Kurdistan Democratic Party | KDP |
| Kurdistan Regional Government | KRG |
| Ministry of Communication | MOC |
| Multi-Party Negotiation Process | MPNP |
| North Atlantic Treaty Organisation | NATO |
| National Energy Policy Development Group | NEPDG |
| Organization of the Petroleum Exporting Countries | OPEC |
| Organisation for Economic Co-operation and Development | OECD |
| Organization for Security and Co-operation in Europe | OSCE |
| Provincial Reconstruction Teams | PRT/PRTs |
| Responsibility to Protect | R2P |
| Research Triangle Institute | RTI's |
| Patriotic Union of Kurdistan | PUK |
| Research and Development Corporation | RAND |
| Rocket-propelled grenade | RPG |
| Supreme Council for the Islamic Revolution in Iraq | SCIRI /ISCT S |
| Supervision Financial Committee | SFC |
| Socialist Federal Republic of Yugoslavia | SFRY |
| Stabilisation Force | SFOR |
| Traditional Administrative Law | TAL |
| Truth and Reconciliation Commission | TRC |
| United Nations | UN |
| UN Security Council | UNSC |

| | |
|--|----------|
| United State | US |
| Union of Soviet Socialist Republics | USSR |
| United Iraqi Alliance | UIA |
| United Nations Protection Force | UNPROFOR |
| United States Agency for International Development | USAID |
| Very Important Person | VIP |
| Weapons of Mass Destruction | WMD |

Chapter One: Introduction and Methodology

1.1 Background

This thesis examines the attempts to re-build the Iraqi nation-state by the US-led coalition after the overthrow of Saddam Hussein's regime in 2003. It offers a critical evaluation of the coalition's plans to rebuild Iraq as a nation-state in accordance with liberal and democratic values and practices. Such plans required the demolition of existing institutions and ending the practices that had prevailed in the country for decades including, tribalism, patriarchy, religious intervention in social and political life, single party domination and dictatorship. Theoretical approaches to the idea of the nation-state building process, in particular in post-conflict and post-authoritarian scenarios, are examined and applied to the Iraqi context.

1.1.1 Theoretical Framework of the Thesis

The thesis is a critical analysis of nation-state building in post-2003 Iraq on the basis of relevant theories and academic studies. In view of the major impact of US policies on state-building in Iraq, which this research examines, the scope of this study is extended to consider the motives for the US invasion of Iraq as well. A better understanding of these factors will help to give insight into events in Iraq after the US-led invasion in 2003.

One month before the invasion, the US President George W. Bush said:

“In Iraq, a dictator is building and hiding weapons that could enable him to dominate the Middle East and intimidate the civilized world – and we will not allow it.... The danger posed by Saddam Hussein and his weapons cannot be ignored or wished away... The first to benefit from a free Iraq would be the Iraqi people, themselves.” (Bush, 2003).

This was a clear statement setting out the rationale for US intervention in Iraq underpinned by a commitment to a democratic transformation of the country. The neo-conservative idea of a wave of democratic revolutions transforming the modern world is built upon historic ideas of democracy in an idealised form, very much reflecting the particular experience of the United States (Webel and Galtung, 2007: 87-88; Plappert, 2010: 2-3; Hall, 2017: 115; Blokker, 2009). As the experience of Iraq has revealed, this is a very problematic ideological framework around which to promote democracy around the world. Such an idealistic approach to the democratic

transformation of nation-states ignores that in fact both democracy and a stable nation-state are contingent forms and dependent on taking the specific circumstances of a particular nation-state into consideration. The experience of democratisation that has shaped the history of the US, Britain and France are quite unique, as states do not normally conform to liberal democracy. Further, democracy in those countries was built upon a complex interplay of factors including colonial conquest, the use of military power; the domination of sea-borne trade, the domination of the production of systems of knowledge that serve to underpin and ideologically justify colonial domination (what Wallerstein has called “geo-culture”) (Henke and Nicholson, 2008: 64), and the construction of the array of norms and institutional mechanisms that shape the organisation of these countries. None of these are open to a country like Iraq. Therefore, any route to democratisation will be qualitatively different to that experienced by states in the geo-political Western world. This is a point often overlooked in the models generated in the literature on democratisation (Hall, 2017: 116-117). Indeed, Iraq’s historical experience is a direct example of the actual relationship between Western hegemonic powers and so-called Third-World countries. Iraq has been a nation-state made real by the colonial actions of Britain, often working with domestic factors to serve the ends of Western states’ “foreign policy goals” – be they British or American, be they economic or geo-political.

The fact that Iraq has never had a stable and independent liberal-democratic nation-state is not just because it has a cultural legacy which is inimical to democracy. This is partly true of course; there have been and remain many anti-democratic traditions in Iraq. However, there have also been modernising and democratising forms at various times and places that often found themselves undermined by authoritarian rulers (Dawisha, 2015). Western-backed rulers of Iraq (monarchy or Baathist) or elsewhere in the Middle East were overthrown as a result of subversive and anti-democratic activities by Western hegemonic states themselves. This historical record suggests that at best the commitment of these states to democracy promotion across the Arab world has always been contingent and pragmatic, subordinated to their own domestic and foreign policy goals. Hence the major Western hegemonic powers such as the US have a long and documented record of backing the most anti-democratic rules in the region precisely because they were willing to subordinate the interests of their population to their own economic and geo-political goals (Volpi, 2013: 142-144). This placed the dictatorial and authoritarian regimes of the region in a highly dependent relationship with their Western backers that continues to this day with the House of Saud being perhaps the most striking example of a state whose existence is dependent upon and guaranteed by Western powers, the US in particular (Yeager, 2010: 18-22).

It is this power relationship in both colonial and post-colonial settings that has seen Iraq brought into existence after the collapse of the Ottoman Empire after World War I and which saw it become a subordinate part in a relationship with the hegemonic states of the West, first the UK, and then the USA after World War II (Petras, 2013). It is this relationship, this dependency of local social, economic and political institutions on Western hegemonic powers that has been most important in shaping the evolution of Iraq over the course of the 20th century and the 21st century so far. The modernisation of Iraq has taken place largely under the direction of the highly authoritarian Baathist regime which came to power following a *coup d'état* in 1963. At times, highly successful when measured in terms of the quality of life for the population (education, healthcare, gender equality and technological progress), Iraq's modernisation took place without democratic input by the population. The state under Baathist rule governed by patronage and coercion, suppressing movements that might challenge its authority. Its legitimacy stemmed from its ability to deliver forms of progress that improved the lives of the general population, and the dictatorship (particularly under Saddam) was always supported by political and economic actors of Western hegemonic powers (Coates, 2012: 118; Ward, 2008: 3; Thomas, 2008). The de-modernisation of Iraq began as a consequence of the war with Iran (1980-88) which enhanced the most authoritarian aspects of an already dictatorial state and caused a major social and economic crisis from which the country has never fully recovered (Walker, 1976: 39). Again, this was a conflict in which Western hegemonic powers, mainly but not exclusively the US supported both sides with arms and finance (Wogan, 2006: 18-27). This point illustrates the pragmatic nature of the foreign policy actions of these states towards the region quite clearly – rather than being driven by ideals it was driven by geo-political and economic interests.

1.1.2 Thesis Argument

This thesis focuses on the impact of the US-led coalition's plan for the reconstruction of Iraq after the fall of Saddam Hussain's post-2003 and seeks to describe and explain why that project failed and what the consequences have been for Iraq. Contrary to the coalition's claim, this thesis argues that Iraq has become a failed state, and the coalition's plans failed, for reasons that will be discussed and outlined. In 2011, former Secretary of State Hilary Clinton clarified the position of US political elites towards post-Saddam Iraq in a speech she gave to corporate executives at a State Department roundtable on investment in Iraq:

“Iraq has one of the largest customer bases in the entire Arab world. It has one of the world’s largest supplies of oil.... And so it’s time for the United States to start thinking of Iraq as a business opportunity..... Iraq is projected to grow faster than China in the next two years.... I’m very excited about what’s possible and I’m very hopeful about the future” (Clinton, 2011).

This disjuncture between the depiction of post-Saddam Iraq as an investment opportunity with the reality of Iraq as a failed state, unstable and in which life for the majority of citizens has become shaped by fear, violence and social conflict, illustrates quite clearly how far removed from the reality of life in Iraq after Saddam the neo-conservative vision is. At the heart of the failure of the coalition’s plans and the evolution of Iraq as a failed state has been the conflict between the democratising ideals of the neo-conservative agenda that drove US foreign policy under the George W. Bush presidency and the more long-term geo-political and economic goals that have shaped US foreign policy since its expansion into the role of global hegemon after World War II. The idea that the United States is an exceptional state with a unique historical and global mission to promote democracy around the world is a rhetorical trope that can be found quite easily and consistently in the speeches of US political elites. Again, it is worth returning to Hilary Clinton here and a review she wrote as a positive appraisal of the ideas of Henry Kissinger on US geo-politics:

“Henry Kissinger...sounds surprisingly idealistic. Even when there are tensions between our values and other objectives, America, he reminds us, succeeds by standing up for our values, not shirking them, and leads by engaging peoples and societies, the sources of legitimacy, not governments alone. ...our levers of leadership are not just about keeping our military strong and our diplomacy agile; they are about standing up for human rights, about advancing the rights and role of women and girls, about creating the space for a flourishing civil society and the conditions for broad-based development... ‘Any system of world order, to be sustainable, must be accepted as just — not only by leaders, but also by citizens,’ he writes” (Clinton, 2014).

At the very least, most academic literature on nation-building emphasises the role of a number of foundational institutions and practices that must be in place in order for a nation-state to be constructed, or re-constructed, in particular after the resolution of internal conflict or the end of an authoritarian regime. These have clearly been absent in the coalition plans for Iraq which have largely been an attempt to impose a particular political settlement on the Iraqi population

that would have served the economic and geo-political interests of the US and its allies. The failure of Iraq's reconstruction represents a major challenge to the idealised depiction of US foreign policy values which Clinton sets out regarding the role of the US in world politics.

1.1.3 Research Questions

The key research questions for the thesis are as follows:

1. Which policies lead to successful nation-state building in a post-conflict or post-authoritarian scenarios?
2. To what extent were these policies underpinning the coalition's plans for post-Saddam Iraq and implemented post-2003?
3. How do the realities of nation-state building in Iraq compare to the policies leading to successful nation-state building in other contexts?
4. How successful has been the process of nation-state building in Iraq post-2003?

The research questions focus on the nature of the coalition's plans for nation-state building and a democratic system in post-Saddam Iraq after the war and occupation in 2003 and examine the main obstacles to this process and its consequences that led to an unsuccessful attempt of nation-state building in Iraq and ultimately to a failed state.

1.1.4 Aims and Objectives

Iraq, since the US-led invasion of 2003, has provided a test-bed for the application or miss-application of approaches to nation-state building. The aim of this research is to critically evaluate, in the light of primary and secondary evidence, the nation-state building process in Iraq since 2003 with a particular focus on the role and strategies of the United States. This is addressed by engaging with examples of successful nation-state building in the last decades of the 20th century and a critical analysis of developments in Iraq post-2003 in light of these case studies. The coalition's plans for Iraq's reconstruction under occupation are discussed in depth on the basis of the results of an extensive national survey, interviews and focus-groups carried out in Iraq by the researcher.

1.2 The Structure of the Thesis

In the first part of this chapter the theoretical framework of this research will be set out. In the second part, both method and data triangulation of the results of the national survey, interviews and focus groups are discussed.

The second and third chapters will address the concept of nation-building; history, themes and perspectives, before turning to the emergence of Iraq as a modern nation-state. Chapter Two provides a general discussion of academic theories of successful nation-state building, critically disentangling the terms “nation” and “state” and identifying factors leading to the successful formation of a modern nation-state. Chapter Three will apply these theories to three case studies of successful nation-state building in post-conflict and post-authoritarian scenarios by discussing the examples of Poland, South Africa and Bosnia and Herzegovina. Out of the particular experiences of these three countries, a typology of policies is developed that lead to a successful transition to stable democracy after the end of civil conflict or decades of authoritarian rule.

In Chapter Four, the relationship between the US and Iraq before the 2003 war and afterwards is examined. The direct and indirect impact of US policies on the building of the Iraqi state is discussed. Nation-building in Iraq after 2003 will then be considered in Chapters Five to Seven, focusing on the role of US-led coalition in rebuilding the Iraqi state, and giving priority to politics, the constitution, laws and security. Conclusions drawn in these areas are based on the survey and the in-depth interviews undertaken for this research and supported by relevant academic studies. The insights from Chapter Two on successful nation-state building more generally and the typology developed in Chapter Three on the policies that lead to successful nation-state building in post-conflict or post-authoritarian scenarios will be applied to the Iraqi experience. An empirical study of the reconstruction of the Iraqi nation-state is carried out through the use of primary and secondary materials, mainly interviews with major Iraqi political, military, economic and religious figures.

1.3 Research Methodology

1.3.1 Introduction

This part describes the methods that have been used in order to undertake this research and the rationale for choosing them. It also provides a review of relevant literature, the social and political contexts for this study and other issues related to state-building. The research sheds light on contradictory policies with regard to the reconstruction of the Iraqi state after 2003 and the opportunities that were open to Iraqis to rebuild their state.

There are many ways to collect data – interviews, surveys, observations, focus groups, participatory experiences, testing, artefacts and through documents (Hanington and Martin, 2012; Johansson, 2004). Johansson (2004) describes the “triangulation” method as one important way to validate the results of data gathering. By using multiple sources of data collection, the reliability and solidity of collected data is cemented (Glesne and Peshkin, 1992: 24) According to Miles and Huberman (1984), “triangulation is supposed to support a finding by showing that independent measures of it agree with it or, at least, don’t contradict it” (Miles and Huberman, 1984: 234). Therefore, this study utilises triangulation as a method to inform and validate the research findings. The methods of triangulation, which “applies three or more – alternative approaches to each item” (Johansson, 2004: 36), are shown in the following table.

Table 1 Methods of triangulation (Johansson, 2004)

| No. | Method | Description |
|-----|--------------------------|--|
| 1 | Data triangulation | Uses several resources to collect data on the same subject |
| 2 | Researcher triangulation | Uses several researchers to study the same subject |
| 3 | Theory triangulation | Analyses the same data from different theoretical frameworks |
| 4 | Method triangulation | Uses several methods to collect data on the same subject |

The research of this thesis uses both method and data triangulation because methodological triangulation allows for the researcher to use multiple methods in order to gather and analyse data. Interviews, archival documents, a national survey, primary and secondary literature have been used to construct a diverse data-set and to employ data triangulation in order to address the primary research questions (O'Donoghue and Punch, 2003; Hox and Boeije, 2005).

1.3.2 Data Collection

The researcher used both qualitative and quantitative methods to organise the research. The combination of both research methods reflects the mixed methods approach of this study and the aim of collecting data from different sources and of different nature in order to provide an account of current perceptions of the US-led invasion of Iraq within contemporary Iraqi society that is as comprehensive as possible within the remit of this research. Quantitative data was gained by conducting a nation-wide survey using a questionnaire in order to gauge a fairly representative account of current views of the US-led invasion and the post-2003 nation-state building process. For the purpose of the research, 3,419 individuals participated in the survey, thereby triggering a rich set of data. To assess whether there are significant differences among groups, testing is conducted by applying the (95%) confidence interval to check whether the difference in the rate is statistically significant or not. Qualitative data was gathered by sampling survey participants to conduct both focus group and in-depth interviews. In-depth interviews mostly with key stakeholders in the Iraqi state representing different sections of the public sector were conducted in order to acquire more detailed data from important and influential figures in contemporary Iraqi society, representing its different ethnic and religious groups. The data gathered during the research is much greater than it has been possible to use in this study and could prove useful for subsequent research and publications. Different methods of data gathering were utilised in the course of the research conducted for this study. In the end, three focus groups, the country-wide survey (whose results are presented in 15 tables and 15 figures in Chapters Four to Seven) and 41 interviews form the basis of this study as data gathered through these sources directly addresses and informs the research questions and aims and objective of this study.

1.3.3 Choosing the Methodology

Bauman *et al* (2013) define research methods as “the various tools used to gather and analyse data in order to answer research questions”, while the research methodology “describes how to select the specific methods and considers the accuracy and efficiency of the methods chosen” (Bauman *et al*, 2013: 89). Similarly, Kirsch and Sullivan (1992) define research method as “a technique or way of proceeding in gathering evidence” and methodology as “the underlying theory and analysis of how research does or should proceed” (Kirsch and Sullivan, 1992: 2). This research dealt with respondents in a politically unstable environment where the topic of research is also very sensitive. In order to receive a clearer picture of the situation and more detailed information, a mixed-methods approach was used. Mixed-methods research means “adopting a research Strategy employing more than one type of research method” (Brannen, 2005: 4) and complements the idea of methodological triangulation that was discussed earlier.

1.3.4 Methodological Problems in Practice: Constrains

The main difficulties the researcher faced for this research were as follows:

- *First*: the overall lack of information regarding Iraq’s nation-building. There is no database, strategies, or any other plan from the past to refer to. In order to gather relevant data, the researcher extended the research horizontally to cover all the sectors and subjects involved in the states nation-building. These included the economy, politics, laws and judiciary, security, and management. For that reason, the researcher used a number of research methods including personal interviews with 41 relevant stakeholders, mostly in the public sector, a nation-wide survey to which 3,419 participants from nine provinces in Iraq responded, and three focus groups. In addition, relevant examples from the Iraqi media (newspapers and broadcasting) were consulted as well to gather further data and information.
- *Second*: there were no useful databases in Iraq or archives of state institutions’ data that could be studied and discussed. Therefore, the researcher had to collect most of the data from research participants individually including those working in the government, the public sector and non-governmental institutions, in order to acquire data relevant to this research.

- *Third:* gaining access to relevant stakeholders proved to be challenging for a number of reasons: the cultural and political sensitivity of the issues addressed in this research created a certain reluctance among potential research participants to respond to invitations to participate in the project. Travel through Iraq also proved difficult given the current security issues in the country. For this reason, extra care had to be undertaken in order to ensure the safety of the researcher and participants.
- *Fourth:* the researcher had to complete most of the questionnaires on hard copy (on paper) rather than immediately entering data into an electronic database in Arabic, and then translate the material into English, which turned out to be quite time-consuming but remained the only viable option to conduct the survey. The researcher had to enter the qualitative data three times – first by hand on the questionnaire forms, second in an electronic database in Arabic, and third in order to translate it into English. The quantitative data was manually entered into Excel sheet which then produced tables and figures summarising and presenting the accumulated data.

Issues around gaining access due to security concerns or transport restrictions were dealt with in the following manner; one option could have been to conduct interviews online (e.g. via Skype) or on the telephone. However, online or telephone interviews were not used because of significant potential disadvantages. Body language or facial expression which can be missed in such interviews can provide important pointers for probing for further detail to indicate different points of views than those being communicated verbally or in writing (Ritchie *et al*, 2013: 182). Therefore, the researcher ensured that in-depth interviews were conducted in person and made every effort to facilitate such interviews at locations that were safe, convenient and preferred by research participants. In this way, the respondent was relaxed and therefore open and willing to participate in the interview. This approach also allowed to address and respond to specific cultural sensitivities. An in-depth interview session varied between 1½ and 2 hours for each interview. All sessions were recorded on tape in order to facilitate swift analysis. The recordings were stored in a secure place to ensure the anonymity of research participants and the confidentiality of information provided.

The researcher conducted the entire survey, focus group discussions and in-depth interviews by himself, except for the survey conducted in the three provinces of Salah Al-din, Al-Anbar, and Nineveh (Mosul) due to the difficult security conditions. The researcher recruited two to

three local researchers in these provinces to conduct the survey. These researchers were recruited from the same area and shared the ethnic or sectarian background of the majority population in this particular province. It was therefore safe for them to conduct the survey on the researcher's behalf. The recruited researchers were informed about the nature and purpose of the research project and were fully instructed in how to conduct the survey and collect its data. Constant contact to the recruited researcher via telephone was also ensured. In order to ensure equivalent survey conditions, the same method in conducting the survey and the same questionnaire were used in the three provinces as in the safer provinces where the researcher undertook the survey by himself. All approached respondents were given the choice to participate in the survey or to decline participation. Equally, they could choose the time and location of completing the survey to ensure the safety of both research participants and the local researchers. Given the overall context of Iraqi society and its culture, the response rate among women was lower than that of men. Iraqi culture tends to be more socially conservative and patriarchal with women being less likely to participate in such public events or research activities as undertaken by the researcher.

1.3.5 Access to the Field

The security situation in Iraq has worsened dramatically since the US invasion in 2003. This has further increased the difficulties for researchers trying to conduct research in the country. The existing literature on Iraq has mostly been written by individuals whose access to Iraqi public spaces was restricted for security reasons. Identifying this gap in the existing literature, the researcher travelled to Iraq in order to get first-hand and "reliable" data. Being a local himself, the researcher only encountered few problems in terms of getting access to the different spheres of the society and different parts of the country (with the exception of the three provinces mentioned above). This research is based on fieldwork carried out from April 2010 to April 2011.

1.3.6 Questionnaires as a Research Method

Initially, open-ended questionnaires were used as part of a self-report survey but this did not yield a satisfactory response from respondents. Consequently, a closed one page questionnaire was developed. However, the flow of data generated many other questions. In order to include

these questions, as well as to make the questionnaire more understandable, the questionnaire was re-designed and more questions were included. The main problem with the use of questionnaires was the inability of some respondents to properly interpret certain questions (Bernard, 2011: 260). The shortcomings that were found with the data while using questionnaires were later dealt with by the use of in-depth interviews and focus group discussions.

1.3.7 Questionnaire Survey: Sample Selection and Size

The sample size for the survey conducted for this study was 3,419, selected randomly from nine Iraqi governorates. Among these provinces, the sample size was uniformly chosen based on the census of the Iraqi population by the Iraqi Ministry of Planning in 2007 (Table 2 and Figure 1). It also took into account gender and different age groups. The study includes participants from the age of 18 and above representing diverse ethnic groups, socio-economic classes and diverse political backgrounds. The study did not include Kurdish respondents who are residents in the Kurdistan Region of Iraq because the Region was not affected by the reconstruction effort in the same way as the rest of Iraq for three main reasons:

1. The Kurdistan Region has existed as a semi-independent state since 1991. Unlike the rest of the Iraq, it did not suffer from the UN sanctions under Saddam Hussein's regime.
2. US troops and their allies did not enter the Kurdistan Region, therefore it has been largely spared from the effects of the invasion.
3. All of the legislative changes that were enforced by the reconstruction had no effect on the Kurdistan Region. In fact, the Iraqi central government does not exercise any influence on the Region.

However, Kurds who are residents in other governorates are included in the surveys.

Recruitment for participants of the nation-wide survey was undertaken in cooperation with the authorities in each of the provinces in which the survey was conducted. After the researcher had signed a confidentiality agreement with the provincial authorities, they provided him access to the register of residents from their provincial database. Research participants aged between 18 and 55 were chosen from these provincial databases. Based on a sample size calculation for each province, a target number of participants for this research was identified

for each province. The researcher used a generator calculator to select a random sample from the databases. If possible and available, the researcher tried to contact potential participants by telephone (if a telephone number was provided) or visited them at home to invite them to participate in the survey. The researcher explained to potential participants the aims, objectives and purpose of the research and its survey when asking them to participate. They were made aware that participation is entirely voluntary and that they the right to withdraw from the survey at any time. Participants who took the survey were asked to sign a consent form to articulate in writing their agreement to participate in the survey. In total, the response rate was (17.8%) with variations between different provinces. The highest response rate was in Najaf (18.6%) and the lowest in Wasit (17.3%).

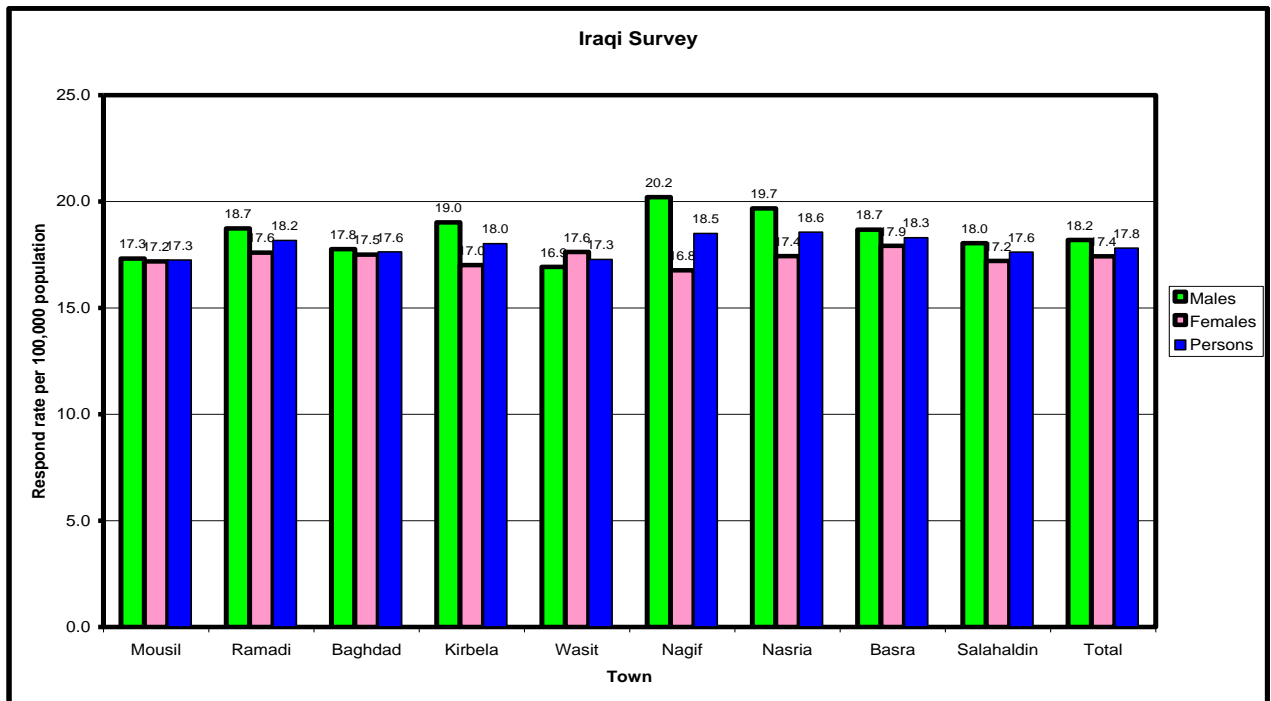
The questionnaire for the survey was developed after a pilot survey was conducted to gauge understanding and accessibility of questions contained in the survey. The final questionnaire used for the survey included different topics which were addressed in questions categorised in different sections. Initially, there was a total of 106 questions, but for the purpose of the survey used for this research 15 questions were used that are highly relevant to the research questions and aims and objectives of this research (see Appendix 3 for survey questions and Appendix 4 for sample survey).

In terms of the qualitative research, two methods were used: focus group discussions and in-depth interviews (see Appendix 1 for interviewees and Appendix 2 for questions) with key Iraqi stakeholders who possess the experience, expertise and professional background to address and inform the research questions. Focus group discussions were conducted with five to seven relevant stakeholders. In addition, the researcher conducted in-depth interviews with stakeholders. The questions asked during the focus group discussions and in-depth interviews were developed out of the research questions and aims and objectives of this research. Participants were fully briefed about the purpose, aims and objectives of the research and signed consent forms before participating in the focus group discussions or individual interviews. All discussions and interviews were recorded with the recording stored in a secure location to ensure the anonymity of research participants and protect the confidentiality of data gathered. The researcher acted as moderator during the focus group discussions and also conducted all in-depth interviews.

Table 2 Survey respondents and response rate per 100,000 populations by province and gender

| | Respondents | | | Estimated population 2007 | | | Response rate per 100,000 | | |
|--------------|--------------|--------------|--------------|------------------------------|------------------|-------------------|------------------------------|-------------|-------------|
| | Males | Females | Total | Males | Females | Total | Males | Females | Total |
| Mosul | 245 | 240 | 485 | 1414618 | 1396473 | 2811091 | 17.3 | 17.2 | 17.3 |
| Ramadi | 140 | 130 | 270 | 747270 | 738715 | 1485985 | 18.7 | 17.6 | 18.2 |
| Baghdad | 640 | 620 | 1260 | 3603224 | 3542246 | 7145470 | 17.8 | 17.5 | 17.6 |
| Karbala | 85 | 75 | 160 | 446933 | 440926 | 887859 | 19.0 | 17.0 | 18.0 |
| Wasit | 91 | 93 | 184 | 535561 | 529389 | 1064950 | 16.9 | 17.6 | 17.3 |
| Najaf | 110 | 90 | 200 | 544418 | 536785 | 1081203 | 20.2 | 16.8 | 18.5 |
| Nasiriya | 160 | 140 | 300 | 813158 | 803068 | 1616226 | 19.7 | 17.4 | 18.6 |
| Basra | 180 | 170 | 350 | 963731 | 948802 | 1912533 | 18.7 | 17.9 | 18.3 |
| Salah al-Din | 108 | 102 | 210 | 598598 | 592805 | 1191403 | 18.0 | 17.2 | 17.6 |
| Total | 1,759 | 1,660 | 3,419 | 9,667,511 | 9,529,209 | 19,196,720 | 18.2 | 17.4 | 17.8 |

Figure 1 Survey respondents and response rate per 100,000 populations by province and gender



1.3.8 Survey Questions

Bearing in mind Iraqi culture and the volatile current situation, the questionnaires were developed in a manner that would be acceptable to Iraqi respondents. The complete questionnaire is available in the Appendix of the thesis. In terms of the questions, a range of answer options were given for each question. The questions are formulated in a manner to yield qualitative data. They were divided into five major topics, as shown in the table below:

Table 3 Topics of major questions of the questionnaires survey

| No. | Topic | Survey topics |
|-----|------------------|---|
| 1 | US invasion | The reasons for the US occupation of Iraq/ Iraqi opposition/ the impact of theft and looting/ border protection/ disbanding the Iraqi military/ De-Baathification law/ Saddam's trial |
| 2 | Political system | Quota system/ political reality/ political parties/ the Constitution/ elections/ corruption |
| 3 | Security | the main actors responsible for the violence which occurred in Iraq after the occupation / State's performance in establishing security in state and society |
| 4 | Society | Iraqi freedom, life improvement and rights / to whom Iraqi people should go to complain |
| 5 | Transport | traffic rules and infrastructure / driving licenses / transport system |

The survey also provides information on each respondent as shown in the table below:

Table 4 Demographic information

| No. | Topic | Participants |
|-----|-------------|---|
| 1 | Professions | Employee, student, retired, unemployed |
| 2 | Sectors | Government, private, independent, own company, free enterprise |
| 3 | Age (years) | 18-25, 26-35, 36-45, 46-55 |
| 4 | Provinces | Baghdad, Basra, Nasiriya, Najaf, Karbala, Ramadi, Mosul, Salah al-Din and Wasit |
| 5 | Gender | Male and female |

1.3.9 Focus Group as a Research Method

A focus group is used by researchers as an interview style for small groups: “A Focus group is a group of people, usually between 6 and 12 who meet in an informal setting to talk about a particular topic that has been set by the researcher. The facilitator keeps the group on the topic but is otherwise non-directive, allowing the group to explore the subject from as many angles as they please” (Clifford *et al*, 2010: 149). Focus group discussions help participants and researchers to learn through discussions about psychological and socio-cultural characteristics and processes among various groups (Kawamura, 2011: 66). Many themes were covered in the focus groups. In order to increase the flow of data and to avoid any mishap (argument, quarrel) each designated group was relatively homogenous in political, ethnic and religious terms. Despite being able to conduct many focus group discussions, the researcher for the purpose of his own research came to the conclusion that interviews and questionnaires generated more relevant data compared to focus groups. Participants in focus groups, conducted by the researcher, despite their careful composition, were not confident and inclined to talk in front of other participants out of fear that their statements might be made public by other participants in the focus groups. Given the precarious situation in Iraq, statements leaked into the public domain might pose a threat to the job security of participants if not their own lives. Therefore, utmost caution had to be maintained to secure the confidentiality of statements made in focus groups and the anonymity of their participants.

1.3.10 Focus Group Topics

Three focus groups sessions, each composed of between five and eight participants, were conducted from December 2010 to March 2011. The focus groups involved participants from diverse sectors of society, backgrounds and genders. All discussions were recorded by the researcher and stored safely and lasted between one and two hours.

Due to the current situation in Iraq and its sensitive culture, some groups included only men; however, others were mixed groups. The topics for the focus groups were:

- (1) **Education**: The reality of education in Iraq and the relationship between universities and state departments
- (2) **Security of government contract employees**: Discussing their experience and specialisation and why they chose to work as contractors.
This included two focus groups:
 - (a) **Government permanent employees**: Interview with Iraqi state employees to know how they perform their jobs; to understand co-operation among different departments, administration and promotions.
 - (b) **Private contract employees**: Why do people prefer to work in the public sector rather than the private? What issues do they face? What are their living conditions? What do they try to achieve through their work?
- (3) **the religious tourism sector**: The role of the state in developing this sector.

Table 5 Focus group descriptions

| No | Group descriptions | No. of sessions | Participants | | |
|----|---------------------------------------|-----------------|--------------|-----------|-----------|
| | | | Male | Female | total |
| 1 | Academic | 01 | 04 | 02 | 06 |
| 2 | Guards – contracts and permanent jobs | 02 | (6+7) | 0 | 12 |
| 3 | Tourism region | 01 | 05 | 01 | 06 |
| | Total | 04 | 22 | 03 | 24 |

1.3.11 Focus Group Sessions

One focus group session was conducted at the University of Wasit, in Wasit province in the South of Baghdad. The aim of this session was to understand the development of the educational system in Iraq as it is seen by many researchers on the subject as fundamental to successful nation-state building. The group included six professors from different departments of the university. The questions asked were:

1. How do you evaluate the role of universities in supporting Iraqi nation-state building?
2. What is the role of the Ministry of Education in theory and in reality?

The group agreed that universities play a central role in nation-state building and in educating wider society and noted that in Iraq universities have not been able to fulfil this role. The main and most important factor that affects higher education was identified as being inefficient and corrupt management and leadership. Major changes to the important state positions occurred in Iraq after 2003. The Ministry of Education does not have any co-ordination between its various departments (even those that work inside the same building), as well as among other parts of the Ministry, including the universities. Most of the Ministry's decisions are made ad hoc rather than governed by clear long-term strategic objectives. In this sense, the Ministry hardly fulfils the role of a government department coordinating and developing public education in a modern nation-state, at least as Weber (as quoted in Pierson, 2004) conceives it. The group confirmed that the Ministry's decisions are taken without any consultation with universities which have to accept government decrees in return without any opportunity to challenge these. For instance, the University of Wasit made a policy that each professor supervises a maximum number of eight postgraduate students. However, the Ministry raised the number to 15 without any prior consultation. Such a decision would surely influence the quality of students' research. On the other hand, the selection of graduate students is mainly based on nepotism, bribery and political parties' support (Focus group, 27 February 2011).

Another focus group session was held in a religious shrine in the tourism zone South-West of Baghdad. The importance of this session was to understand the way that the state encourages the tourist areas in Iraq to develop the economy of the country. The group was comprised of six people working in the shrine area. Some of them managed tourism at the shrine itself. The main question for the focus group was:

1. What kind of support did this tourist area receive from the central and local government to develop and to encourage tourism to Iraq?

The group explained that there is a lack of co-ordination between them and the relevant authorities. The province of Babylon does not have any funds and is unable to provide financial support. Participants in the focus groups underlined the necessity of collaboration between the shrine committee and the provincial council in order to take appropriate steps to improve the infrastructure in and around the shrine itself and to ensure the security of tourists and pilgrims. However, such coordination has not been achieved so far. This tourist area suffers from a lack of services from the central and local governments. The main road to the shrine – which is one kilometre long – is unpaved, old and narrow, and no maintenance work has been conducted recently. Nonetheless the number of tourists and pilgrims visiting the shrine is in the thousands each day. Furthermore, there is a lack of medical support for the shrine area. As the respondents mentioned:

“We need to plan the urban area of the shrine, and the officials should be accountable and competent in their activities.”

This focus group gave a brief account of the infrastructural neglect and inefficiency of central and local governments. Specifically, it gave an idea about the failure of the state policy in improving the economy and social life by ignoring the provision of services. There are countries in the world that rely on tourism to feed their economy, while in Iraq improving the economy, delivering services and development of social life is not a priority for the officials, they argued (Focus group, 16 March 2011).

The last focus group consisted of two groups of contracted and permanent government employees working in the security sector. The main questions for the focus group were:

2. Why did they choose to work in the public sector instead of the private sector?
3. Why did they choose to be a contract or temporary worker?
4. What are the differences between temporary, contract and government jobs?

Four people from the focus group explained that they decided to work in the public sector due to a lack of work in the private sector; three participants pointed out that work in the private sector does not bring long-term economic security and financial benefits (such as pensions). In part this reflects the historical legacy of Iraq as a classic rentier state largely dominated by its state sector. The majority of the participants conformed that permanent jobs require a higher amount of bribes: “Pay more money and get a better position and salary.” A small number of participants mentioned that they tried to borrow \$2000 to pay for a permanent job, but there was no guarantee that they would actually secure the job, whilst they could not afford to lose

such an amount of money. The differences between contract and permanent jobs are shown in Table 1.5 below:

Table 6 Main differences between contract and permanent jobs as identified in the focus groups

| Contract job | Permanent job |
|--|---|
| A contract job normally requires a lower amount of bribes. | A permanent job normally requires a higher amount of bribes. |
| A contractor has no right to apply for any permanent rights, cannot receive any leave from work, could possibly be sacked at any time without notice, etc. | A permanent job holder has the right to apply for government land, gifts, grants, pension, etc. |
| A contractor normally receives less than half of a permanent job holder's salary. | A permanent job holder receives a higher salary than a contractor. |

Furthermore, contractors working in the protected Green Zone receive better salaries: up to three times more than a permanent government employee in the same position (Focus group, 12 December 2010). Therefore, the recruitment process in Iraq is iniquitous. Employees working in the same position but in different sectors receive vastly differing salaries, and the process encourages paying bribes to secure better employment opportunities.

1.3.12 In-Depth Interviews as a Research Method

During the period 2010 to 2011, 41 people, from different provinces, participated in the in-depth interviews. The data for the research was mostly conducted through face to face in-depth interviews. Interviewing is seen as a conversation with the purpose of gathering information (Rubin and Rubin, 2011: 37-38). In-depth interviews helped obtain a holistic understanding of the interviewees' point of view as well as their situation (Berry, 1999). Most of the interviews conducted were "informal conversational or 'soft' interviews" (Clifford *et al*, 2010: 103); the

main reason for conducting such interviews was the generation of data, which, otherwise, in other types of interviews would not have been possible. Participants of the in-depth interviews were recruited through the personal contacts and networks of the researcher himself as well as by employing “snowball sampling” (Morgan, 2008: 816-817). Interviewing “a random sample of individuals [...] drawn from a given finite population” (Goodman, 1961: 148), as part of the snowball sampling process, increased the number of relevant stakeholders who were included in this study.

Several fundamental issues were addressed during the interviews. The main topics were: causes of the invasion; Iraqi opposition; Iraqi reconstruction after the 2003 war; the use of depleted uranium against Iraq during the war; Paul Bremer’s orders; the governing council; elections; the constitution, laws and legal acts; the relationship between central and local governments; Kurdistan; federalism; autonomy/independence for the Kurdistan Region; security – integration and co-ordination of institutions; Iraqi judiciary; management and planning; economy and investment; pace and quality of reconstruction in Iraq, economy, education, agriculture and health sectors.

The sample of the interviewees questions are shown in the following table.

Table 7 Samples of interview questions

| | |
|---|---|
| 1 | Had the opposition in exile a clear idea about the situation in Iraq and the difficulties the Iraqis endured during Saddam`s rule? In addition, did those opposition groups have a plan on what is to be done if Saddam is removed? |
| 2 | What was the stance of Iraqi opposition groups regarding the lawlessness and looting which prevailed in the country in the wake of the occupation? |
| 3 | Did the government draw up and/or implement anti-terrorism plans and measures to protect citizens from the activities of terrorist and other criminals? |
| 4 | How was the constitution written, and who wrote it, and can it be amended or modified? |
| 5 | Why is there no definite delineation between the different authorities, the three principle branches of the state; i.e. the executive, legislative and judiciary? |
| 6 | Why is the state almost dependent entirely on the oil resources and why have attempts to develop other sources of income not been developed? |
| 7 | Is there any co-operation and harmonisation in the planning and execution of projects handled by US, and those handled by the Iraqi state? |
| 8 | What is the exact relation of the Kurdistan Region with the central government in Baghdad? |

Information on the participants of the in-depth interviews are presented below in the following table.

Table 8 Interviewees' details

| No | Interviewee's Alias | Age (in) Years | Gender | Occupation | Meeting Date | Location |
|-----------|----------------------------|-----------------------|---------------|---|---------------------|---------------------|
| 1 | Respondent 1 | 36 | Male | Police officer in Babylon province | 17 March 2011 | Al-Musayyib |
| 2 | Respondent 2 | late 50s | Male | Former government minister | 04 October 2010 | Baghdad, Green Zone |
| 3 | Respondent 3 | 51 | Male | Specialist in general surgery | 07 March 2011 | Basra |
| 4 | Respondent 4 | 32 | Female | Office of advisors | 30 August 2010 | Baghdad, MOC |
| 5 | Respondent 5 | 42 | Male | Baghdad province operations | 28 June 2010 | Baghdad |
| 6 | Respondent 6 | 83 | Male | Former government minister | 18 November 2010 | Baghdad |
| 7 | Respondent 7 | 58 | Male | Senior position in Iraqi Telecommunications and Post Company | 08 April 2010 | Baghdad, |
| 8 | Respondent 8 | 69 | Male | Government advisor | 12 November 2010 | Baghdad |
| 9 | Respondent 9 | 42 | Male | Director of government agency | 24 March 2011 | Nasiriya |
| 10 | Respondent 10 | 61 | Male | PhD in electrical engineering; Supervisor in different universities | 20 February 2011 | London |
| 11 | Respondent 11 | 58 | Male | Senior position in provincial health department | 23 March 2011 | Al-Nasiriya |
| 12 | Respondent 12 | 38 | Male | Senior position in office of the inspector general | 01 April 2011 | Wasit |

| | | | | | | |
|----|---------------|----|--------|---|-----------------|--------------|
| 13 | Respondent 13 | 42 | Male | Senior position in government ministry | 14 October 2010 | Baghdad, MOC |
| 14 | Respondent 14 | 46 | Male | Legal department in the institution of political prisoners | 17 June 2010 | Baghdad |
| 15 | Respondent 15 | 58 | Male | Iraqi ambassador | 18 March 2010 | Baghdad |
| 16 | Respondent 16 | 38 | Female | Advisor to government ministry | 26 April 2010 | Baghdad |
| 17 | Respondent 17 | 56 | Male | Member of the Basra Governorate Council | 26 March 2011 | Basra |
| 18 | Respondent 18 | 52 | Male | Advisor to the Governor of Basra | 27 March 2011 | Basra |
| 19 | Respondent 19 | 61 | Male | Senior position in Southern Oil Company | 09 April 2011 | Basra |
| 20 | Respondent 20 | 59 | Male | Provincial governor; member of parliament | 11 April 2011 | Basra |
| 21 | Respondent 21 | 62 | Male | University dean | 31 March 2011 | Basra |
| 22 | Respondent 22 | 63 | Male | Former provincial governor | 12 April 2011 | Basra |
| 23 | Respondent 23 | 57 | Male | Iraqi army, served in South provinces | 04 March 2011 | Basra |
| 24 | Respondent 24 | 56 | Male | Planning sector in the Governorate of Basra, department of the ministry of municipalities | 05 April 2011 | Basra |
| 25 | Respondent 25 | 58 | Male | Senior position in customs in the Southern Region | 06 April 2011 | Basra |
| 26 | Respondent 26 | 59 | Male | University dean | 29 March 2011 | Basra |

| | | | | | | |
|----|---------------|----|------|--|------------------|---------------------|
| 27 | Respondent 27 | 60 | Male | University dean | 22 March 2011 | Al-Nasiriya |
| 28 | Respondent 28 | 46 | Male | Police Baghdad | 20 April 2010 | Baghdad |
| 29 | Respondent 29 | 58 | Male | Baghdad province transport | 20 October 2010 | Baghdad |
| 30 | Respondent 30 | 62 | Male | Political prisoner during Saddam's regime; currently working in the private sector | 02 June 2010 | Baghdad |
| 31 | Respondent 31 | 43 | Male | Information centre | 12 May 2010 | Baghdad |
| 32 | Respondent 32 | 57 | Male | Operations in Baghdad province | 05 July 2010 | Baghdad |
| 33 | Respondent 33 | 47 | Male | Federal police in Baghdad province, | 24 August 2010 | Baghdad |
| 34 | Respondent 34 | 60 | Male | Formerly with senior position in the national investment authority | 29 May 2010 | Baghdad, Green Zone |
| 35 | Respondent 35 | 61 | Male | University president | 03 April 2011 | Basra |
| 36 | Respondent 36 | 62 | Male | Member of the board of trustees in the Iraqi media network | 23 November 2010 | Istanbul |
| 37 | Respondent 37 | 64 | Male | Iraqi public transport | 21 July 2010 | Baghdad |
| 38 | Respondent 38 | 29 | Male | Affairs Officer in the information centre, Baghdad | 13 May 2010 | Baghdad |
| 39 | Respondent 39 | 42 | Male | Officer in Baghdad provincial council | 12 July 2010 | Baghdad |
| 40 | Respondent 40 | 61 | Male | General manager of an industrial company | 10 March 2011 | Basra |

| | | | | | | |
|----|---------------|----|------|--|------------------------|---------|
| 41 | Respondent 41 | 51 | Male | Senior advisor at ministry of construction | 03 November 2010 | Baghdad |
|----|---------------|----|------|--|------------------------|---------|

1.4 Conclusion

This chapter has discussed the main arguments and questions of the thesis, as well as its main aims and objectives. The methods used in this research have been introduced and discussed in this chapter providing a rationale for their use for the purpose of this research. Through conducting intensive and in-depth interviews, a nation-wide survey, focus groups and the use of media and archival materials, it has been possible to develop a large set empirical data. This supplements the reading of available academic and governmental literatures in order to explain the reason behind the failure of the coalition`s plans to build a new democratic Iraqi nation-state after the fall of Saddam`s regime. Both method and data triangulation were used to address these questions. Methodological triangulation allowed the researcher to use multiple methods in order to gather information. Interviews, archival documents, a national survey, primary and secondary literature were used to construct the data-set. For quantitative purposes, a nation-wide survey was conducted and for the qualitative research two methods including focus group and in-depth interviews were used. In the next two chapters, the theoretical framework for the thesis will be addressed.

Chapter Two – Nation-Building: History, Themes and Perspectives

2.1 Introduction

The focus of this chapter is addressing the main debates around the concept of nation-building. The chapter will consider the role that states have played in the construction of modern ideas of the nation, recognising and supporting the view that national identity is essentially a modern phenomenon rather than, as Smith and others would have it, a reflection of primordial heritage (Smith, 1991). It will consider the dominant debates in international relations concerning the state and nation before turning to the emergence of Iraq as a modern nation-state.

This chapter will attempt to address the following questions:

- 1- What are the main academic theories with regard to nation-building?
- 2- What are the academic debates around factors determining and leading to successful and failed states?
- 3- How do the US-led coalition's plans for rebuilding Iraq compare to the reconstruction efforts in post-WWII Germany and Japan?

2.2 Sovereignty and the Modern Nation-State

Particularistic nationalism reflects the dissociation of the meaning of “nation” as a “people” and extolls the nation as holding sovereignty, being the central object of loyalty, and forming the basis of collective solidarity. The people's boundaries may be defined “in various ways, but which [are] usually perceived as larger than any concrete community and always as fundamentally homogeneous, and only superficially divided by the lines of status, class, locality, and in some cases even ethnicity” (Greenfeld, 1993: 3). Nationality is an attribute of communities and “require[s] [the] study of the situation, demarcation and climatic conditions, as well as anthropological and ethnological studies of the physical and intellectual, external and internal characteristics of a people, of its customs, mores, etc.” (Hobsbawm, 2012: 97-98). Therefore, the concept nationality is related to the nation and becomes politically and institutionally manifest in the state, the sovereignty it exercises and the loyalty it demands.

Archaic societies, that developed into nation-states, initially formed themselves into groups based on kinship. They bartered with their neighbours, and frequently exchanged gifts to gain friendship and call for help when threatened by others. The concept of sovereignty was explored in the Greek political thought. Plato suggests that “aristocracy” is the perfect embodiment of a wise and just ruler; the next is “timocracy”, where influence is employed by a ruling class which is driven by a love for glory and honour. Then - in Plato’s categorisation - comes “oligarchy”, where owners of private property and wealth wield political power. The rise of the masses would lead to “democracy”, and at the bottom of Plato’s scale is “tyranny”, where a strong ruler is needed due to dissension among the masses. Like all Greeks, Plato considered tyranny as the worst form of government (Sharma and Sharma, 2006). Zaum argues that “the institution of sovereignty is central to understanding the normative framework underlying the state-building activities of international administrations” (Zaum, 2007: 27).

A system of sovereign states developed through the ages. During the Middle Ages, the notion of sovereignty further developed through political thought that was concerned with aspects of sovereignty and its legal character. This period saw the contest for supremacy between spiritual and temporal authorities (Sharma and Sharma 2006: 233), culminating into the Peace of Westphalia in 1648. At the centre of the contest was the idea of the supremacy of the king, “...for the king has in him two bodies, viz., a Body natural and a Body politic. His body natural (if it be considered in itself) is a Body mortal, subject to all Infirmities that come by Nature or Accident, to the Imbecility of Infancy of other people. But his Body politic is a Body that cannot be seen or handled, consisting of Policy and Government and constituted for the Direction of the people, and the Management of the public well” (Kantorowicz, 1957: 7).

2.3 State and Nation-Building

Dobbins *et al* (2007), Fritz and Menocal (2007) and others have developed different principles and theories regarding state- and nation-building, and the role of the international community and organisations in restructuring countries, in particular in the context of post-conflict nation-state building. The following table illustrates the differences between the two concepts of “state” and “nation”.

Table 9 Difference between “state” and “nation” (adapted from Craigie, 2011)

| | State | Nation |
|---|--|--|
| 1 | Extended historic approaches that form divergent ideologies and identification through time | Shared myths and historic anecdotes |
| 2 | Has notable institutions recognised | Political relations are based on the concentrated sense of the state |
| 3 | Territorially located in a democratic system, with justifiable use of violent power by the state | Unifies people with a sense of parity, common community culture and historic province/motherland |
| 4 | Possesses the rules, power and physical force | Shared legal rights and duties, and a common economy |
| 5 | Makes reference to public institutions | Makes reference to the cultural and political concord unifying a political commune |

The phrases “nation-building” and “state-building” are often used interchangeably, and according to Fritz and Menocal (2007): “State-building is a more all-encompassing endeavour, more explicitly conscious of the political nature of institution-building, and it also tries to address more fundamental and deep-rooted issues. Put differently, state-building is about constructing the foundations of the very (government) edifice within which governance ought to operate; without prior construction of this edifice, governance interventions are likely to have only limited impact” (Fritz and Menocal, 2007: 49-50) Therefore, state-building is a process distinct from nation-building, although there is a tendency to assign the same meaning to both terms. While the term state-building denotes the institutional development and mechanisms of governance, nation-building refers to the construction of a body of people that constitute the population within the boundaries of the state: “Nation-building refers to the process of constructing a shared sense of identity and common destiny, usually in order to

overcome ethnic, sectarian or communal differences and to counter alternative sources of identity and loyalty. Historically, states have played an instrumental role in nation-building, usually in order to create nation states or nations that coincide with state boundaries” (Fritz and Menocal, 2007: 15). In reference to post-conflict scenarios in particular, Dobbins defines nation-building as “the use of armed force in the aftermath of a conflict to underpin an enduring transition to democracy” (Timilsina, 2007: 10).

Similarly, the International Organisation for Economic Co-operation and Development (OECD) defines state-building as “purposeful action to develop the capacity, institutions and legitimacy of the state in relation to an effective political process for negotiating the mutual demands between state and societal groups. Legitimacy will be a principal outcome of the effectiveness of such a process over time, although legitimacy may also be embedded in historical identities and institutions [...] Together, capacity and resources, institutions, legitimacy and an effective political process combine to produce resilience. Successful state building will almost always be the product of domestic action” (OECD, 2008: 14) The OECD further defines nation-building as the “actions undertaken, usually by national actors, to forge a sense of common nationhood, usually in order to overcome ethnic, sectarian or communal differences; usually to counter alternate sources of identity and loyalty; and usually to mobilise a population behind a parallel state-building project” (OECD, 2008: 13). Francis Fukuyama (2004) defines nation-building as the process to generate or make amends for all cultural and common factors shared together by the people as a nation. On the other hand, he describes state-building as the process of the creation or development of government, state army and police force, judiciaries, revenue and tax system, financial and bank system, and the delivery of main services such as health services and education (Fukuyama, 2004: 159-160). Therefore, the concept of state could be looked at as being the institutional framework that brings the nation into being (Gellner and Breuilly, 2008).

Figure 2 The characteristics of a nation-state

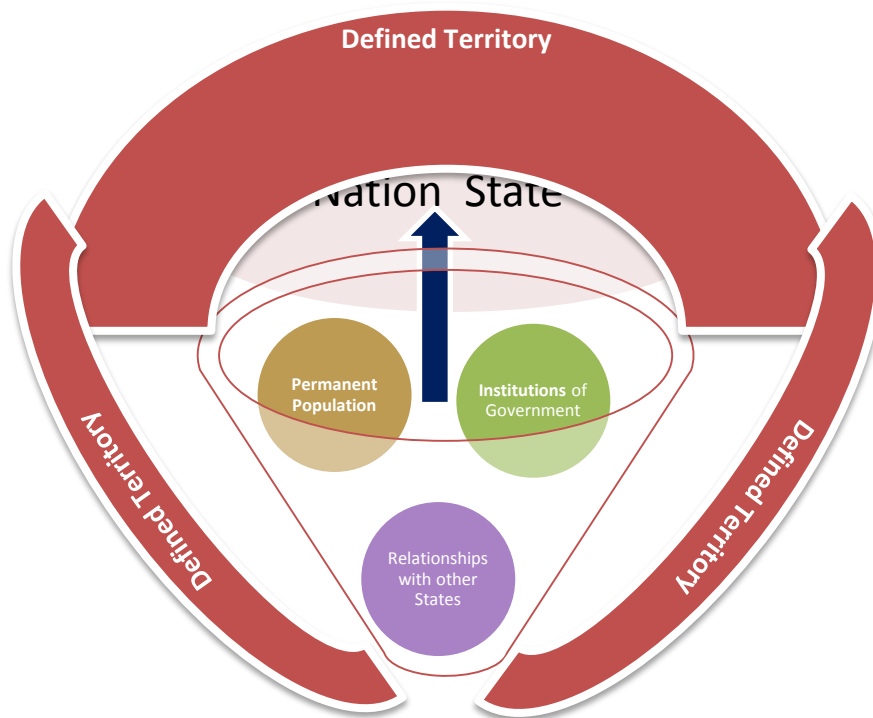


Table 10 Difference between “state” and “nation” building (adapted from Fritz and Menocal, 2007)

| | State-building | Nation-building |
|---|--|--|
| 1 | The mode of establishing the key institutions for the running of a state. In fragile states, unofficial institutions are often very significant. | The mode of building a common sense of identity and destiny, typically to surmount sectarian, ethnic or communal differences and to offset alternative sources of loyalty and identity |
| 2 | The launching and extension of formal institutions and a building up of the co-operation function amid formal and informal institutions | The expansion of the function of institutions |

Fritz and Menocal (2007) argue that the state-building process needs to (a) build a base structure for a well-organised, competent and professional government, without which public services cannot be delivered, (b) produce re-emerging legitimacy for the state, and (c) share the government plan with the public, informing them about the government’s strategy and to give a sense that the government is working in their interests. Therefore, one can say that “state-building” and “governance” lead to the same functional meaning by harmonising the state institutions to deliver the best performance and delivery of services (Fritz and Menocal, 2007).

Nation- and state-building procedures vary from country to country but there are shared principles that are essential for the success of this operation. James Dobbins (2007) mentions the common factors as: (a) building the infrastructure of the State and improving public services such as health, electricity, drinking water, communication and education, (b) the need for old institutions to be modified, changed and reformed rather than re-built, and (c) guarantee of stability and security of the State and its citizens (Dobbins *et al*, 2007), a point that can be traced back to the philosopher Thomas Hobbes.

Nonetheless, Francis Fukuyama argues that the state-building process requires two different steps. The priority of the first step is (a) to build security and stability of the state, (b) to grow

the economic sector, (c) to develop the infrastructure services, and (d) to build the ability to respond quickly to humanitarian assistance and disaster relief. After the first stage is established and the stability of the state is achieved, the second step could be stimulated by (a) creating an independent and self-sustaining political system to produce a competent and fair democratic process based on the rule of the public, and (b) building the economic institutions towards the development and growth of the economic sector. Success in these two steps, while keeping focus of the priorities, will lead to victory in state-building; otherwise, state-building will fail (Fukuyama, 2004). Thus, state and nation-building is a process of adjustment and development that has a logical sequence if it is to be carried out successfully.

In recent decades, nation-state building activity has changed from the rebuilding of many nations emerging from the dismantling of empires and those that have lost wars, to regime-change (in another country), such as the post-Soviet states (see Table 17 for more examples). This regime-change activity is often imposed on the majority of a nation's population by the international community or global hegemonic powers (within a regime-change country) underpinned by the principle of the international community's responsibility to protect human rights or the country's citizens from atrocities committed by the ruling regime – a concept which has emerged since the Yugoslav civil war. It is important to stress that this principle is highly controversial in international law and certainly is in conflict with the long-established article 2 of the UN charter which severely constrains legitimate use of force in international affairs to self-defence. This principle, however, has been used by the international community (led by the US) to gain judicial justification for its political and military interventions in the post-Cold War era (Ginty and Peterson, 2015). Recent years have seen many regime-change countries being assisted by the US-led alliance and the list of such countries is growing, as is the list of failures (such as Afghanistan, Iraq, and Libya). According to James Dobbins “each nation to be rebuilt may be unique, but the nation-builder has only a limited range of instruments on which to rely. These are largely the same from one operation to the next.” (Dobbins *et al*, 2007: vii). Dobbins further adds that “as regards physical infrastructure, the intervening authorities should give priority to fixing those related to security, health care, education, power, water, and sanitation in an effort to raise these services to something approaching prewar levels” (Dobbins *et al*, 2007: xxxvi).

The rise of the concept of the failed state or the fragile state has also helped to legitimise interventions by the international community across Africa and the Middle East over the past two decades. Bogdandy (2005) defines state failure as the failure to deliver good service to the

public, which badly affects the state scale. The main reason for state failure is the failure to offer settlement in the political, security, legal and judiciary system, economy and communication. It is also the failure to provide a clear power line between the different authorities of the state. Therefore, a good functioning of these sectors will produce a successful state and malfunctioning will lead to state failure. Poland, which was ruled by a communist government for around 40 years, is a good example for successful state-building; different political groups cooperated and united to form a unity government (Bogdandy *et al*, 2005).

Dodge argues that successful state-building is based on the “quality and quantity of the governing institutions created in the aftermath of intervention...this can only be done through the creation of a regularised administrative staff, organised in a nationwide hierarchy of government offices” (Dodge, 2005: 26). The success of state-building post-intervention therefore depends on whether the change from dictatorship and military authority to democracy and civil authority is built on and supported by public institutions that ensure security and provide and improve public services.

Nation-state building’s main principles can be summarised as shown in the following table:

Table 11 Main principles of nation-state building (Dobbins et al, 2007; Bogdandy et al, 2005; Fritz and Menocal, 2007; OECD, 2008; Brahim, 2007; Fukuyama, 2004)

| Factors | Features |
|-----------------|---|
| Theories | Each nation to be built by studying the particular historical, social, economic, political and cultural circumstances of that state. Therefore, a single universal theory on nation-state building cannot be applied to different states in exactly the same way. |
| Politics | Understanding, negotiations, and co-operation among the elites, or main political parties, are very important as a first step towards political settlement to prevent the occurrence of violence. This requires an independent and self-sustaining political system to produce a competent and fair democratic process based on the rule of law. There needs to be an agreement of political parties to work for the benefit of the state. |
| Security | Stability and security needs to be achieved by the state and controlled by it. |
| Economy | The state needs to prepare the conditions and policies for a successful market economy and social welfare provisions. |
| Public Services | Building the infrastructure of the state and improving public services and equal rights for people in the basic and essential services of life. |
| Administration | A competent and trained bureaucracy is needed, working an organised institutions and being staffed based on competence, skills, experience and ability; such a bureaucracy constitutes the base structure for well-functioning institutions, a competent government, organised in a nationwide hierarchy of government offices. Old institutions need to be modified, adapt to the new circumstances and improve the functions of the state institutions. The state legislation needs to function and respond to societal, economic and political challenges, including a functioning, transparent, independent and impartial judiciary system. Government offices need to possess the ability to respond quickly with humanitarian assistance and disaster relief. |

| | |
|--|---|
| Law | The rule of law and adherence to human rights standards as espoused in international law needs to be promoted. |
| Monitor | The monitoring and auditing of the functioning system should be participatory, transparent and accountable, effective, and equitable. |
| Society | There needs to be an overwhelming sense of having faith in people and to believe that people should have their own rights. The government in turn has the responsibility to share its policies and plans with the public, informing the public about government strategy and providing the public with the feeling that the government works in its interests. The government should note broad consensus in society, but also consider the voices of those marginalised or vulnerable, whether socio-economically, culturally, religiously or otherwise. |
| Reasons of Failure | The main reason for state failure is the lack of settlement in the political, security, legal and judiciary systems, and the economic and communication sectors; the state's failure commences when governance fails to provide basic functions resulting in reduced or even lack of security, lack of development and failure to maintain human rights. |
| Role of International Community | The international community is very important at this level to harmonise the relationship between the state and its society, by supporting the legitimacy and accountability of the state and to encourage and support economic development or reconstruction. |
| Reasons for successful nation-state building | An inclusive, transparent and thorough constitutional process which lays the constitutional and legal foundations of the state is an important factor in success. The post-conflict or post-authoritarian state is run by the national unity government and not solely in the hands of the largest political party. |

2.4 Governance and Nation-Building

Theoretically, the concept of “governance” is separate from the process of nation-building. The World Bank identifies the government dimensions as public sector management,

accountability, legal framework for development, and transparency and information. Participation is essential to a good government but that necessitates good governance policies and practices among regional countries, as well as the transparency which enables people affected by progress plans to recognise the choices available to them (World Bank, 1994; Abdellatif, 2003). According to Williamson, furthermore, governance is the means “by which order is accomplished in a relation in which potential conflict threatens to undo or upset opportunities to realize mutual gains” (Williamson, 1998: 76). Williamson argues that “simple governance structures should be used in conjunction with simple contractual relations and complex governance structures reserved for complex relations seems generally sensible” (Williamson, 1979: 239). Nye and Donahue further emphasise the strong effect of globalism on domestic governance, which vary with the size, power, geographical region, and domestic political culture of the state involved, and assert at the same time that the forces of globalisation provide new challenges for international and domestic governance (Nye and Donahue, 2000: 17-208).

The ideology of democracy, as both the ideological underpinning and foundation of good governance, is to produce political institutions to deliver the best possible form of society. According to Abdellatif (2003), the main principles of democracy are: (a) to have faith in people, (b) to believe that people should make their own rights, and (c) to have equal rights for people toward the basic and essential services of life. “Democratic governance” is based on political and civil freedom with participation value in development at basic level, and is perceived as guarantor for socio-economic growth. “Good government” is based on three principal rules, which are: (a) good quality, best organs, and selection of active actors, (b) should be “participatory, transparent and accountable, effective and equitable; promotes the rule of law”, and (c) “ensures that political, social and economic priorities are based on a broad consensus in society and that the voice of the poorest and the most vulnerable are heard in decision-making over the allocation of development resources.” The concept of “freedom” in democratic government means to be “free from threats of violence, and to be able to speak freely” (Abdellatif, 2003).

2.5 Constitution and Nation-Building

The process of nation-state building is underpinned by the juridical framework established in a constitutional agreement, usually the result of compromise and agreement between

conflicting parties. This is precisely what has failed to happen in Iraq; the constitution was an imposition rather than the outcome of meaningful consultation and negotiation. Every nation, or aspiring one, offers differing criteria for belonging to that land – a sense of nationality, different origins, social forms and languages – that articulates a nationalistic ideal. Nevertheless, what emerges is a nation particular about those criteria, ideals, and languages. These criteria and sense of nationalism often form part of promises and pacts that display the foundations of a constitution. An aspiring “nation has its own history of how it became nationally mobilized” (Kochin, 2005: 68).

The fundamentals of mobilisation are the same for each nation. The production of a national identity might not be apparent at the beginning of the process but the “process by which the identity becomes manifest is a process of gradual unveiling of a fixed if incompletely perceived structure of identity rather than one of gradual evolution” (Kochin, 2005: 71). Once the collective emerges, a stage is reached whereby the criteria and nationalistic ideals move toward a constitution for development of sovereignty. Sovereign or federated nations all have a form of constitution that defines the guiding principles upon which that state is based, together with the procedures and structures within which laws are made or could be made. A constitution sets out the fundamental principles or incorporates established precedents that define how a state would be governed. These principles or precedents, together with rules and regulations, determine what that entity is and how will it function. Constitution-making can affect the nation-building process by establishing the ideas, values, and institutions to create the national identity. Constitutional Nation-Building (CNB) “have favoured enshrining the political values of a political community in a constitutional document that ought to become the focus of nation-building initiatives, which should consist only of the inculcation of these values” (Seymour, 2004: 53).

According to Fukuyama, this constitutional document, if properly debated with all the interested parties, leads to a “concept of constitutional patriotism, the constitution itself can become the focal object of collective loyalties and even replace other objects of identification, so that other, traditional elements of identity become largely irrelevant” (Bogdandy *et al*, 2005: 597). In any constitutional nation-building exercise, the necessary tools are: (a) the form and procedure of creating a constitution that includes seeking contributions from, as mentioned above, all interested parties. Open and free debate should also contribute towards an agreement on an accepted form; (2) the institutional arrangements made in the constitution should be comprehensive and applicable to all interested parties; and (3) ensuring that the constitutional

text incorporates some of the traditional elements of collective identity, such as any pre-existing institutions or symbols, for example, religious institutions. In particular, the latter point can, however, also complicate the constitutional process and include divergent sources of sovereignty in constitutional texts. The problematic nature of the constitutions in Afghanistan (2004) and Iraq (2005) is caused by their dual commitment to principles of Islamic law (shari`a), and to principles of human rights, constitutional law and popular sovereignty. In other Islamic countries such as Indonesia and Malaysia, the constitutional precepts of Islam have been included “into the constitution, penal code, and personal status laws of subnational units” (Tulis, 2010: 258). This establishment of the constitution as the supreme law of Iraq was also motivated by a concern to maintain the territorial unity of Iraq and to assure those who were concerned that the Kurdistan Region would claim the right to overrule constitutional provisions and act as a dependent state inside Iraq with great influence over the central government, including in particular control over energy policies and oil and gas revenues (Brown, 2005; Zedalis, 2009).

A constitution is a vital document that should ensure the security and well-being of its subjects – the people who will make up the “nation”. A constitution, however, needs to be in a written form or in a single document. Written constitutions, in particular, have limitations enshrined so that no ruler can transgress fundamental rights. They also consign other limitations such as terms/number of years in office for any elected government. “The relations among a country’s governing institutions differ depending on whether a country has a Presidential, parliamentary or hybrid political system” (Guinn, 2014: 10). Written constitutions, in particular, have limitations enshrined so that no ruler can transgress fundamental rights. They also consign other limitations such as terms/number of years in office for any elected government: “One of the fundamental aspects of constitutional design is the choice between parliamentary government, presidential government, or a hybrid format that combines some aspects of these two” (Carey, 2008: 91). The constitution of monarchy, constitutional monarchy or military rule has the following three main functional aspects (though in military rule these could be blurred):

- Separation of power – how the power of government is separated through its various branches
- The structures of legislative parties and the leadership – the degree of hierarchical control and party discipline, and the influence that the governing system has upon the legislature.
- The removal from office – the outlining of conditions for removing the executive and for dissolving government.

Therefore, the significance of a constitution as the mechanism for building the state is obvious, as it is the backbone of state institutions and governance.

2.6 Post-Conflict Reconstruction

The prime objective of nation building intervention in a post-conflict situation is to leave behind a stable nation-state and society. The phrase “post-conflict reconstruction” might be a better representation of the international efforts in rebuilding post-conflict countries. The World Bank defines post-conflict reconstruction as the needs for “the rebuilding of the socio-economic framework of society and the reconstruction of the enabling conditions for the functioning of a peacetime society to include the framework of governance and rule of law” (Saha, 2007: 10). Post-conflict reconstruction can be defined, according to Timilsina (2006), as the role and the plans of the international community to re-build the state to provide society peace, economic growth, and the rule of the law. The main factors to be considered within the reconstruction should be (a) setting out a clear plan; (b) avoiding making quick changes during post-conflict reconstruction as this will increase the risk of serious mistakes given the poor infrastructure and lacking institutional and legal stability in developing countries; (c) focusing on the security sector as very important to direct the development of the state; and (d) adopting the correct policy to reduce poverty. Therefore, improvement in development, setting up democratic institutions, economic growth, building the infrastructure and providing public services, and joining the global market are necessary to provide security and stability to the state (Timilsina, 2006). These, of course, are directly relevant to the experience of Iraq after the 2003 intervention by the US-led coalition.

Benjamin Hoffman (2003) gives priority to peace building. In the long term, preventing conflict is more important than the short-term aim of reducing direct violence; increasing the cohesion of society becomes a means to establish societal peace and reconstruct the state. State-building needs to prioritise investment in human capital through education, training and recruitment in the right positions. Growing the human capital will not only positively affect the development of the state, but would also reduce the gaps between the different levels of state-society which lead to more stability and justice of the state (Hoffman, 2003). Collier (2009) mentions the current main principles of the post-conflict process, which are (a) giving priority to bringing stability to the political process, (b) bypassing the current conflict, and (c) building a strategy for the state including settlement of the government. Failing to adhere to and achieve these

principles along with the perpetuation of the conflict situation and the absence of security, will lead to a situation where those in fear of losing power will not accept the results of democratic elections and refuse to partake at the political process (Collier, 2009).

Collier's argument on how to achieve political stability in a post-conflict society is particularly pertinent to Iraq which lacked security and stability in the immediate aftermath of the invasion. By contrast, in this period in Iraq a number of factors served to undermine the possibility for successful state and nation-building, according to the approach laid out by Collier: (1) The Iraqi Governance Council (IGC) was based on an ethnic/sectarian balancing act that also extended to other government posts and then also extended to its successor government. (2) The IGC members were selected according to ethnic and sectarian quotas rather than their competencies and abilities. This sectarian-ethnic power-sharing system impacted on the functioning of the IGC as a result of the ensuing political bargaining among its members. (3) The IGC was regarded at best as irrelevant and at worst as illegitimate by a large proportion of the Iraqi population. This sense of irrelevance and illegitimacy was fuelled by the perception that the body was dominated by people who had only recently returned to Iraq after several decades of exile. They were also divorced symbolically and physically from society - walled up in the Green Zone and dependent upon protection from the coalition troops that controlled the security of Iraq after the US withdrawal from Iraq in 2011. (4) The US head of the Coalition Provisional Authority, Paul Bremer, was much too concerned about the IGC maintaining a balance of power between the US and Iraqi political parties, which resulted in the halting of the process started by his predecessor Jay Garner to establish an Iraqi government, much to the frustration of Iraqi political parties. (5) Iraqi political leaders had reached a tenuous compromise over the writing of the draft constitution, on the basis that the real negotiations over interests would take place during the formal constitutional consultation in the summer of 2005. According to Al-Ali and Pratt (2009) this made it even more important for the various political parties to consolidate their power in the transitional political system as well as state institutions.

Collier also makes the point that building security and developing the economy will lead to (a) creating job opportunities for the unemployed and former militia members, in particular among the young, who are the main actors in violent confrontations; (b) building the infrastructure of the country and improving basic public services, including health services, which usually collapse during war and conflict, and (c) creating a political process which produces a

transparent non-corrupt government (Collier, 2009). All of these factors were absent in the post-conflict environment in Iraq.

The OECD defines the main roles of the international community as follows: (a) to re-build the bonds, trust and confidence, and enable the engagement between the state and society, citizens, and between different sectors of the state institutions; (b) to settle a legally and responsibly elected governance based on peace building and human rights; and (c) the government function priorities should be given to establish the security and justice, increase public fund revenue, build strong economy, provide good services for public, and to reduce the unemployed people and poverty. International actors must have a prepared and quick-action plan to be used during the conflict and instability states. The plan should discuss (a) the root cause of the fragile state, (b) the analysis of risk sharing, (c) finding a solution for the conflicts, (d) increase the security, (e) building the institutions and organisations of the state, (f) establishing the agreement and priorities strategy based on the link between the main objects of the State, which are politics, security and development, (g) emphasising stability of the society because the discrimination between its members will lead to conflict in the State, as well as failure to deliver the essential services, and (h) reforming long-term strategies to prevent further conflict (OECD, 2008).

Dobbins emphasises the priority of facilitating the development and growth of the economy during post-conflict and rebuilding process based on policies which should be suitable for the different stages of the reconstruction process, ensuring policies are properly sequenced, mutually supportive and reinforcing each other (Dobbins *et al*, 2008). The OECD also prioritises economic development, highlighting in particular the role of the reconstruction process to support the economic and social progress and development in post-conflict environments (OECD, 2008: 74-78). Lakhdar Brahimi, former special adviser of the Secretary-General of the United Nations, referred to the role of the international community which must have a plan to establish stability in in post-conflict state-building based on a clear sense of priorities and a thorough understanding of the different types of assistance needed in the reconstruction process. The priorities should include all the aspects involved without ignoring any factors in the different stages. The main keys of state-building are: (a) Constitution making; the creation of a new constitution is for the development of the state by creating rules and legitimate policies, creating a strong link between citizens and the state, and enhancing the role and contribution of civil society actors. At the same time, the constitutional process should not be completed in a haste and should be carefully linked with the existing legal traditions and

bodies as much as this is possible. (b) Electoral process; this should be based on static democratic rules to avoid any conflict between individual and party candidates. The electoral process should be used as a mechanism to enshrine the democratic participation of the public in decision-making process. (c) Disarming and dissolving the army should be considered carefully and decisions made that in their consequences still ensure security and stability. (d) Rule of law; it is necessary to create a functioning, independent, transparent and impartial justice system during the reconstruction process in order to build trust in the new political order, important for the long-term stability of the state (Brahimi, 2007).

The main rules of post-conflict nation-building can be seen in the following table:

Table 12 Main principles of the post-conflict reconstruction features

| Factors | Features |
|----------------|--|
| Politics | The political process needs to produce a transparent non-corrupt government. Static democratic rules need to be implemented to avoid any conflict between individual and party candidates. An electoral process should be used as a mechanism to enshrine democratic participation of the public in decision-making processes. |
| Administration | A clear plan and strategy for the institutional reconfiguration of the state needs to be in place that avoids rapid changes and a complete overhaul in the public administration during the post-conflict reconstruction because developing countries possess limited capacities in qualified personnel to run public administration. The government's priorities should be given to establishing security and justice, increasing public funds and revenue, building a strong economy, providing good services for the public, building the infrastructure, and reducing unemployment and poverty and joining the global markets and trade. |
| Law | The creation of a new constitution is required for the development of the state by creating rules and legitimate policies, forging a link between citizens and the state, and enhancing the role and contributions of civil society actors. There should be no rush in the constitutional process which should carefully link with existing legal bodies and traditions in order to secure the firm establishment of the rule of law. |
| Global role | The international community must have a plan to create stability in post-conflict state-building based on a clear sense of priorities and a thorough understanding of the types of assistance needed in various circumstances. |
| Society | On a societal level, trust and confidence among social actors needs to be rebuilt to enable engagement between the state and society and its citizens, and between different sectors of the state. |

This means that the other state(s) and the international community have many responsibilities in terms of rebuilding the occupied country, which were not, as this thesis argues, implemented by the US-led coalition while rebuilding Iraq after 2003.

2.7 The Failure of Nation-State Building

According to Fritz and Menocal, the state's failure will start when the government fails to provide the basic functions such as addressing widespread poverty, ensuring public security, overcoming the lack of economic development or safeguarding human rights. The international role is very important at this level to harmonise the relationship between the state and its society, by supporting the legitimacy and accountability of the state and facilitating economic development and investment to create employment opportunities and to alleviate poverty. Priority should be given to security, justice, a strong economy, to provide – at least – basic public services, and to increase the revenue of the state (Fritz and Menocal, 2007). The OECD enumerates the main reason for the failure of state-building. It occurs when the state structure is suffering from political conflict, negatively impacting on the government's functions and increasing poverty, hindering the development of human rights and hampering state security (OECD, 2008).

Table 13 Measuring the success and failure of a nation (adapted from Bogdandy *et al*, 2005)

| Failure | Success |
|--|---|
| <p>It is a process in which the ruling political elite has monopoly over political decision-making and the majority of the population is disenfranchised.</p> | <p>It is a process of communal personality formation with a view to authenticate public power inside a given territory. State-building means organisation, re-organisation and fortification of a public structure in a given territory competent to deliver public goods.</p> |
| <p>The individual communities may classify themselves by shared religion, language, class, or ethnicity. As a result, disagreements can surface that make it doubtful, if not unattainable, that government decisions will be followed.</p> | <p>It depicts current traditions, customs and institutions, redefining them as national features in order to hold up the nation's assertion to sovereignty and exclusivity.</p> |
| <p>The cultural depiction of a nation is no longer persuasive for many; there is no accord on the cultural traditions, symbols, customs, rituals and the historical understanding; there is no "usable past".</p> | <p>A winning nation-building process generates a cultural depiction of the nation containing a certain set of suppositions, beliefs and values which can operate as the legitimising basis of a state structure.</p> |
| <p>The turning point is when individual and mutually independent nationalisms substitute the former shared identity. Then militant and aggressive community leaders, normally termed as "elites", might create a mood of terror in which war in the name of nationalised self-defence appeals to a noteworthy part of the exaggerated population to be not only a rational but perhaps the only answer, such as in the case of the collapse of Yugoslavia.</p> | <p>As soon as there is prevalent aggression enthused by different nationalisms, the probability of nonviolent coexistence in one state decreases spectacularly. So, state-building measures – in such a framework – to be successful must respond to the divergent patterns of social identity.</p> |

Azeez also confirms that the propensity to equate state-building with nation-building as synonymous concepts ensures that “state-building takes precedence over nation-building activities and is essentially seen to encompass the latter. This further suggests that state-building literature is fraught with the misconception that state-building will inevitably lead to nation-building. However, rebuilding a state does not necessarily imply the development of a sense of nationalism or nationhood” (Azeez, 2010: 79-80). The need to distinguish both processes is particularly relevant to the Iraqi context where much effort has been placed on rebuilding the “state” and its political, legal and administrative structures without underpinning this ideologically with a new post-authoritarian and trans-ethnic sense of an Iraqi “nationhood” thereby leaving many potential and actual sources of ethnic conflict, sectarianism and economic competition intact. The failure to distinguish both processes in the Iraqi case is one of the reasons for the failure of the post-Saddam reconstruction of the country.

The idea of nation-building in Iraq had been a controversial issue in US politics prior to the 2003 invasion. George W. Bush entered office openly disdainful of nation-building achieved through military means and campaigning under the banner of a less interventionist US foreign policy. The then presidential candidate Bush made this statement in his debate with Vice-President Al Gore on 11 October 2000 (Halper and Clarke, 2004: 133-134). Similarly, Condoleezza Rice rejected any civilian role of the American military in building a state. However by doing so, the constructive role the military could play in state-building processes by ensuring security and stability in the transitional period was excluded from its mandate thereby weakening its potential impact on the peaceful transition of power in building a post-authoritarian or post-conflict state after military intervention: ““Nation-building” became a term of opprobrium. The U.S. military sought to redefine its responsibilities for the conduct of such operations as narrowly as possible, eschewing all tasks that were not strictly military in character” (Dobbins, 2008: 5).

2.8 The Failed-States Index

An index of failed states has been compiled and published by the Fund for Peace since 2005. Twelve indicators are used in collating data to show the level of state failure. Nations of the world are ranked on the basis of the twelve indicators to provide a measure of a state’s vulnerability to collapse or conflict. These indicators are four social, two economic, and six political. The social indicators are: demographic pressures; massive movement of refugees and

internally displaced persons; legacy of vengeance-seeking group grievance. The economic indicators are: uneven economic development along group lines; sharp and/or severe economic decline. The political indicators are: criminalisation and/or de-legitimisation of the state; progressive deterioration of public services; widespread violation of human rights; the security apparatus as “state within a state”; the rise of factionalised elites; the intervention of other states or external factors.

A part of the following tables are taken from the Fund for Peace website showing the ranking of failed nations with number 1 being a state that has highest failure index. In 2005, Iraq ranked in 4th place with a rating of 103.2, followed by Afghanistan in 11th place with a rating of 99.0 (FFP, 2005). By 2007 Iraq had dropped to 2nd place with a rating of 111.4, and Afghanistan to 8th place with a rating of 102.3 (FFP, 2007). In 2013, Iraq moved down to 11th place, with a rating of 103.9, while Afghanistan moved to 7th place with a rating of 106.7 (FFP, 2013). Although initially Afghanistan’s ranking increased to a better position in 2005, by 2013 it had slipped down five places, whilst Iraq had very slightly improved its rating from 103.2 in 2005 to 103.9 in 2013. The invasion by coalition forces in both Afghanistan and Iraq and the setting up of provisional government authorities together with continued involvement of coalition forces with substantial reconstruction funds especially in Iraq has not had any lasting effect. Furthermore, given Afghanistan’s failures and its slippage in the failed states index, suggests that Iraq seems to be destined to further failures. Therefore, it can be seen that Iraq moved towards the category of unstable and failed states despite the situation having improved slightly in the last few years. The invasion by coalition forces in both Afghanistan and Iraq and the setting up of PRT’s (Christoff, 2008: 9-25; Lindley-French and Boye, 2012: 595) together with continued involvement of coalition forces with substantial reconstruction funds especially in Iraq has not had any positive lasting effect. Furthermore, given Afghanistan’s failures and its slippage in the failed states index, suggests that Iraq seems to be destined to further failures.

Table 14 List of Failed States 2005 (FFP, 2005)

| Rank | Country |  |  |  |  |  |  |  |  |  |  |  | Total | |
|----------------------|-------------------------|---|---|---|---|---|---|--|---|---|---|---|-----------------------|-------|
| 1 | Cote d'Ivoire | 8.0 | 8.0 | 7.7 | 8.8 | 9.0 | 7.7 | 9.8 | 9.5 | 9.4 | 9.0 | 9.1 | 10.0 | 106.0 |
| 2 | Congo (D. R.) | 9.0 | 9.4 | 9.0 | 7.0 | 9.0 | 8.0 | 8.0 | 9.0 | 9.1 | 8.7 | 9.1 | 10.0 | 105.3 |
| 3 | Sudan | 8.6 | 9.4 | 7.8 | 9.1 | 9.0 | 8.5 | 9.2 | 8.7 | 8.0 | 9.8 | 8.7 | 7.3 | 104.1 |
| 4 | Iraq | 8.0 | 9.4 | 8.3 | 6.3 | 8.7 | 8.2 | 8.8 | 8.9 | 8.2 | 8.4 | 10.0 | 10.0 | 103.2 |
| 5 | Somalia | 9.0 | 8.0 | 7.4 | 6.3 | 9.0 | 8.3 | 9.8 | 10.0 | 7.8 | 10.0 | 8.7 | 8.0 | 102.3 |
| 6 | Sierra Leone | 9.0 | 8.0 | 7.5 | 8.9 | 8.7 | 10.0 | 7.5 | 9.1 | 8.7 | 6.3 | 8.6 | 9.8 | 102.1 |
| 7 | Chad | 8.0 | 9.1 | 7.1 | 8.3 | 9.0 | 8.0 | 8.9 | 9.0 | 9.1 | 7.0 | 9.4 | 8.0 | 100.9 |
| 8 | Yemen | 7.8 | 8.0 | 6.4 | 8.2 | 9.0 | 8.8 | 9.8 | 9.3 | 6.4 | 9.0 | 9.4 | 7.6 | 99.7 |
| 9 | Liberia | 9.0 | 7.8 | 7.3 | 8.1 | 9.0 | 10.0 | 7.5 | 8.2 | 8.2 | 6.5 | 7.9 | 10.0 | 99.5 |
| 10 | Haiti | 8.8 | 8.0 | 7.7 | 3.4 | 9.0 | 8.1 | 9.4 | 9.8 | 8.7 | 7.8 | 8.5 | 10.0 | 99.2 |
| 11 | Afghanistan | 9.0 | 8.0 | 8.0 | 7.4 | 8.8 | 7.5 | 8.1 | 8.1 | 7.9 | 8.2 | 8.0 | 10.0 | 99.0 |

Table 15 List of Failed States 2007 (FFP, 2007)
























| Rank | Country |  |  |  |  |  |  |  |  |  |  |  |  | Total |
|----------------------|-------------------------|---|---|---|---|---|---|---|---|---|---|---|---|-----------------------|
| 1 | Sudan | 9.2 | 9.8 | 10.0 | 9.0 | 9.1 | 7.7 | 10.0 | 9.5 | 10.0 | 9.9 | 9.7 | 9.8 | 113.7 |
| 2 | Iraq | 9.0 | 9.0 | 10.0 | 9.5 | 8.5 | 8.0 | 9.4 | 8.5 | 9.7 | 10.0 | 9.8 | 10.0 | 111.4 |
| 3 | Somalia | 9.2 | 9.0 | 8.5 | 8.0 | 7.5 | 9.2 | 10.0 | 10.0 | 9.7 | 10.0 | 10.0 | 10.0 | 111.1 |
| 4 | Zimbabwe | 9.7 | 8.7 | 8.8 | 9.1 | 9.5 | 10.0 | 9.5 | 9.6 | 9.7 | 9.5 | 9.0 | 7.0 | 110.1 |
| 5 | Chad | 9.1 | 8.9 | 9.5 | 7.9 | 9.0 | 8.3 | 9.5 | 9.1 | 9.2 | 9.6 | 9.7 | 9.0 | 108.8 |
| 6 | Cote d'Ivoire | 8.6 | 8.3 | 9.8 | 8.4 | 8.0 | 8.9 | 9.5 | 7.9 | 9.2 | 9.6 | 9.3 | 9.8 | 107.3 |
| 7 | Congo (D. R.) | 9.4 | 8.9 | 8.8 | 7.6 | 9.1 | 8.0 | 8.3 | 8.7 | 8.9 | 9.6 | 8.6 | 9.6 | 105.5 |
| 8 | Afghanistan | 8.5 | 8.9 | 9.1 | 7.0 | 8.0 | 8.3 | 8.8 | 8.0 | 8.2 | 9.0 | 8.5 | 10.0 | 102.3 |

Table 16 List of Failed States 2013 (FFP, 2013)

| Rank | Country |  |  |  |  |  |  |  |  |  |  |  | Total | |
|------|--------------------------|---|---|---|---|---|---|---|---|---|---|---|-------|-------|
| 1 | Somalia | 9.5 | 10.0 | 9.3 | 8.9 | 8.4 | 9.4 | 9.5 | 9.8 | 10.0 | 9.7 | 10.0 | 9.4 | 113.9 |
| 2 | Congo (D. R.) | 10.0 | 10.0 | 9.4 | 7.1 | 8.8 | 8.5 | 9.6 | 9.5 | 9.8 | 10.0 | 9.5 | 9.7 | 111.9 |
| 3 | Sudan | 8.8 | 10.0 | 10.0 | 8.4 | 8.5 | 7.8 | 9.6 | 8.8 | 9.3 | 9.8 | 10.0 | 10.0 | 111.0 |
| 4 | South Sudan | 8.9 | 10.0 | 10.0 | 6.5 | 8.9 | 8.6 | 9.1 | 9.8 | 9.3 | 9.6 | 9.8 | 10.0 | 110.6 |
| 5 | Chad | 9.5 | 9.7 | 8.8 | 8.0 | 8.9 | 8.0 | 9.7 | 9.9 | 9.8 | 9.4 | 9.5 | 7.9 | 109.0 |
| 6 | Yemen | 9.3 | 9.2 | 9.0 | 7.4 | 8.1 | 9.2 | 9.3 | 8.7 | 8.7 | 9.8 | 9.5 | 8.7 | 107.0 |
| 7 | Afghanistan | 9.3 | 9.2 | 9.2 | 7.2 | 7.8 | 8.2 | 9.4 | 8.8 | 8.4 | 9.9 | 9.4 | 10.0 | 106.7 |
| 8 | Haiti | 9.6 | 8.6 | 7.0 | 9.1 | 9.1 | 9.7 | 8.8 | 9.6 | 7.6 | 7.9 | 9.0 | 9.9 | 105.8 |
| 9 | Central African Republic | 8.6 | 9.8 | 8.5 | 6.1 | 9.2 | 7.7 | 9.0 | 9.5 | 8.6 | 9.7 | 9.1 | 9.4 | 105.3 |
| 10 | Zimbabwe | 9.2 | 8.7 | 8.4 | 8.6 | 8.6 | 8.6 | 9.2 | 9.1 | 8.9 | 8.4 | 9.7 | 7.8 | 105.2 |
| 11 | Iraq | 8.3 | 8.8 | 10.0 | 8.3 | 8.4 | 7.3 | 8.6 | 7.6 | 8.6 | 10.0 | 9.6 | 8.5 | 103.9 |

2.9 The Successful Rebuilding of Nation-States: Germany and Japan after World WarII

Timilsina argued that the end of World War II not only saw the development of the UN Charter, but also saw the most successful and best-known examples of nation-building. One such example is the rebuilding of Japan and Germany after they lost World War II. The

reconstruction efforts for these two countries were considered too ambitious as the Marshall Plan involved long-term commitment from the US and targets were set from the outset. In Germany, for example, major priorities were to rebuild the infrastructure, re-open coal mines and restore transportation. In Japan, precedence was given to the provision for “large-scale humanitarian assistance” in the first phase, and political and fiscal reforms in the second. In both Japan and Germany, it was “well-accepted that democratization coupled with reconstruction contributed to the stability and growth of these countries” (Timilsina, 2006: 16).

Dobbins et al. suggest that the US approach to the reconstruction of Germany was very instructive. The old “state was dismantled and subsequently refashioned from the bottom up” (Dobbins *et al*, 2007: 5). This involved the abolition of all governmental institutions followed by their reconstruction. In Japan, on the other hand, all institutions were kept intact and reformed from within. The German approach – although costlier, and requiring more personnel and time – resulted in a thorough transformation of the institutions and social structures, including a reconciliation with its history and the neighbouring countries. On the other hand, Japan initially did not fully reconcile; nevertheless, it became a successful nation. “In both Germany and Japan, the political reform process for the most part predated large-scale external reconstruction assistance” (Timilsina, 2006: 16).

The most important element was that the people and surviving leaders of Germany and Japan wanted to have the new type of government and economic structures, i.e. they wanted to be Western-style parliamentary democracies and industrial nations. More importantly, there was a commitment “to transition rather than to half measures” from the US. From the outset, the US “stepped into the moral and physical wreckage of Germany and Japan to assume complete control” (Jennings, 2003: 27). This commitment lasted for 10 years during the occupation period, followed by 45 years of restrictions.

Randall (2005) notes that this successful US strategy towards Germany and Japan was not adopted with other post-conflict states, such as Iraq. The reason is that the United State shifted its geographic emphasis from the western hemisphere towards the Middle East (Randall, 2005: 111) where energy resources exist, to implement a new foreign policy as part of the unipolar strategy of the United States to control the states of the region rather than building them. Furthermore, after the 1960s, the US adopted a new policy of “exceptionalism” which was “synonymous with secret government, dirty tricks, dirty wars, and other activities generally

viewed as incompatible with the foreign policy of an open and democratic society” (Godson, 2011: 64).

By analysing the US decision to rebuild Germany and Japan after World War II, it can be seen that the Marshall plan also served US geopolitical interest and security needs. The US had to rebuild the political infrastructure of Europe because it had been the centre of conflict and violence since the 16th century. There would have been endless wars in Europe, and Europe exporting violence and war around the world. In order to prevent this, it was necessary to rebuild Europe economically. There were all kinds of conditions, limitations and constraints and demands placed within that on European countries. However, also politically, at the end of World War II, in many European countries certainly, such as Greece, Italy, France, the local communist parties were very powerful, and morally and politically enjoyed a lot of support because they were the ones that had resisted and fought against the Fascists. This was a cause of concern for the US because it did not want to support communist governments in Europe. Europe already had lost the Soviet Union and Eastern Europe to Communism, and such a development could have meant that Western Europe would adopt a communist political and economic system as well and fall under Soviet suzerainty, potentially leading to another US military conflict – this time with the Soviet Union. Therefore, the US had many good reasons for intervening. Some elites in the US genuinely feared the power of the Soviet Union, however, many did not because they recognised that the Soviet Union itself had been largely devastated in the war. Nonetheless, there was still a case for the perception that the Soviet Union could potentially be a threat, therefore the US needed to find a military bulwark against it, which eventually developed into NATO. However, this meant that American troops were stationed permanently in Western Europe marking a serious and long-term military and financial commitment of the US. (Hatzivassiliou, 2014; Zaloga, 1989; Stoddart, 2014). Thus, the US had very important geo-political, economic and military reasons for intervening in Europe, as it did in East Asia. It pursued its own interests by building up and opening trade links and markets in those countries, supporting sympathetic political regimes and governments wherever possible, and trying to stop various socialist groups taking power in those countries.

2.10 Nation-Building and External Factors

During the 1990s, many states emerged from the collapse of the USSR, Yugoslavia and through other conflicts and/or agreements. In the USSR, for example, Lenin had believed that

nationalism would disappear under communism and a proud Soviet people would emerge. However, the nations that emerged from the collapse, after the ravages of the “Cold War and a communist dictatorship have experienced a resurgence of nationalisms directed against their statehood” (Bogdandy *et al*, 2005: 587).

Table 17 New countries that have emerged since the 1990s

| Yugoslavia | The USSR | Other emerging states |
|----------------------------|-----------------|---------------------------------|
| Bosnia and Herzegovina | Armenia | Namibia |
| Croatia | Azerbaijan | Yemen (North and South merging) |
| Kosovo (status in dispute) | Belarus | |
| Macedonia | Estonia | East/West Germany |
| Montenegro | Georgia | Unification |
| Serbia | Kazakhstan | Czech Republic |
| Slovenia | Kyrgyzstan | Slovakia |
| | Latvia | Eritrea |
| | Lithuania | East Timor |
| | Moldova | South Sudan |
| | Russia | |
| | Tajikistan | |
| | Turkmenistan | |
| | Ukraine | |
| | Uzbekistan | |

In Central and Eastern Europe, the old regimes gave way to new nations after decades of dictatorial oppression. In others, there was either a conflict or agreement. For the emerging nations, Czech Republic, Slovakia and North and South Yemen, for example, there was no conflict. However, Sudan faced years of internal strife prior to South Sudan becoming a new nation-state.

The Russian economy's failure is one example of the superficial introduction of market reforms which lacked the necessary institutional infrastructure and bred corruption and the

accumulation of wealth within a small elite (Cameron, 2004: 103). The Russian reform project had run into serious difficulties by the mid-1990s. Criticism of the early reform effort initially focused on the lack of attention to so-called “market supporting institutions”. The simplistic and erroneous views of neoliberal advisers as to how capitalist markets operate resulted in a programme of minimal law reform that was paralleled by an equally simplistic and erroneous view of how the old Soviet command economy operated. Their analysis of Soviet affairs essentially accepted the de jure self-description of Soviet law as accurate representations of the de facto economic realities (Glinavos, 2010: 173).

The demise of the Soviet Union and its satellite state and the end of the bi-polar Cold War world also wider geopolitical repercussion on the Middle East, as identified by Parsi (2007). The end of the Cold War era and the rise of American unipolarity, according to him, strengthened the geopolitical position of Israel in the region. The US “unipolar world put many of Israel’s previous security assumptions into question. Undoubtedly, the collapse of the Eastern front (Iraq) and the disappearance of the Soviet threat improved Israel’s security. Suddenly, all conventional military threats against Israel almost completely evaporated. This monumental geopolitical shift improved Israel security” by putting “an end to Moscow’s military support to Israel’s Arab foes, particularly Syria, effectively eliminating the Arab military option. The Arabs no longer had a superpower to rely on” and “Iraq no longer constituted a realistic threat to Israel... Russia also lowered its political profile in the Israeli-Palestinian conflict” (Parsi, 2007: 174). As a result, Israel’s regional power increased while the Arab States became weaker. This meant that instead of the US depending on that peripheral state to balance the weakness of the Arabs in the Middle East, the increased power of Israel pushed for the emergence of a new order that would place Israel and Iran on opposite sides in the new geopolitical equation. Israel’s desire to become the dominant power in the new Middle East would require that Iran remains on the political fringe of the region and is not allowed to take the role to which it believes it is entitled to. Israel’s new strategy since 1991 has therefore considered Iran as its greatest strategic rival and threat. During this period, Iran started to develop its nuclear capabilities and supported Palestinian and anti-Israel groups in the Middle East (Parsi, 2007: 161-162).

Parsi’s argument can provide a broader context to give meaning to events and developments in Iraq since the US invasion and the wider region since the Arab Spring started in 2011. The peripheral state, Israel, with the support of the United States, began to build its own policy in

the Middle East region and has behaved as a core state seeking means to consolidate its geopolitical position and security against potential and actual political and military threats.

George W. Bush and the so-called neoconservatives – a group of his senior advisors, including Condoleezza Rice, Dick Cheney and Donald Rumsfeld, who believed in the global expansion of democracy through military means (Aberbach and Peele, 2011: 365) - started the war against Iraq in 2003 with two declared aims: war against terrorism and the creation of a New Middle East. However, the ambition to reshape the Middle East became less pronounced during the Bush administration. Wallerstein argues that the US, after the invasion of Iraq, became much weaker in the Middle East. On 11 December, 2006, “a stellar bi-partisan committee of Establishment figures headed by James A. Baker and Lee Hamilton issued a report calling for a phased withdrawal of U.S. troops and direct discussions with Iran and Syria about all outstanding issues in the Middle East”. Iraq was no longer their top priority. “Attention has shifted radically to the poor state of the world-economy and particularly of the US economy” (Wallerstein, 2008).

However, another important factor has arisen soon after the US troops' withdrawal from Iraq and during Arab Spring: Iraq faces a major conflict with the “Islamic State in Iraq and Syria” (ISIS). The rise of ISIS has not only further destabilised the region but also exacerbated ethnic and sectarian divisions within Syria and Iraq. The rise of ISIS has strengthened the Kurdish region and made the idea of Kurdistan as a state an advancing reality. The Syrian state has been effectively divided among different groups. The division of Iraq into three areas, along sectarian and ethnic lines, has also become a real fact on the ground. Armed conflict has reached most of the states in the region except two states, Israel and Turkey, with a lot of evidence that Turkey was involved in supporting ISIS in Iraq and Syria. ISIS roots can be traced back to Al-Qaida under the leadership of Abu Musab Al-Zarqawi that emerged in Iraq after the US invasion (Stern and Berger, 2015). Similarly, Ali Allawi, the Iraq defence and finance minister during the US occupation of Iraq after 2003 argues that the Iraqi state is built on division: “Iraq is one of those countries that lack a key requirement of social policy, namely a unity of thought and ideals, and sense of community. The country is fragmented and divided against itself” (Allawi, 2008: 22).

2.11 Conclusion

The failure of nation-state building in Iraq reflects the problematic nature of the US-led coalition's approach to the issue. The US failed to follow the precepts established in academic literature or international institutions, as well as the successful examples of nation-state building in Germany and Japan after World War II. The consequences for Iraq will be examined in the remainder of the thesis.

When looking at the history of nation- or state-building, two dimensions come alive. *First* is the historical dimension, where nations and empires grew through either merger of people wishing to live and work together or through the expansion of a country into an empire stretching into vast territories. The *second* dimension is a recent development; it is nation-building (or regime-change) either through self-imposed, post-conflict reconstruction or imposed, regime-change conflict. Whatever the circumstances, nation-building activity cannot be the same for all the countries. In the following chapter, based on the discussion on successful and failed state- and nation-building, the examples of Poland, South Africa and Bosnia and Herzegovina will be examined to determine how factors identified as facilitating state- and nation-building have been central in the successful transition of these three countries from conflict and authoritarianism to stable democracies. Building on theories on successful state- and nation-building and using Poland, South Africa and Bosnia and Herzegovina as examples, the thesis develops a typology of successful policies that will then be applied to the example of Iraq.

Chapter Three: State-Building in Post-Conflict and Post-Authoritarian Environments: The Cases of Poland, South Africa and Bosnia and Herzegovina

3.1 Introduction

The previous chapter discussed theories around successful nation-state building, in particular in post-conflict or post-authoritarian scenarios. Crucial in debates around nation-state building was the distinction between state- and nation-building respectively: the former is understood as denoting the development of institutional structures within a state, the formation of governance and a stable bureaucracy to ensure stability, security and functioning public services and the creation of legitimate, transparent and recognised political processes to negotiate divergent and conflicting societal and political interests within the state's different constituencies. By contrast, nation-building is understood in more ideological terms as the creation of a "national narrative", a shared sense of communal identity within the different social and/or ethnic groups within the territory of a state in order to mobilise different social and political actors in the nation-state building process.

These general observations around successful nation-state building will be further discussed and exemplified with three case studies in this chapter which engages with successful post-conflict and post-authoritarian state-building by discussing in detail the transition of three countries from conflict or authoritarian political systems to democratic orders. Taking the case studies of Poland, South Africa and Bosnia and Herzegovina, the chapter discusses the factors that led to successful transitions in these contexts and then develops a typology of policies that – based on the experience of these three countries – suggest an end to ethnic discord and antagonism, promote dialogue and reconciliation and secure the formation of stable and solid democratic states.

This chapter chooses as case studies for the transition from authoritarianism and conflict to stable democracies Poland, South Africa and Bosnia and Herzegovina. A number of reasons account for this choice: all three countries have been perceived as examples that succeeded in transforming from authoritarian to democratic states and in overcoming sectarian and ethnic conflict that has marked the history of two of these countries. Poland is a good example of a democratic society in a post-socialist state that has mastered the end of both a socialist economic and political system by achieving economic prosperity and political stability. While

the democratic transition in Poland has not been without challenges and the current democratic system and the rule of law are still contested to some extent, overall the country's peaceful transformation to a post-socialist system and its successful European integration mark it out as a success in recent European history. South Africa and Bosnia and Herzegovina are marked by ethnic, racial and sectarian diversity and are therefore most pertinent to the Iraqi case as a nation-state marked by ethnic and sectarian diversity. In the case of South Africa, minority white political rule was brought to an end with the end of apartheid creating a political system and overall constitutional and legal culture that attempted to be inclusive of the different constituencies of South African society – constituencies that were perceived or have perceived themselves as antagonistic to one another. Similarly, Bosnia and Herzegovina emerged out of a new history of ethnic conflict in which different ethnic groups defined by their sectarian adherence fought against each other in a brutal civil war.

While there are similarities between Iraq and the three chosen case studies, the differences between these case studies need to be acknowledged as well. Poland as a central European nation-state, possesses a long democratic tradition to which it could refer when overcoming socialist rule. In addition, its position in Europe favoured its integration into the structures of the European Union which facilitated economic development and ascertained political stability. Iraq, in contrast, is a post-colonial nation-state created by Britain after World War I – hence, Iraqi nationalism is a fairly recent phenomenon. Furthermore, as a new nation-state, Iraq has not been in a position to refer to a historical democratic legacy as Poland has been able to. Certainly, in all three cases international political pressure and most significantly, in the case of Bosnia and Herzegovina, a foreign military presence has been crucial in facilitating the democratic transitions and stabilising the new democratic systems. Despite the differences of the three case studies with Iraq, they serve as good indicators as to the factors leading to and ensuring the successful transition to and firm establishment of a democratic system after the end of authoritarianism and/or ethnic conflict. Success is thereby understood in terms of both state- and nation-building: the creation of institutions and the implementation of policies that ensure stability, security and prosperity and the forging of a new “national narrative” underpinning the ideological cohesion of the nation.

3.2 Poland

This section focuses on the development of democracy in Poland where the first non-communist government in Central Europe was established in 1989. It provides insight into the challenges and difficulties that Poland, as a former communist country, faced during the process of political and economic transformation and structural reforms.

3.2.1 Historical Background

Poland is a special case among post-communist countries in Central Europe because it had the continent's first written constitution, dated 3 May 1791. The concept of democracy was therefore, historically, more deeply rooted in Poland than in most other central and Eastern European countries (Pogonowski, 1989: 46). Another distinguishing feature is the crucial role which intellectual forces in Poland played in shaping the struggle against the political system in the Communist state that was established after 1945. When the Yalta Conference Agreements of 1945, between the Western allies and the Soviet Union, sealed the fate of Poland and other European countries for the foreseeable future (Kenney, 1997: 27-28), the "Polish intellectuals resistance to communism was rooted in the language of democratisation rather than national liberation" (Suchocka, 2015: 21).

The Catholic Church was also instrumental in injecting the language of democratisation into the political debate. The Church had remained independent of the state despite being restricted in its public activities during the entire period of Communist rule. In addition, Moscow did not impose the predominant Russian culture on Poland directly but chose instead to use its local communist version based on the Polish language and selected Polish national traditions (Zarycki, 2000: 857-858; Roshwald, 2002: 22). Due to these factors, the oppositional democratic movement during the *Solidarność* (Solidarity) strike campaign of 1980-81 perceived its identity in fostering the "democratisation" of political life in Poland (Ash, 1999: 41-61). This extended also to the economic sphere, with growing support among intellectual circles for the concept of worker self-management as part of the democratisation of the workplace. It was viewed as the only possible method for economic reform of the centrally planned economy in communist Poland because advocating private property or market economy would have been politically impossible at that time (Dabrowski, 1996: 20; Sachs, 1994: 28-31). Following talks in Warsaw during the period of 6 February – 5 April 1989

between the communist government and Solidarity and other opposition groups to defuse growing social unrest, the historic Round Table Agreement was signed (Sachs, 1994: 38-40). This was an attempt to democratise Poland's political system rather than the introduction of democracy itself. The acceptance of the leading role of the Communist Party was included in the Agreement.

In the semi-democratic parliamentary elections that followed, on 4 June 1989, Solidarity candidates won all the seats they were allowed to compete for in parliament (*Sejm*). The proportion of parliamentary seats for the ruling parties and the democratic opposition had been determined earlier by the Round Table Agreement and not by the election results. In the Senate, however, the Solidarity candidates captured 99 out of the 100 available seats. On 24 August 1989, Poland's Parliament made Tadeusz Mazowiecki, a Solidarity supporter, the country's first non-communist Prime Minister after World War II, thus ending more than 40 years of one-party rule. These dramatic political developments opened the door to completely changing the existing political system (Ekiert and Kubik, 2001: 59). In September 1989, the first post-World War II non-communist government in this part of Europe was established. New amendments to the Constitution were adopted in December that year removing references in the constitution to Poland being a socialist country (Aleksandrowicz *et al*, 2009: 142; Ágh, 1998: 69; Ekiert and Kubik, 2001: 59). Another important element of political reform "was a partial decoupling of the central and local political and administrative arenas" (Ekiert and Kubik, 2001: 60).

3.2.2 Political Institutionalisation

During the period from 1989 to 1991, after the dismantling of the communist regime, Poland's political development and success in moving towards a stable democratic order faced its own set of problems. The parliament, which had been set up by the Round Table Agreement, was dominated by deputies installed under the previous regime. When entirely free parliamentary elections were held in October 1991, critics argued that the competing political parties were weak, fragmented and incapable of forming an effective government. Such a point of view led to a premature conclusion that Poland underwent a deep and dangerous political crisis and that its transitional institutions lagged behind their counterparts in other Eastern European countries. However, a number of factors need to be considered in this respect. Poland was also the first of the East European countries to implement a radical programme of economic reform,

using “shock therapy”, with the aim of transitioning rapidly from a planned communist economy to a market economy. This stirred up sentiments of resentment among much of the population both to politics in general and to liberal politicians in particular. The fragmentation of the 1991-93 parliament was also the result of an electoral system based on proportional representation without any threshold being imposed to limit the representation of large numbers of small political groups (Lewis, 1994: 779). Another factor was the strong historical awareness of Poland’s post- World War I democratic experience, when political fragmentation led to Jozef Pilsudski’s *coup d’état* in 1926, thus ending Poland’s pre-World War II democracy (Shields, 2012; Myant and Cox, 2008; Lewis, 1994: 780).

Although the number of political parties was more than 200 by mid-1993, only a small number had any real political significance. The results of the second parliamentary election in September 1993 helped to assess the institutionalisation of political parties and their evolving role in Poland’s political system. After the imposition of a minimum (5%) electoral threshold only six parties were represented in the elected parliament (Ka-Loc Chan, 2001: 66). After Poland became a member of the European Union on 1 May 2004, the involvement of the Polish parliament increased in both quantitative and qualitative terms. In general, the parliament has maintained a relatively strong position in the political system, and this has been further strengthened by the series of weak coalition and minority governments that Poland has subsequently experienced (Venice Commission, 2005: 27).

3.2.3 Constitutional and Electoral Rules

During the period between 1989 and 1997, Poland experimented with several sets of constitutional and electoral rules. Political leaders initially attempted to apply models from previous constitutional experiments in Western Europe, such as the German “constructive vote of no confidence” (Ka-Loc Chan, 2001: 66) or the French-style semi-presidentialism. However, a mixed presidential parliamentary system in Poland was established in several stages. Following the Round Table talks of 1989, a powerful presidency selected by the National Assembly was created. Then, the President was popularly elected with the majority run-off rules in 1990. The respective powers of the legislative and executive branches of the state were further clarified in the interim “Little Constitution” in 1992 (Ekiert and Kubik, 2001: 60). The system was then finally established in the 1997 Constitution, with some modifications,

to strengthen the position of the government vis-à-vis the parliament and the President (Ka-Loc Chan, 2001: 66-83).

This constitutional model corresponded more closely to that of a parliamentary government. It had a dualistic executive, composed of the President of the Republic, chosen in universal and direct elections, and the Council of Ministers endorsed by a parliamentary majority. Each of these bodies has its independent functions. As Article 144 (2) stipulates “official acts of the President [...] shall require, for their validity, the signature of the Prime Minister, who by such signature, accepts responsibility therefore to the Sejm” (Venice Commission, 2005: 18). This particular constitutional set-up intends to prevent one of the most typical outcomes of a parliamentary democracy: that of majority rule in which both the executive and legislative branches of the state are dominated either by the majority party or a coalition of government parties. With the exception of the French semi-presidential system, this is the default constitutional and electoral arrangement in Western European countries which the Polish constitutional set-up intends to adopt while preventing the dominance of a single party or a coalition of parties over both the government and parliament (Venice Commission, 2005).

For this reason, the electoral system in Poland experienced several interesting modifications during the 1990s. It changed quite drastically from a skewed majority-plurality system in 1989, through generous Proportional Representation in 1991, to moderate proportional representation by introducing a threshold requirement of (5%) of votes for parties to enter parliament in 1993 (Gowland *et al*, 2014: 251). The adoption of the latter “led to more focused contests between the left and the right, to more effective and longer-lived governments and a reduction in the number of parliamentary parties to a more manageable level. This is particularly true for the post-Solidarity parties, since electoral setbacks have forced their leaders to modify their strategies in order to improve their chance of winning elections and achieving policy goals” (Ka-Loc Chan, 2001: 85-86).

The electoral system has remained relatively stable afterwards, but there have been repeated calls for further reforms: “These systems varied according to district magnitude, threshold requirements, as well as electoral formula which determined how votes were converted into seats” (Ka-Loc Chan, 2001: 71).

3.2.4 Economic Transformation

The process of economic changes in post-communist Poland turned out to be much more complicated than the political changes. The democratic institutional and constitutional transition was more popular and its positive results were more visible with the successful establishment of a liberal democracy. Economic transformation towards market economy, however, were more challenging as it was very difficult to achieve a public consensus on the type and pace of economic reforms. The adverse reactions to the “shock therapy” economic plan presented to the parliament in December 1989 can be explained by the fact that Solidarity, a trade union movement, was itself not sufficiently prepared for such a radical change of economic models. Similarly, the country as a whole was socially unprepared. There was a fairly widespread belief in the possibility of creating a system that would essentially become a modified version of socialism. The predominant and rather simplistic thinking at the time was that it would be sufficient to introduce political and economic freedoms and the problems would solve themselves, without incurring such high social costs (Suchocka, 2015: 19-31).

Nevertheless, radical economic transformation was implemented post-1989, with the successful introduction of a market economy ending state ownership of enterprises by privatising those with substantial support of foreign investors and liquidating those not profitable any more. The decrease in trading links with countries of the former Eastern bloc under Soviet economic suzerainty was replaced by emerging new trading links to Western countries. Polish enterprises lost as a consequence their traditional markets in Eastern Europe resulting in an overall decline of the manufacturing section and a rise in unemployment. Nevertheless, Poland has been among the most successful in achieving an economic transformation to a market economy after the end of communist rule (Mokyr, 2003: 207). The abolition of Poland’s Central Office of Planning in 1996 and the mushrooming of de-centralised regional and local development agencies as a consequence allowed for investment initiatives geared towards regional and local circumstances while also overcoming a sense of over-reliance on the government as being solely responsible for engendering economic development (Brusis, 1999: 13-22). Economists of the International Monetary Fund (IMF), overseeing the economic transformation, considered Poland in the 1990s to be “the “Tiger economy” of Central Europe” (Koczanowicz and Singer, 2005: 205) and role-model for other countries in implementing democratic reforms in connection with economic liberalisation that yield substantial economic growth. The annual growth rate of Poland’s GDP in the late 1990s surpassed the growth rates of other EU countries and other post-Communist countries in

Central and Eastern Europe (Marvin, 2010). The economic development of that period is evidenced in urban redevelopment and the growth small enterprise and the wide-spread availability of consumer goods and services from the late 1990s (Koczanowicz and Singer, 2005: 205).

3.2.5 Summary

Several factors account for the successful transition from communist to democratic governance in Poland. One of the specific features of the experience of Poland was the existence of a mass social movement, in the form of the Solidarity trade union, which had successfully challenged communist rule ten years before it finally collapsed in other parts of Eastern Europe. The existence of a non-governmental social movement outside of the state apparatus had a major influence on the institutionalisation of the new political order in post-Communist Poland, including the formation and proliferation of new parties. As such, at the time of transition from communist to democratic rule a social movement existed that has exhibited an attitude of “hold its political leaders accountable for their economic policies and programs” (Slay, 2014: 121). The transition to post-Communist rule was also facilitated by the wide “acceptance of the language of democracy” (Suchocka, 2015: 21) by all involved political actors, albeit for different reasons: the (post-)communists’ support for democratisation was motivated by their aspiration that elements of communist rule could be salvaged and that the new political order would not entirely implement a liberal democracy, while oppositional groups hoped for the full abolition of Communist rule over Poland. Wider public support was gained by the visible and substantial changes that were achieved in the political landscapes with the full establishment of democratic elections illustrating that “citizens were finally given a say in how their country was run” (Suchocka, 2015: 22).

Concomitantly, the European integration of Poland with its accession to the European Union in 2004 and its incorporation in Western geopolitical security structures by joining NATO already in 1999 further strengthened the post-communist democratisation process and were presented as tangible signs of Poland’s successful political, social and economic transformation (Slay, 2014: 121; Biskupski, 2000: 184; Kacowicz *et al*, 2000: 265; see also Garnett, 1996: 66-82). Poland’s integration into the economic and political structures of the EU in 2004 also supported two key aspects of the country’s transformation after the fall of communism: politically and legally, in order to gain access into the European Union, Polish governments

had to accept the ability of parliament to exercise its authority and engage in a robust check-and-balance to hold the government accountable. Equally, the rule of law and the protection of human rights, and in particular minority rights, had to be evinced both *de jure* and *de facto*. As such, European integration facilitated further and strengthened the democratic *modus operandi* of the Polish state (Myant and Cox, 2008: 91) Furthermore, Poland's accession to the European Union and to the benefits of its structural and investment funds aided in counter-balancing the severity of the country's rapid economic transformation. The economic challenges inherent to the radical transition from planned to market economy became evident in this period revealing a lack of understanding of "relations between labour and capital" (Suchocka, 2015: 22) both in the public and by political actors. Despite these difficulties during the early years of economic transformation, some have claimed that the economic and the political success of the 1990s was one of Poland's greatest victories, "allowing the nation to regain its self-respect and reassert a claim to being regarded as a worthy member of the European community, not just a poor and primitive relation" (Biskupski, 2000: 184).

3.3 South Africa

This section focuses on the experience of nation-building in South Africa after the end of the apartheid regime (1948-1991). A better understanding of the lessons of this experience requires a close examination of the process that led to the dismantling of apartheid, culminating in the first non-racial democratic elections in April 1994 and South Africa's 1996 constitution.

3.3.1 Historical Background

The negotiated transition from the racial tyranny of apartheid, an ideology of racial segregation that was the basis for white domination of South Africa from 1948 (in the election of the National Party to power) to 1991, to a non-racial democracy was made possible by a consistent struggle led by the African National Congress (ANC), a national liberation movement that was formed in 1912. Its fight against racism included organising mass resistance and taking up armed struggle against apartheid, as well as mobilising the international community (Beinart and Dubow, 1995: 20-61). The first declaration adopted by the UN against apartheid was issued on 2 December 1950 when its General Assembly stated that "the policy of racial segregation (*apartheid*) is necessarily based on doctrines of racial discrimination. It established a

Commission of three members to study the situation and invited the government of South Africa to extend full cooperation to the Commission” (Asamoah, 2012: 206).

The killing of 69 peaceful African protesters in Sharpeville by the police on 21 March 1960, prompted the UN Security Council (UNSC) to take its first action on South Africa. It adopted Resolution 134 on 1 April 1960 which deplored the massacre and called upon the South African government to abandon its policies of apartheid and racial discrimination. On 7 August 1963, the Security Council adopted Resolution 181 which called upon all states to implement an arms embargo on South Africa. During the same year, the UN General Assembly adopted a resolution that signalled the first of international efforts to impose effective oil sanctions against the apartheid regime. In 1968, the UN General Assembly requested all states and organisations (Slonim, 1973: 182-349) “to suspend cultural, educational, sporting and other exchanges with the racist regime and with organisations or institutions in South Africa which practice apartheid” (UN, 1978: 97). In October 1984, the Security Council declared that the new racist constitution of South Africa of 1983 had no legal force, and demanded “the immediate eradication of *apartheid* as the necessary step towards the full exercise of the right to self-determination in an unfragmented South Africa” (Raić, 2002: 137). On 14 December 1989, the UN General Assembly adopted by consensus the “Declaration on Apartheid and its Destructive Consequences in Southern Africa” (UN, 1989). It called for negotiations to end apartheid and establish a non-racial democracy.

On 11 February 1990, Nelson Mandela was freed from prison after spending 27 years in detention. He made his first appearance at the UN on 22 June 1990 when he addressed the Special Committee against Apartheid. A series of negotiations during the period 1990-1993 between the ANC and the South African government paved the way to holding the first non-racial democratic elections on 27 April 1994. On 10 May 1994, Mandela was inaugurated as South Africa’s first black president (Reddy, 2008). Resolutions issued by the United Nations and the international pressure it exercised on apartheid South Africa legitimised the struggle against the apartheid regime, both internationally and in South Africa, and facilitated the end of apartheid and the transition to a democratic South Africa.

3.3.2 Transition Process

There are important lessons to be drawn from the transition process and constitution-making in South Africa that are central to understanding national reconciliation and nation-building more generally. It involved participation and agreement among the various parties in the political process, allowing them to have a share in the structures of the new post-apartheid South Africa. The transition process and the form of the interim government after the April 1994 election gave priority to promoting national unity. The National Party, the former ruling party, and the ANC were aware of the history of ethnic and racial antagonism, and recognised the pressing need to a healing of previous conflicts. Efforts were therefore exerted to ensure the historically inclusive election of April 1994 did serve as a nation-building experience (Anthony, 1998: 213). The political actors creating South Africa's post-apartheid democracy strongly advocated the notion of a constitutional democracy that creates a sustainable environment for democratic practice, ensures political stability and guarantees the rule of law. Post-apartheid South Africa was built on the principle that governmental policies and actions, the laws and principles of the state are determined, controlled and limited by the constitution (Federico and Fusaro, 2006: 132). Furthermore, "the Constitution of South Africa states the objectives of its local government as including the promotion of democratic and accountable governance, as well as ensuring the provisions of services in the community" (Mbondeniyi, 2013: 351). In single-party states, government often regulate the activities and behaviour of party officials to minimise corruption or misuse of power, while in liberal democracies the central role that political parties play in the parliamentary legislative process, the influence of interest groups on party officials as well as the need to find compromises in the political process both create ethical dilemmas for party officials and increase the danger of corruption. In order to avoid such problems in the South African context, a code of conduct was implemented controlling donations to political parties and determining how political lobbying can be undertaken (Seidman *et al*, 2001: 369).

3.3.3 New Constitution

South Africa's 1996 constitution was crucial for ensuring the country's transition from apartheid, a clearly undemocratic regime, to democracy (Gross, 2004: 54-56). The constitution is widely recognised as the crowning achievement of the country's dramatic transition to democracy. Quite importantly, post-apartheid political actors realised that a new constitution

should not to be written in haste. Therefore, an interim constitution was introduced in 1993 to regulate the first democratic elections in 1994 before a final constitution was written in 1996. Participation in the constitution-making process is essential in transitional justice with the aim of ensuring that all people are equal and deserve equal rights and opportunities. This was essential in South Africa to overcome feelings of exclusion and ensure that decision-making about basic rules will enhance feelings of participation and inclusion. In this sense, negotiating the new constitution was the cornerstone of the peace process in the country and was also an essential element in reconciliation. It enabled various groups to express their perceptions and concerns, which were then channeled into the constitution (Gross, 2004: 58). With the completion of the final constitution of 1996, “the constitution phase of conflict resolution” (Federico and Fusaro, 2006: 90) came to an end, while the new constitution also contains the legal basis for central processes in the creation of a post-apartheid South Africa such as affirmative action, land reform, economic empowerment for the country’s black population and racial reconciliation.

The Constitution was negotiated in a lengthy process and in several stages beginning with the Convention for a Democratic South Africa (CODESA), founded in 1990. This stage ended in December 1991 when most CODESA participants signed a Declaration of Intent committing themselves to peaceful constitutional change, including a commitment to a Bill of Rights. To overcome problems that arose in this process, negotiations continued in the Kempton Park Negotiations (known as MPNP or Multi-Party Negotiation Process), the primary objective of which was drafting and adopting a new (interim) constitution. This stage led to elections for the Constitutional Assembly, which drafted the final document. In June 1993, an agreement was reached concerning a constitutional transition. This agreement followed from the Declaration of Intent and called for an interim constitution during the transitional period, to be followed by a permanent constitution. The interim constitution was to be drafted at the MPNP talks and formally adopted by the apartheid parliament. The final constitution was to be created by a democratically elected Constitutional Assembly and bound by the constitutional principles laid out in the interim constitution (Segal and Cort, 2011: 82-112). A future Constitutional Court would verify that the final constitution had been formulated in accordance with the constitutional principles laid out in the interim constitution. This mechanism was a compromise between the major parties (Gross, 2004: 58). The agreement fulfilled the demand by the ANC that a democratically elected Constitutional Assembly should draft the final constitution, but was subject to a framework of constitutional principles agreed upon in the Kempton Park

negotiations. Participation in the constitutional process took the shape of a non-elected negotiation forum for the interim constitution and a democratically elected Constitutional Assembly for the final constitution. Despite the differences between them, both embodied the idea of broad participation by society's different groups (Jackson and Tushnet, 2002: 182; Gross, 2004: 59).

Another important mechanism was that then interim constitution included a so-called "sunset clause" that constitutionally ensured setting up a system of executive power-sharing for five years after the first democratic election. This clause meant that a national unity government ruled during the transitional period. The latter actually continued until 1999, beyond the drafting of the permanent constitution (Federico and Fusaro, 2006: 93-102; Morris *et al*, 2011: 55). The national unity government that was formed in April 1994 including ministers appointed by all parties that received more than five percent of the vote, resulting in a broad coalition (Marx, 1998: 213). It was led by the ANC and headed by Nelson Mandela as a president and FW De Klerk, the former president, as his deputy. The cabinet included ministers from other political parties, including members of the formerly pro-apartheid National Party and the Zulu minority Inkatha Freedom Party (Gilson, 1999: 22). While the final constitution does not prevent the formation of future multi-party coalitions to form a government, it does not prescribe multi-party rule as the Interim Constitution did. The Constitutional Court emphasised in its ruling on the Final Constitution the need that minority groups and parties are not marginalised in the political process and can question majoritarian decisions as part of the parliamentary check-and-balance of the government: "This ruling symbolically marked the turn of South Africa away from the politics of contingency towards to politics of the rule of law – or the politics of predictability and stability" (Stones, 2001: 39).

After endorsing the interim constitution, a Constitutional Assembly was elected to draft a final document. Several principles were established as fundamental to this drafting process: inclusivity, accessibility and transparency. Inclusivity ensured that the positions of all major parties in the Constitutional Assembly would be taken into account. The principle of accessibility involved engaging citizens in the process and employing an elaborate media campaign. The people were asked to present their views and suggestions. The principle of transparency ensured that the public had access to the meetings of the Constitutional Assembly, as well making all documents available through the internet. In addition, more than 4.5 million draft copies of the constitution were distributed. As a result, the public response was overwhelming (Ebrahim and Laurel, 2010: 111-157).

Quite significantly, the constitutional deliberations included not just representatives of the political parties but civil society actors such as trade unions, business representatives such as the South African Chamber of Business as well as academic input either institutionally or by individual academics. All these groups made significant contributions when formulating the fundamental principles of the constitution and then when drafting the actual Interim Constitution. Such a broad involvement of various political and non-political actors ensured the consideration of a possibly very broad range of issues and interests. The strong and deliberate involvement of civil society actors in negotiating and drafting the final constitution with the election of the Constitutional Assembly on 9 May 1994 until the adoption of the final text in May 1996 became normalised and regular with more than 2 million submissions having been made to the Constitutional Assembly in this period by both individuals and civil society organisations: “the legal and, to a lesser degree, the environmental conditions that allow for direct participation by civil society in law making had undergone quite a revolution in the space of only two years since 27 April 1994” (Gutto, 2001: 97).

A new Constitutional Court was established in 1994 which also helped to mediate political conflicts that were often marred by violence in the past. This allowed competing political groups to abide by democratic procedures while maintaining their own visions for the future. In addition, the 1996 South African constitution, like the interim constitution of 1993, ensured that South African law will evolve in accordance with international law. Judges in both the ordinary courts and the Constitutional Court have not hesitated to invoke international law to support their findings (Dugard, 1997: 92). It is important to point out that emphasis in the lengthy and elaborate constitution-making process was placed on achieving consensus on the content of the final constitution. The South African experience highlights the important contribution of such mechanisms of constitution-making to transitional justice as well as national reconciliation (Gross, 2004: 58-59).

3.3.4 Truth and Reconciliation

The Truth and Reconciliation Commission is a prominent feature and a crucial component of the South African transition. The country’s interim constitution emphasised reconciliation between the citizens. It was not created by the victor after a civil war (Dugard, 1997: 88). This laid the basis for the constitution granting amnesty, under certain conditions, for offences perpetrated as part of the conflict and connected to political objectives. The final constitution

also endorsed this principle of reconciliation. Based on the Interim Constitution, the Promotion of National Unity and Reconciliation Act 34 of 1995 was enacted which stated: “It is deemed necessary to establish the truth in relation to past events as well as the motives for and circumstances in which gross violations of human rights have occurred, and to make the findings known” (quoted in Gross, 2004: 69).

The Truth and Reconciliation Commission (TRC) was thus created to investigate gross human rights violations that were committed during the period of the apartheid regime from 1960 to 1994, including abductions, killings, torture. The hearings started in 1996. The TRC’s mandate covered violation by both the state and the liberation movements and allowed the Commission to hold special hearings focused on specific sectors, institutions and individuals. The TRC recorded and made public the details of a very painful past. Publicly acknowledging and confronting these details was a very necessary part of the process of healing the historic wounds. The TRC had the authority to grant amnesty to perpetrators who confessed their crimes truthfully and completely to the commission (Sarkin-Hughe, 2004: 52; Gross, 2004: 71). This course of action, deciding not to prosecute offences committed during the conflict while not ignoring the crimes of the past, was described by the TRC itself as “a course that lay between a Nuremberg option and total amnesia” (Gross, 2004: 71).

According to Archbishop Desmond Tutu, who headed the Truth and Reconciliation Commission and was instrumental in bringing about reconciliation in South Africa, the adoption of the constitution laid “the secure foundation for the people of South Africa to transcend the divisions and strife of the past, which generated gross violations of human rights, the transgression of humanitarian principles in violent conflicts and a legacy of hatred, fear, guilt and revenge. These can now be addressed on the basis that there is a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for ubuntu but not for victimisation” (Tutu, 2012: 45). *Ubuntu*, an African humanist philosophy, was used as a theoretical foundation of the TRC and policies of reconciliation in multi-cultural South Africa. The *ubuntu* values “of collective unity and group solidarity could translate into the spirit of national unity demanded of the new South African society” (Makgoro, 1998: 7) It strives to maintain “a balancing act of reconstituting and reconciling different subjectivities, inducing a transition from victimhood to survivors” (Eze, 2016: 161). The TRC concluded its work in 2000, having granted amnesty to 849 of 7,112 (Sadat, 2005: 986).

3.3.5 Summary

Overcoming the entrenched apartheid regime and successfully establishing a democratic South Africa are the result of several factors. One important foundation facilitating the successful transition consists in the discursive and ideological underpinning of post-apartheid South African national identity. This post-apartheid conception of nationhood not only recognised the inherent ethnic and cultural diversity of South Africa as a “rainbow nation” but became also manifest in departing from ethno-nationalist conceptions of national identity which defined and legitimised racial segregation in the apartheid period: “Post-authoritarian nation-building, in contrast, appealed to civic nationalism as the new basis for moral integration and a redefined conception of nation” (Wilson, 2001: xvi). The framing of the apartheid issue by the international community as a human rights question prior to its abolition also allowed for a re-definition of South African nationhood on the basis of democratic constitutionalism that incorporates human rights discourse into the political and legal fabric of the state and employs international law as the guiding principle determining the constitutional and legal culture of the country.

Ethnic conflicts often result from political regimes that instil, through their policies, a sense of exclusion among certain groups. Successful transition from exclusionary regimes such as apartheid South Africa to inclusive and egalitarian political models requires the introduction of decision-making processes in the transitional period that provide groups that were formerly excluded from power, or at least felt excluded, with a strong sense of their participation and inclusion. The constitutional process in South Africa from 1993 to 1996 was central in this respect; it not only replaced on old political order based on racial exclusion with a new democratic order but ensured the active and conscious involvement of various political and civil society actors from across South African society: “constitution-making was the cornerstone of the peace process and was an essential element in reconciliation. It created a space that allowed various groups to express their perceptions and concerns, which were then channeled into the constitution” (Gross, 2004: 58). While the constitutional process certainly exhibited a strong sense of political inclusion based on notions of empowerment and political participation, the entrenched socio-economic inequalities in South Africa were only partially undone and have persisted, illustrating the limitations of a purely legal and constitutional approach to democratic transition (Marais, 2011: 92; Lester *et al*, 2014: 250).

The transitional period also involved a public process of reconciliation with the establishment of the Truth and Reconciliation Commission. The Commission intended to establish the truth about atrocities that occurred in apartheid conflict, to seek reconciliation and to grant amnesties. By legitimising it on the basis of the African philosophical concept of *ubuntu*, it also received an indigenous post-colonial ideological justification that was not necessarily rooted in human rights discourse or international law (Makgoro, 1998: 15). At the same time, under the leadership of Desmond Tutu, the TRC was also based on Christian notions of forgiveness to facilitate reconciliation between victims and perpetrators (Scarлата, 2013: 37). In terms of the victims' right to justice, this approach favoured restorative over retributive justice (Wilson, 2001: xvi-xvii). The South African Truth and Reconciliation Commission has thereby become the paradigmatic role-model of a successful institutionalised and public reconciliation process in post-conflict and post-authoritarian scenarios (Wilson, 2001: xvii-xix).

The success of the mechanisms and procedures adopted by South African actors in the transitional period notwithstanding, apartheid South Africa would not have collapsed and the country turned into a democracy without the active involvement of the international community. The role of the United Nations and global anti-apartheid activism is important here. In addition, however, the strategic role South Africa played in the Cold-War era as a key Western ally, also during the apartheid era in the 1970s and 1980s, is an important factor as well. South Africa's inclusion in the global economy could only be maintained and justified if civil unrest came to an end and political stability was achieved in the country. Both Western political actors as well as their South African counterparts realised this in the late 1980s and therefore supported the transition to democracy (Hearn, 2000: 815-830). Hence, full support for the democratic transition of South Africa by both the international community and Western hegemonic powers was one of the corner stones of the success.

3.4 Bosnia and Herzegovina

The final example of Bosnia and Herzegovina to investigate state-building in a post-conflict environment resonates most with the Iraqi case. Both, Bosnia and Herzegovina and Iraq, have experienced episodes of European imperialism in their histories. In both contexts, the collapse of an authoritarian regime was followed by a civil war between different ethnic groups whose national identities are informed by religious adherence. As part of the post-civil war settlement,

in Bosnia and Herzegovina a political structure was implemented, enforced by the international community, that reflected and took account of the ethno-religious diversity of the country – not dissimilar to the sectarian make-up of the state in post-Baathist Iraq (see also Harmon, 2007: 308-316).

3.4.1 Historical Background

As a result of the breakup of the Balkan country of the Socialist Federal Republic of Yugoslavia (SFRY), seven new countries appeared on the world map (Kriještorac, 2013: 38). The armed conflict in Bosnia and Herzegovina erupted on 6 April 1992 and was part of the breakup of Yugoslavia. It continued until 11 October 1995 when a ceasefire was agreed between the warring factions. By that time, over 200,000 people had died, 20,000 were missing and 1.2 million were internally displaced (UNMIBH, 2002).

The country was divided along ethnic lines. Civilians were the principal target and victims of the conflict which left a heavy legacy of hatred and widespread fear of retribution. The multi-ethnic and multi-religious Socialist Republic of Bosnia and Herzegovina declared its independence from the Socialist Federal Republic of Yugoslavia after a referendum that took place on 29 February 1992 which was boycotted by the Serbian population living in Bosnia and Herzegovina. The secession of the Slovenian and Croatian republics from Yugoslavia had already taken place in 1991 (Ginsburgs *et al*, 2001: 132). The population of the Bosnian republic was made up of (44%) Muslim Bosniaks, (32.5%) Orthodox Serbs and (17%) Catholic Croats (IBP USA, 2012: 40-45).

The main parties of the conflict were the forces of the newly formed independent Republic of Bosnia and Herzegovina and those of the self-proclaimed Bosnian Serb and Bosnian Croat entities that received military and political backing from Serbia and Croatia respectively. The civil war that continued for three years was notorious for war crimes and flagrant violations of human rights, including the shelling of civilian targets in cities and towns, acts of mass killings, systematic torture and rape and ethnic cleansing. One example of the atrocities committed was the horrific massacre committed by Serb forces in Srebrenica that had been declared by the UN in April 1993 as a “safe area” under its own protection. More than 8,000 Muslim Bosniaks were killed (Binet, 2015: 25-96; Aceves, 2007: 125-126), making it one of the worst cases of genocide in Europe after World War II.

An international peacekeeping force, the United Nations Protection Force (UNPROFOR) was formed in Bosnia and Croatia in February 1992. Several peace plans and cease-fire agreements, brokered by the UN and the EU to stop the war, were unsuccessful due to rejection or violations by the warring factions. One example was the “Vance-Owen peace plan”, proposed by the UN Special Envoy Cyrus Vance and EC representative Lord Owen in January 1993. It called for the division of Bosnia into ten semi-autonomous regions and was supported by the UN. It was the last peace plan that attempted to achieve an ethnically mixed and united Bosnia-Herzegovina (Allcock *et al*, 1998; Israeli, Benabou, 2013). However, both the UN peacekeeping mission and peace plans proposed by the international community failed and the civil war was only brought to an end by NATO air strikes in August/September 1995 against Bosnian-Serb targets. At that stage, two further political entities had been set up on the territory of Bosnia and Herzegovina: the “Serbian Republic of Bosnia-Herzegovina” on (70%) of the territory and the “Croatian Community of Bosnia-Herzegovina” on (10%), with the actual “Republic of Bosnia-Herzegovina” being compressed into (20%) of the overall territory of the country (Ginsburgs *et al*, 2001: 132).

The conflict between Croats and Bosniaks ended in March 1994 when a ceasefire agreement was signed in Washington. In May 1994, the foreign ministers of the European Union and the US welcomed the road map of the Contact Group, which included the United States, United Kingdom, France, Germany and Russia, and had been set up in the early 1990s to deal with the war and crisis in Bosnia and Herzegovina. The foreign ministers “confirmed their support for a settlement that keeps Bosnia and Herzegovina as a Union within its internationally recognized borders and which continuous the international legal personality of the Republic of Bosnia and Herzegovina. Constitutional arrangements will define the relationship between the Bosniac/Croat and the Bosnian Serb entities. The human rights specified in the principal international and European instruments are to be observed. Constitutional arrangements may be revised by mutual consent once the territorial settlement concerning Sarajevo has been concluded” (Ramcharan, 1997: 339). Although the plan was accepted by the Croat, Serb and Bosnian parties, it was rejected by the Bosnian Serbs. The Serbian government decided to exert pressure on the Bosnian Serb leaders by cutting economic relationships with them. This decision was welcomed by the UN Security Council. The UN Security Council condemned the Bosnian Serb refusal and strengthened the sanctions against the Bosnian Serb entity. Therefore, the armed conflict eventually came to an end on 11 October 1995. The UNPROFOR was responsible for monitoring a ceasefire that paved the path to peace negotiations that started in

Dayton, Ohio, on 1 November 1995. This only came about after intense pressure from world powers, especially the United States and Russia, in the Contact Group (Bieber and Galijaš, 2016: 213-221; Aceves, 2007: 337-341).

3.4.2 The Dayton Peace Agreement

On 21 November 1995, the General Framework Agreement for Peace in Bosnia and Herzegovina was signed along in Dayton. The following month, a conference was held in London to discuss procedures for implementing the Peace Agreement and to appoint the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina. The actual final Peace Agreement was signed in Paris on 14 December 1995 by the Republic of Bosnia and Herzegovina, the Republic of Croatia, the Federal Republic of Yugoslavia as well as the other parties (UNMIBH, 2003). The basic objective of the Dayton Agreement was to retain the territorial unity of independent Bosnia and Herzegovina by creating a democratic multi-ethnic state (Ramcharan, 1997: 342-343), consisting of two political entities: the Bosniak-Croat “Federation of Bosnia-Herzegovina”, comprising (51%) of the country’s territory, and the Serb “Republic Srpska”, covering (49%) of the country’s territory (Ginsburgs *et al*, 2001: 132).

The main participants in the peace negotiations in Dayton from the various successor states of the Socialist Federal Republic of Yugoslavia were the President of the Republic of Serbia Slobodan Milošević, the President of Croatia Franjo Tuđman, and President of Bosnia and Herzegovina Alija Izetbegović. The Peace Agreement stipulated that all three states were committed to adhere to the UN Charter in their relations, to respect the sovereignty of all three successor states, to find peaceful resolutions to disputes and conflict between them and to abstain from any policies or activities that question or undermine the territorial integrity or political independence of Bosnia and Herzegovina or any other of the successor states for that matter. Apart from these general principles to which all parties agreed, the Dayton Agreement also contained specific injunctions as part of the post-conflict reconstruction of Bosnia and Herzegovina: most importantly, they determined the boundaries between the Bosniak-Croat Federation and the Serb Republic Srpska and included the aim of holding democratic elections. To ensure security and stability in the country, an International Police Task Force (IPTF) was created, while the implementation of the cease fire was monitored by a NATO-led multinational Implementation Force, IFOR, which replaced the UNPROFOR mission under

the auspices of the UN. Finally, the Dayton Agreement postulated that all parties support and cooperate with the International Criminal Tribunal for the former Yugoslavia, established in 1993 in The Hague, to investigate war crimes during the conflict and to prosecute their perpetrators (UNMIBH, 2003). The post-Dayton international intervention in Bosnia and Herzegovina was not just about achieving peace and ending the conflict whilst retaining the territorial integrity and independence of the state. It equally aimed at building and stabilising a democratic institutional framework for that state, acceptable to all three ethnic groups while paving the way for the country's eventual inclusion in the institutions of trans-European cooperation (Bose, 2002: 204)

3.4.3 The Role of the International Community

The international community played a key role in pressurising the political leadership of the three ethnic groups to commit themselves to the creation of a multi-ethnic state comprising federal political institutions as loci of cooperation and compromise between the three ethnic groups and the formation of entity-based political institutions that would nevertheless accept the suzerainty of the country's federal executive, legislative and judicial bodies. The commitment of the political leadership also entailed the construction of a democratic state (Fuller, 1997: 23-44).

The commitment of the international community to the implementation of the Dayton Agreement and the formation of a multi-ethnic democratic Bosnia and Herzegovina was also evident in the NATO-led IFOR force monitoring the cease fire and thereby creating a secure and stable political environment for the implementation of the various political stipulations of the Agreement. The United States initially contributed 20,000 troops to IFOR, or about one third of the total force. The US contribution was reduced after SFOR (Stabilisation Force) was created replacing the IFOR mission in 1996. As the SFOR drew down over the years, the US eventually contributed about 1,000 out of a total of 7,000- 8,000 troops in SFOR in late 2004. Throughout, the United States retained command over the NATO force in Bosnia and Herzegovina. NATO formally concluded its Stabilisation Force (SFOR) on 2 December 2004 and handed over peace stabilisation duties to a European Union Force (EUFOR). The original IFOR mission, as well as the subsequent SFOR mission's operations, were authorised by the UN Security Council. The EUFOR operation in Bosnia and Herzegovina was welcomed by

UN Security Council Resolution 1575, adopted unanimously on 22 November 2004 (Clausson, 2007: 94; Weller and Wolff, 2006: 1-13).

3.4.4 The Political System

The Constitution of Bosnia and Herzegovina (1995) was spelled out in Annex 4 to the Dayton Peace Agreement which defined Bosnia and Herzegovina as a state of two entities, in effect but not explicitly federal, but also the state of three constituent peoples (Bosniaks, Croats, Serbs), and yet, simultaneously, of all citizens. Ethnic quotas created positions for officials to represent the different communities. Positions at all levels of government are allocated according to affiliation to the three principal ethnic groups: Bosniak, Serb or Croat. Political leadership in Bosnia and Herzegovina is out of reach by law for any person identified in any other way, for example a Bosnian with no specific ethnic label. Thus, the constitution froze in place the ethnic politics that had fuelled the war (Harmon, 2007: 311-312).

International organisations involved in the peace process continued to emphasize ethnicity in both the institutions and informal arrangements. Ethnicity permeated all institutions and spheres of governance, thus making the emergence of more integrative concepts difficult to take hold (Bieber, 2002: 28). The political system devised in Dayton was based mainly on the concept of consociationalism, which is one form of power-sharing, rather than an integrative model that transcends ethnic divisions. The prime example of this principle of consociationalism are the joint political institutions which include the three-person presidency, the Council of Ministers and the two chambers of parliament (House of Representatives and House of Peoples). These institutions operate on the basis of a “grand coalition” of the major political parties, veto provisions for the involved ethnic groups and parity of representation of the different ethnic groups. An important element of the consociational political structure is the principle of ethnic autonomy. The two political entities comprising Bosnia and Herzegovina possess considerable autonomy. Because of the veto provisions at federal political institution and the decentralised political structures as a consequence of bi-partite state structure, real power is held by the political institutions, dominated by their respective ethnic majorities, in both political entities: the Bosniak-Croat federation and the Serb republic.

In addition to the consociational elements that define the political structure of Bosnia and Herzegovina, the Dayton Agreement also contains integrative elements with the establishment

of federal institutions with a more integrative approach. These institutions still operate on the principle of ethnic parity but do not contain any veto provisions for a particular ethnic group but make decisions by a simple majority vote. The Constitutional Court, the Central Bank, the Joint Interim Commission, the Human Rights Chamber and Commission, the Commission for Displaced Persons and Refugees, the Commission to Preserve National Monuments and the Commission on Public Cooperation are all federal institutions with an integrative approach. While these institutions do not possess any legislative power, as judicial bodies or as part of the executive they still make important decisions on a national level (Caspersen, 2004: 573).

The Bosnian experience illustrates that the integrative approach fostered instability rather than stability shortly after the end of the war. In later phases of de-escalation, however, “this effect seemed to wane, and in the longer term the integrative approach may foster more moderate attitudes and create incentives for inter-ethnic cooperation” (Caspersen, 2004: 585).

Legal incentives to overcome or at least minimise the consociational elements of the political system have not been very successful. One example in case to promote a more integrative approach was a draft election law that would have incentivised voting across ethnic boundaries. This draft law suggested a preferential system to elect the presidency, rather than a presidency voted for by an “ethnic bloc”, and also intended to introduce a more open election of the delegates of the House of Peoples which are at the moment appointed by the parliaments of the two entities. The wartime nationalist parties – who benefit most from the consociational system – have been least open to more integrative inter-ethnic cooperation and accommodation and have rejected such proposals. However, at the local level, municipalities that are ethnically diverse require inter-ethnic cooperation in order to function. Positions in the local authorities must be filled with individuals from different ethnic groups ensuring the representation of minority ethnic groups in positions of the municipal authorities. Such an arrangement encourages the formation of either multi-ethnic parties or coalitions to fill local positions: “Consociational and integrative elements are thereby combined in heterogeneous municipalities” (Caspersen, 2004: 574).

While it is true that the principle of consociationalism determines the *modus operandi* of most political institutions, integrative elements still exist and might become more prominent in due course. The principle of ethnic parity in representation is territorially defined on the basis of the two entities of the state and not on ethnicity as such. If internally displaced people were allowed to return to their original homes of 1991, before the outbreak of the war, the ethnic

demographics of the two entities would change significantly and “thus undermine the ethnic autonomy of the consociational structure” (Caspersen, 2004: 573).

As a remedy for the ethnic divisions and tensions caused by this unstable and fractious political system in Bosnia and Herzegovina, a new constitutional design was proposed by the International Crisis Group in 2014 that calls for “a normal federation, territorially defined, without a special role for constituent peoples, but responsive to the interests of its three communities and the rights of all citizens [...] Bosnia may have to break from its political system based on constituent peoples and their rights” (International Crisis Group, 2014). It has been pointed out, however, that such alternative projects would require consensus and will take time.

The Dayton Agreement that ended the war and the political structures that were established in post-war Bosnia include both consociational and integrative elements. While the consociational elements of the political order have further cemented ethnic divisions in the country and have been beneficial to political groups representing one of the three ethnic groups, an integrative approach promoting inter-ethnic cooperation is evident at least in some federal institutions and more so at a local level in ethnically diverse municipalities. While the integrative approach appears more efficient and encourages political collaboration that transcends ethnic divisions, it is also clear that the international community and its constant pressure has acted as ultimate force to broker compromises and agreements among political actors across all institutions. International organisations were central in implementing the Dayton Agreement and have often acted as final arbiter in decision-making processes at both consociational and integrative political institutions. The civilian implementation of the Dayton Agreement is the responsibility of the international High Representative while elections were conducted under the authority of the Organization for Security and Co-operation in Europe (OSCE) until 2002, when election administration was transferred to local authorities (Caspersen, 2004: 572). As an additional stabilising factor, the role of European integration needs to be mentioned. Bosnia and Herzegovina aspires to become a member of the European Union and has been designated as a potential candidate country since 2003. The path of European integration thereby becomes a further stabilising factor, requiring the political leadership of Bosnia and Herzegovina to adopt political, legal and economic structures and to undertake necessary reforms in those areas to accede to the European Union eventually (Deimel and Van Meurs, 2007: 407; O’Brien, 2009: 1-8).

3.4.5 Summary

Despite the challenges, shortcomings and entrenched ethnic divisions that can be identified in the political structure of post-war Bosnia and Herzegovina, it is neither a failed or a failing state but a reasonably well-functioning parliamentary democracy which has been quite stable and successful in ensuring public security. Internationally, the political leadership of the country is pursuing the path of European integration as well as its integration into Western security structures by aiming to achieve NATO membership at some point in the future (Chabalowski and Dziedzic, 2009: 2). The Bosnian example clearly illustrates again the central role the international community has played in post-conflict state building. While the consociational approach to power sharing is dominant and reveals inherent weaknesses, integrative governance has been achieved with significant international involvement and representation in state institutions themselves. Federal integrative institutions such as the Constitutional Court, the Human Rights Chamber and Commission and the Central Bank include international members that can play a key role in reaching compromises: “As such, they become ‘Bosnian’ actors, with the primary advantage of not being a member of the three national groups and thus resembling a neutral arbiter and mediator within these institutions. The inclusion of international members into domestic institutions brings the advantage of not having to bypass domestic institutions to take decisions. In addition, the process of inter-ethnic negotiations is only slightly impaired” (Bieber, 2002: 27). Finally, the international community has not only been centrally involved in peace keeping and the governance of Bosnia and Herzegovina but has also heavily invested in the infrastructure of the country: “the United States (U.S.) and European Union (EU) worked with NATO, the United Nations, the World Bank, OSCE, Russia, Turkey, Japan and numerous other partners to help Bosnia make steady and measurable progress in reconstruction, institution-building, governance, and refugee return” (Bassuener and Lyon, 2009: 2). As a consequence of the crucial involvement of the international community in monitoring policies and running state institutions, Bosnia and Herzegovina only possesses limited sovereignty. It seems the country’s truncated sovereignty as a result of the central political role of the international community is the price involved actors have to pay to ensure the political stability and security of the state.

3.5 Successful Post-Conflict and Post-Authoritarian State-Building – a Typology

After discussing in detail, the three cases studies of Poland, South Africa and Bosnia Herzegovina and examining how these countries successfully managed their transition from conflict and/or authoritarian rule to stable democracies, a typology of policies is developed below to highlight the factors facilitating the successful transitions discussed above.

a) Discourse and politics of democratic reconstruction and national unity

All three case studies highlight two important elements in successful democratic transitions, one related to actual policies implemented in the transitional period (related to state-building) and the other related to their discursive and ideological underpinning (related to nation-building): the formation of consensual national unity governments in the period of transitions – or other equivalent political platforms that bridge political divides – and a shared commitment to the democratic reconstruction of the country based on a common national narrative (which is clear in the cases of Poland and South Africa but certainly missing in the case of Bosnia and Herzegovina). In both Poland and South Africa, actors, parties and movements across the political divide articulated their commitment to the transition to democracy and thereby legitimised the end of the old political order.

In the case of Poland, the communists' support for a partial democratic opening in the 1989 was to some extent tactical triggered by their hope to save at least some of the vestiges of communist single-party rule in the new political order which would still recognise the political dominance of the Communist Party. In addition, it also resulted from the realisation that the old order could not continue to exist as before due to the wider regional transformation of Central and Eastern Europe and the lack of any desire of the Soviet Union to save the Communist regimes in its sphere of influence as it had done in the decades before. Once, a discourse and commitment to democratisation was accepted by all involved actors, the democratisation process assumed its own dynamics which could not be halted – at least not through peaceful means on the negotiating table.

Similarly, in South Africa, the white political elite around the National Party realised that inner peace, economic stability and the country's integration in global flows of capital could not be maintained by upholding to the apartheid regime whose economic and political costs exceeded the benefits it had brought to the white minority. Such a radical strategic re-orientation of South Africa's ruling party paved the way for accepting the transition to a post-apartheid system and

an end of white minority rule among the National Party's own constituency and pushed those rejecting it to the political fringes.

The situation was more complex in Bosnia and Herzegovina which emerged out of a brutal civil war, marked by severe war crimes and genocidal actions and policies. In this case, the formation of a democratic multi-ethnic federal state post-conflict was the only option to retain the territorial unity and integrity of the country and to pacify inner-ethnic relations which had been hostile as a consequence of the civil war. As part of the international negotiations leading to the 1995 Dayton Agreement, such a political structure was imposed by the international community on the political actors in Bosnia and Herzegovina as the price for the commitment of the international community to ensuring peace and stability in the country.

Hence, one important factor in the successful transition to democracy can be gleaned from all three case studies: a commitment of all political actors to the democratic transition of the country. That such a commitment, in particular by the former political elite that is most likely to lose its power following the transition, was to some extent tactical, strategic or a result of the political pressure of the international community does not minimise its effectiveness. A discourse of democratic reconstruction, once widely accepted, assumes a certain ideological inevitability and marginalises those opposed to it.

A discourse of national unity and policies that symbolically articulate it or instil a sense of national inclusion are other elements facilitating a successful democratic transition. The South African example most vividly illustrates this. The first post-apartheid government in 1994 was formed on the premises of a national unity government and included all parties that had secured at least five percent of votes. Such a grand coalition of political parties, which involved the new majority party ANC, other African minority parties as well as the former pro-apartheid National Party, ensured two central components: it articulated the democratic will of all South Africans with the government led by the new majority party, hence giving it strong democratic legitimacy, whilst not excluding other minority parties that might otherwise had felt excluded if they were not included in the democratic reconstruction of the country in that transitional period. This sense of national unity and democratic inclusion was also apparent in the constitutional process leading to the writing of a new post-apartheid constitution for the country. One of the important premises was that it should not be rushed but that a solid new constitution needs to be formulated in a lengthy process that also required democratic legitimacy. Furthermore, the inclusive approach taken during the constitutional deliberations,

involved civil society actors as well, gave all involved parties a sense of democratic inclusion and therefore further legitimised the new democratic order and its new constitution.

In the case of Poland, the need for a sense of national unity arose differently. While the transitional political order intended to ensure at least some degrees of communist political supremacy, ultimately communist rule lost not only its legitimacy but its relevance with the wider regional transitions in Central and Eastern Europe. However, the success of the candidate of the post-communist centre left party Aleksander Kwasniewski in the second democratic presidential elections in Poland in 1995 illustrated – at least at that time – that successor parties of the former Communist Party have the potential to re-assume power within the political framework of a democratic Poland. In the Polish case, a sense of national unity was rather achieved in the transitional period of the early 1990s through the role of the Catholic Church. The Catholic Church was the only major institution in communist Poland operating quite freely and the central site of both political dissidence and social mobilisation. In this sense, “the Catholic Church has played a unifying role” (Kusch, 2011: 103) and has been “one of the main ingredients of a genuine communitarian perspective” (Kusch, 2011: 105). In this sense, Roman Catholicism was significant in the transitional period both legitimising the end of communist rule and the democratic transition through its institutions while also harnessing a sense of national unity through the shared religious heritage of most Poles (Westerlund and Simons, 2016: 165-207).

The situation is again markedly different in Bosnia and Herzegovina which among the three case studies has been the least successful in creating a common national narrative and therefore, while relatively successful in state-building, less so in nation-building. Ethnic divisions have been institutionalised in the consociational political set-up with the different ethnic entities of the country ultimately pursuing different objectives: while the Bosniak-Croat Federation seeks to maintain the territorial integrity and unity of the country and close ties to the West via European political, economic and security integration, the political leadership Serb Republic Srpska has sought greater autonomy, if not independence, and remained distant to the European aspirations of the Bosniak-Croat Federation.

b) Integrative and consociational approaches to post-conflict and post-authoritarian power-sharing

The establishment of a new democratic order following authoritarian rule or conflict and war involves question of power sharing in the new political order: either between formerly warring

factions or between the old authoritarian elite and the new democratic elite. Analysts have pointed out that the experience of post-communist countries, including Poland, has raised interesting questions on the relationship between democracy, the rule of law and reform, but has provided no easy answers. It is their opinion that “democracy as an established system of behaviour and as a kind of political culture is still in the process of formation” (Suchocka, 2015: 25). However, they agree that important structural reforms in the political and economic sphere have taken place which have helped to create a more stable multi-party pluralistic system based on the rule of law. However, this was far from certain at the beginning of the transitional period when Poland faced a fragmented party scene and experimented with different electoral systems and with parliamentary and semi-presidential systems.

In the cases of South Africa and Bosnia and Herzegovina, based on the ethnic diversity of these countries, modes of power sharing established as part of the democratic transition constitute particularly pertinent issues. Nina Caspersen (2004) introduces in this regard Lijphart’s and Horowitz’s different power sharing models as part of ethnic conflict resolution and regulation. While Lijphart favours a consociational approach that institutionalises ethnic differences by building and constituting political institutions around ethnic groups, Horowitz supports an integrative approach that establishes political institutions overcoming ethnic differences (Caspersen, 2004: 570). With the establishment of South Africa’s post-apartheid unity government in 1994, the political actors opted for a temporary integrative approach initially: all major political parties, often representing particular ethnic groups, formed the government while no particular positions were allocated to specific ethnic groups as in a consociational system. However, there was an understanding that was to be a temporary arrangement for the transitional period. South African governments after 1999 have been democratically elected without any prescribed parity of ethnic representation as such.

In the Bosnian case, a hybrid framework containing both integrative and consociational approaches was implemented by the international community and accepted by the political leadership of the different ethnic communities in the country. While some federal institutions are constituted based on the integrative principle, the most important executive and legislative bodies of the state are formed consociationally:

“Consociational democracy is characterized by four institutional devices: (1) a power-sharing government, a so-called grand coalition with representatives from all primary groups; (2) minority veto on issues that can infringe on national interests; (3)

proportionality in the electoral system and in the civil service; and (4) ethnic autonomy” (Lijphart quoted in Casperson, 2004: 572).

The Bosnian experience of a hybrid arrangement of integrative and consociational elements in institution building has been ambivalent; while the consociational elements in the most powerful institutions have certainly further institutionalised and entrenched ethnic divisions and prevented the emergence of a “national narrative” and hence successful nation-building – an experience that would favour an integrative approach instead -, the elites of the different ethnic communities were at the same time equally compelled to find peaceful solutions to their differences and disagreements within the consociational framework that ensures ethnic parity and therefore does not marginalise or exclude any of the three major ethnic communities in Bosnia and Herzegovina from political decision-making processes. In this respect, Bosnia and Herzegovina has been successful in state-building.

c) Justice and Reconciliation: retributive and restorative approaches

Measures to achieve justice for victims of state violence, false imprisonment, torture or war crimes in post-authoritarian and post-conflict states are crucial in overcoming former divisions and achieving reconciliation as part of the new democratic order. The examples of South Africa and Bosnia and Herzegovina are here quite instructive as both opted for two different models of seeking justice and reconciliation. Poland instituted the so-called lustration process – not dissimilar to the South African approach – to prevent former communists – in particular those involved in the secret service and in the civil service – from assuming public posts unless they confess to human rights violations they committed in the past (David, 2006: 81-99).

With the establishment of the Truth and Reconciliation Commission (TRC), South Africa took charge of its own political and legal process to achieve justice and reconciliation. External actors such as the UN or other political or legal bodies of the international community were not involved with the TRC operating under the auspices of the South African Department of Justice and Constitutional Development. While the aim was to give voice to both victims and perpetrators of atrocities and to share their experiences in public, the emphasis was on restorative justice and forgiveness in an effort for forge national unity in post-apartheid South Africa. In this respect, the South African approach to justice and reconciliation in post-conflict

and post-authoritarian environments has become the role-model imitated by initiatives in other similar scenarios around the world (Wilson, 2001: xvii-xix). Both the domestic approach in facilitating justice and reconciliation and its ideological underpinning in indigenous philosophical traditions of justice and unity (*ubuntu*) further facilitated their acceptance by the parties involved and increased the legitimacy of the TRC.

In the case of Bosnia and Herzegovina and other states emerging after the collapse of Yugoslavia, a different model of seeking justice was employed with the formation of the International Criminal Tribunal for the former Yugoslavia. The prosecution of war crimes as part of the tribunal was handed to the United Nations which is thereby responsible for administering justice in relation to war crimes and other atrocities committed in the wars during the collapse of Yugoslavia. The seriousness of war crimes committed and their genocidal nature required an approach based on retributive justice closer to the “Nuremberg model”. Given the ethnic cleavages created in the civil war, the international community under the auspices of the United Nations had to take responsibility for this in order to ensure impartiality and give the legal process transparency, integrity and legitimacy. While the International Tribunal has been successful in prosecuting war criminals in every side of the conflict and war, it has not led to a process of national reconciliation – clearly intended in the South African TRC – with verdicts against war criminals from a particular side of the ethnic divide often celebrated as a victory for the other ethnic community.

d) The role of the international community: security and stability

The final and perhaps most important lesson that can be derived from all three case studies is the crucial role that the international community played in securing and economic and political stability in the transitional period, either by facilitating these transitions as in the case of Bosnia and Herzegovina, or by lending significant political and economic support to the newly emerging democracies in Poland and South Africa. Poland’s preparations to join the European Union strengthened the democratic institutions and their *modus operandi* and also mitigated the severity of economic reforms after the country’s accession in 2004. Poland’s membership in NATO further contributed to the country’s political stability and ensured its security both internally and externally (Biskupski, 2000: 184; Kacowicz *et al*, 2000: 265). Poland’s membership in both organisations also articulated the country’s success in its democratisation and international re-orientation.

South Africa's democratic transitions also received significant support from the international community. UN resolutions and international campaigns against the apartheid regime gave the domestic struggle international legitimacy. At the same time, "South Africa has been important to the West, both politically and economically. It has been described as 'reliable, if junior, member of the Northern club.' The West's relationship with Africa was largely predicated on a long-term strategic alliance with the apartheid regime in South Africa. This continued throughout the 1970s and into the 1980s" (Hearn, 2000: 821). In order to ensure South Africa's continuous geopolitical alliance with Western hegemonic powers, massive donor programmes were introduced with the aim of "strengthening government structures has been the primary focus of democracy assistance since 1994" (Hearn, 2000: 818). The US is the largest foreign donor in South Africa, followed by the European Union. The geopolitical importance of South Africa and its strategic alliance with the West are also evident in the priorities of international aid programmes in comparison to other African countries. While in the context of other African countries aid programmes augment the national budget to assist governments in the provision of basic welfare, health, education and infrastructural services, with regards to South Africa, "the principal objective of aid programmes to the country is to influence the political transition and to focus on democratic consolidation" (Hearn, 2000: 819). As this direction of international aid clearly illustrates, the international community invested heavily in South Africa to make the country's democratic transition a success.

The crucial involvement of the international community in post-conflict Bosnia and Herzegovina is also evident. Initially, attempts to a peaceful resolution under the auspices of the UN failed, but the involvement of NATO as a military force and an international initiative involving the European Union, the US and Russia ensured sufficient military force and political consensus to arrive at a post-war settlement in Bosnia and Herzegovina. It is this combination of international consensus, NATO military capabilities and European political assistance that gave the new political settlement the necessary solidity to function (Juncos, 2005: 99-100). The case of Bosnia and Herzegovina also illustrates another lesson to be drawn from successful post-conflict democratic transitions: the weaker the willingness of political elites representing different ethnic communities is to engage in the political process, the more pressure the international community must exercise in order to ensure the success of the transition – as evident in the continuous involvement of the international community in the post-conflict governance of Bosnia and Herzegovina.

3.6 Conclusion

The previous chapter identified in more general terms the main features leading to successful nation-state building distinguishing between different factors:

- *Politics*: the firm establishment of democratic principles in the formation of governance and the election of transparent, legitimate and non-corrupt governments.
- *Administration*: a successful re-structuring of the state administration while not entirely overhauling the existing bureaucracy in order to ensure a certain degree of continuity in terms of personnel, abilities and experience and to provide security, stability, economic growth and functioning public services.
- *Law*: a thorough, inclusive, sufficiently long constitutional process to lay down the constitutional and legal principles defining the new state and to foster links between different social and political actors and to increase the legitimacy and popular recognition of the new nation-state.
- *Global role*: a firm commitment of the international community in facilitating and supporting the transitional nation-state building process by providing different types of assistance as needed in diverse scenarios and national contexts.
- *Society*: rebuilding trust among social actors and creating a common sense of identity to mobilise different social and political actors in the nation-state building process.

By investigating the examples of Poland, South Africa and Bosnia and Herzegovina, it can be illustrated which policies need to put in place in order to facilitate these features of successful nation-state building post-conflict or post-authoritarian environments. The following typology of policies emerges out of the case studies:

- *Commitment to democratic reconstruction*: all former conflict parties and political actors need to exhibit both symbolically and in their actions commitment to the democratic reconstruction of the country.
- *Politics of national unity*: in particular during the transitional period, either a national unity government that includes a broad coalition of most political actors representing the ethnic diversity of the country or other institutionalised platforms for national dialogue need to operate. This ensures that no group is excluded or feels excluded from crucial decision-making processes determining the political future of the country.
- *Functioning models of power-sharing governance*: in line with the need of national unity in the transitional period, the case of Bosnia and Herzegovina illustrates that

countries with significant ethnic diversity and discord need to establish modes of power-sharing in governance that pacifies the relationship to one another and ensures sufficient parity in both political representation and decision-making processes. Whether power is shared based on an integrative or consociational model or a hybrid of both depends on the seriousness of ethnic discord and antagonism and the potential territorial distribution of ethnic groups in a country. Legitimate and efficient power-sharing models are needed in order to ensure governance and a functioning public administration and to create both a sense of democratic commitment and trust and confidence of the population in the structures of government.

- *Functioning models of post-conflict justice and reconciliation*: whether legal and political processes to achieve justice and reconciliation are based on restorative or retributive justice, whether these processes are led by domestic institutions and actors or international organisations is dependent on particular contexts: most importantly, a model needs to be introduced that does not antagonise communities further or increases ethnic discord and antagonism. Post-conflict justice and reconciliation is thereby important for overcoming ethnic, social and/or political discord and for creating new social links between formerly antagonistic parties.
- *Active involvement of international community and its serious commitment to peace, security and stability*: all three case studies illustrate that post-conflict and post-authoritarian state building is only successful if the international community is heavily invested to democratic transition in these countries and provides political, military and economic support to achieve security and political and economic stability.

In the following chapters, the policies implemented in post-Baathist Iraq by the Provisional Coalition Authority under American leadership will be examined and related to those policies that have aided the successful transition to democracy in Poland, South Africa and Bosnia and Herzegovina.

Chapter Four: A Critical Analysis of US Strategic Goals Regarding Iraqi Democratisation

4.1 Introduction

This chapter considers the theoretical (and rhetorical) US strategy that set the main goals for post-Saddam Iraq as being the building of democracy, security and the overall development of Iraq. It will consider whether the US' declared aim of eliminating Saddam Hussein's weapons of mass destruction (WMD), liberating Iraq and rebuilding the country was the real reason for the war, or whether the US used the Iraq War to further its hegemonic ambitions and to emerge as sole world power both in the regional context of the Middle East and globally.

Therefore, the main questions to be explored in this chapter are:

1. What were the main nation-building aims of the US-led coalition?
2. How were these influenced by the historical US-Iraq relationship and US goals in terms of the invasion of Iraq?
3. What are the main strategic goals of the US towards Iraq?

The US' pretext for the war against Iraq was to prevent Saddam Hussein from using weapons of mass destruction. Having defeated Saddam, the declared aim of the coalition was to establish democracy revolving around a peaceful country that is on good terms with its neighbours, and to build a modern state and society. The objectives also included co-operation in maintaining peace and fighting terrorism, as well as establishing modern commercial relations. In so doing the US-led coalition would be able to dominate the reconstruction of Iraq in terms of contracts for infrastructure repair and development and in terms of contracts with the Iraqi oil industry, in particular.

Identifying the overall strategic goals of the US towards Iraq (both apparent and covert) are crucial in order to assess the subsequent US-led towards nation-state building in Iraq. The case studies of Poland, South Africa and Bosnia and Herzegovina have illustrated that the international community needs to be seriously committed to the democratic reconstruction of a nation-state as one of the crucial factors for post-authoritarian and post-conflict nation-state building. Assessing the actual motives of the US invasion and contextualising them within the

wider framework of US policies towards Iraq is important in order to ascertain whether the motivation behind the occupation suggest a serious commitment of the US-led coalition towards a democratic reconstruction of Iraq.

4.2 Relations between the US and Iraq before the 2003 Invasion

“Lower prices are a net advantage for the economies of the United States and other oil-importing countries because they keep inflation low and help their economies grow. However, lower prices increase world-wide petroleum consumption and increase dependence on the Gulf... Iran and Iraq do not accept the new post-cold war order and their dreams of regional hegemony remain the most significant long-term threat” (Zalmay Khalilzad in 1995, cited in Muttitt, 2011: 23).

This section focuses on the connection between Iraq’s wars (and conflicts) and the US as global hegemonic power during this period, which was directly and crucially involved in each conflict involving Iraq since the Baath party seized power in 1968. Therefore, the nature of the relationship between the US and Iraq will be discussed. This relationship is based on US strategic interests in the region and its aim to control the world’s most crucial energy resource: oil.

In the period, up until Iraq’s invasion of Kuwait US support for the regime was largely unequivocal. The US supported Iraq even when it used chemical weapons against the Kurds in the country, but it would later use that same act against Saddam’s regime. Martin (2004) affirms that President George W. Bush used the above-mentioned information against Iraq in March 2003. He said, “This regime has already used weapons of mass destruction against Iraq’s neighbors and against Iraq’s people” (Martin, 2004: 7-8). Bush, however, did not mention the fact that these weapons had been used 20 years earlier, during the Iran-Iraq war, and with the support of the US.

According to Holland: “CIA Director Casey personally spearheaded the effort to ensure that Iraq had sufficient military weapons, ammunition and vehicles to avoid losing the Iran-Iraq war.... the United States also provided strategic operational advice to the Iraqis to better use their assets in combat. For example, in 1986, President Reagan sent a secret message to Saddam Hussein telling him that Iraq should step up its air war and bombing of Iran” (Holland, 2005; see also Salt, 2008: 291).

Many scholars mention oil as the main reason for US wars against Iraq, such as Muttitt (2011: 23) who argues that no one shied away from stating that the 1991 Gulf War was about oil. As US Defence Secretary, Dick Cheney put it, “Iraq controlled 10 percent of the world’s reserves prior to the invasion of Kuwait. Once Saddam Hussain took-Kuwait, he doubled that to approximately 20 percent” of the world’s known oil reserve. [...] Once he acquired Kuwait he was clearly in a position to dictate the future of worldwide energy policy, and that gave him a stranglehold on our economy” (cited in Beams, 2003).

Wogan agrees with this observation by also stating that oil has been at the centre of US policy towards Iraq. When President George W. Bush took office in 2001, he appointed his Vice-President Dick Cheney to head the National Energy Policy Development Group (NEPDG). At the same time, “the Council on Foreign Relations (CFR) and the James A Baker III Institute for Public Policy funded the Independent Task Force on Strategic Energy Policy that submitted a report entitled ‘Strategic Energy Policy: Challenges for the 21st Century’ to Vice President Dick Cheney for use in the Bush administration’s Energy Task Force.....The “Strategic Energy Policy” report references to using military force to secure the United States’ oil future, possible action against Iraq, and a quick resolution to the trans-Afghan pipeline problem” (Wogan, 2006: 140).

By investigating the reasons put forward by President Bush for the 2003 invasion it appears that they applied equally during and after the First Gulf War in 1991. As a consequence, the following question needs to be addressed: Why did the US decide not to depose Saddam’s regime during the 1991 War when there was sufficient support from the UN and more than 30 allies? And, why did the US decide to launch a new war after several years, without any valid reasons, in violation of international law and without UN authorisation? President Bush explained the reason behind his father not concluding the war by removing Saddam Hussein from power, saying that “he had a chance to rid the world of Saddam once and for all, but stopped at the liberation of Kuwait. That was how he had defined the mission. That was what Congress had voted for and the Coalition had signed up to do” (Bush, 2011: 226). His rationale appears problematic for two reasons:

First, the main reason behind sending the US troops to the Gulf area was to protect Saudi Arabia from a potential attack by Saddam Hussein and not necessarily to liberate Kuwait. It was only after troops had been sent to Saudi Arabia that the President asked Congress to vote for the liberation of Kuwait.

Second, there were views that the President would be forced to go to war without Congressional backing. When President Bush Sr. finally requested legislative approval in a letter to Congress on January 8, 1991, he never acknowledged that statutory authorisation was constitutionally required. In fact, the President said that he still believed he had the authority to act without legislative authorisation. White House aides also hinted that the administration had the right to defy any restrictions that Congress might impose (Hastedt, 1993: 98). Furthermore, Yoo argues that Article II, Section 2 states that the “President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual service of the United States” (US Constitution, Article II, s. 2, cl. 1). He is further vested with all of “the Executive Power” and the duty to execute the laws (US Constitution, Article II, s.1). “These powers give the President broad constitutional authority to use military force in response to threats to the national security and foreign policy of the United States. During the period leading up to the Constitution's ratification, the power to initiate hostilities and to control the escalation of conflict had been long understood to rest in the hands of the executive branch” (Yoo, 2001). That meant the President also had the right to act without the permission of Congress. Therefore, it was within the constitutional powers of President Bush Sr. to extend the mission of liberating Kuwait by ordering a further invasion of Iraq to topple Saddam Hussein. Contrary to Bush Jr.’s statement the military mission was not necessarily limited to the liberation of Kuwait (Bacevich and Inbar, 2013: 129).

On the other hand, Dick Cheney, the Vice-President to Bush Jr. during the Second Gulf War in 2003 and the Secretary of Defense to President George Bush Sr. during the First Gulf War, explained the reasons behind not removing Saddam Hussein's regime during the First Gulf War: Iraq was an unstable country and any change in the central government could easily lead to a civil war and disintegration of the nation-state with no viable replacement for the regime. Furthermore, the war, limited to the liberation of Kuwait, would not lead to a huge amount of American casualties whereas overthrowing Saddam was more risky and costly, both financially and in terms of American lives. Therefore, the change of the Iraqi regime was perceived at that stage as unwise and further destabilising the country and the wider region (Cheney, 1994). Cheney, who made these statements in 1994, was actively involved in preparations for the Second Gulf War and must have changed his assessment in 2003, while with the benefit of hindsight his earlier assessment of the risks is more accurate. Developments showed the lack of a post-war strategy.

4.3 The Invasion of Iraq in 2003

In this section, the literature regarding the war will be considered in order to understand the main reasons behind the invasion of Iraq in 2003. Although much critical literature, such as Danchev and Macmillan (2005), mention the alleged existence of WMD as the main reason for the war, based on public declarations of the Bush administration, other reasons are also mentioned, such as the US strategic policy to reshape the Middle East and to install regimes allied to it and to gain access Iraq's oil resources. The US and other Western countries decided to pursue regime change in various countries for diverse reasons. In Iraq, the pretext was to eliminate the threat posed by WMD; despite the array of reasons for facilitating regime change, the war was waged based on this single justification.

Cockburn (2007) argues that the US occupation of Iraq was based on a carefully constructed propaganda campaign that alleged the Iraqi was in possession of WMD. For Cockburn, the invasion caused significant damage to Iraq and instability to the wider region. The new Iraqi government, which became confined in the Green Zone after 2003, turned out to be in reality a foreign, US-led government, though nominally run by Iraqis themselves. The war and the post-invasion policies implemented demonstrate the lack of understanding of the US on how to deal with occupied Iraq and the utter violation of international law and conventions.

Other scholars considered the Iraq War as a continuation of the Cold War era. Tuathail (1992) suggests that the Cold War became a geopolitical system with two constituent geopolitical orders, each of which was characterised by particular organisations of domestic, inter-allied and third world space (Tuathail, 1992: 439). By the end of the Cold War and the triumphalism of the first Gulf War in 1991, there was a serious disjuncture between economic realities and geopolitical authority in the post-Cold War world which contributed to a restructuring of global power relations (Tuathail, 1992: 449). For the so-called Neo-Conservatives in the US administration, expanding, retaining and using military power was the prime foreign policy objective, both in the mid-1980s vis-à-vis the Soviet Union and during the Bush Jr. administration between 2000 and 2008 to achieve and maintain global hegemonic power and to side-line and marginalise any other power (Herring and Rangwala, 2006: 8-10).

Thus, American policymakers, throughout the Cold War, have often declared the need to preserve credibility. A more recent and blunt declaration of this idea has been called the "Ledeen Doctrine", after the neoconservative writer Michael Ledeen: "Every ten years or so, the United States needs to pick up some small crappy little country and throw it against the

wall, just to show the world we mean business” (Mercille, 2010: 330). However, in the case of Iraq it seems that the US turned purposefully a former strategic ally into an enemy to achieve its strategic goals to maintain its hegemonic power both regionally and globally. This confirms the basic realist insight that alliances in international relations are temporary and not permanent. On a geo-political and propagandistic level. Secord and Wurts (1992) argue that “it has become conventional wisdom, at least in the military, to blame the mass media or politicians for America’s failure to defeat North Vietnam decisively and to save South Vietnam, particularly when the glow of Desert Storm has given us back our pride in the US military” (Secord and Wurts, 1992: 110).

The results of the interviews that were conducted as part of this research also agree that the decision to wage war was ultimately motivated by the wider geopolitical ambitions of US foreign policy at that time. Nonetheless, there are differing views about the main reasons of the Iraq War.

Respondent 20, a provincial governor and member of parliament, states that the US only pursued its own interests when invading Iraq:

“If the Americans just wanted to topple Saddam’s regime, they should have accepted the request of the Iraqi opposition parties when they asked the US to provide them with the necessary facilities to topple Saddam. However, the US refused and instead decided to invade the country” (Respondent 20).

For him, US financial, political and logistical support to the Iraqi opposition parties and groups would have been sufficient to affect a regime change in the country. That the US decided to invade the country demonstrates for him that in reality the invasion meant to further the US geopolitical ambitions and interests.

Respondent 31, a senior employee in the Baghdad Information Centre, further adds:

“The US was the superpower with leading control over Iraq. They should have closed all borders and maintained security that would have prevented people entering or leaving Iraq. However, what they wanted and did was to open the borders in order to allow terrorist elements to enter and make Iraq an arena to fight terrorists, which led to further destruction of Iraq” (Respondent 31).

Another significant rationale was that Saddam signed different oil agreements with non-US corporations. According to Respondent 39, an officer in the Baghdad provincial council, one of the main reasons for Iraq's occupation by the US was to increase US influence in the Middle East:

“Defence agreements, especially with Russia and France, were part of other reasons. These agreements produced hostilities between America and Saddam’s regime in Iraq, and relations were further worsened when Saddam’s regime changed trading currency from the Dollar to the Euro” (Respondent 39).

Iraq’s signing of long-term contracts, especially oil contracts, with companies in countries that opposed US policies at the time also led to antagonism. These treaties would have been activated after the removal of the sanctions, and therefore, only the Iraq War and the fall of Saddam’s regime would have rendered those contracts void (Price, 2003: 181).

The results of the survey questionnaires with regard to the reasons behind the Iraq War have revealed inconsistent views among the respondents. For instance, the survey question “What do you think the reasons were for the US to occupy Iraq?” provided nine options to choose from. The respondents were permitted to choose more than one option. Therefore, the final result of the percentage rate will not add up to (100%).

Table 18 Reasons for the US invasion of Iraq in 2003

| | Number | Population | Percentage | 95% CI LL | 95% CI UL |
|--|---------------|-------------------|-------------------|----------------------|----------------------|
| To oust Saddam from power | 648 | 3060 | 21.2 | 19.8 | 22.7 |
| To liberate Iraqis and rebuild Iraq | 240 | 3060 | 7.8 | 6.9 | 8.8 |
| The war was part of US strategic plan | 2064 | 3060 | 67.5 | 65.8 | 69.1 |
| To fight terrorism | 192 | 3060 | 6.3 | 5.5 | 7.2 |
| To make Iraq an arena for fighting terrorists | 852 | 3060 | 27.8 | 26.3 | 29.5 |
| To control Iraq's wealth and resources by the US | 2076 | 3060 | 67.8 | 66.2 | 69.5 |
| To secure US energy needs from the area | 948 | 3060 | 31.0 | 29.4 | 32.6 |
| To control Iraq by dividing it | 1080 | 3060 | 35.3 | 33.6 | 37.0 |
| All the above options | 624 | 3060 | 20.4 | 19.0 | 21.9 |

Figure 3 Reasons for the US invasion of Iraq in 2003

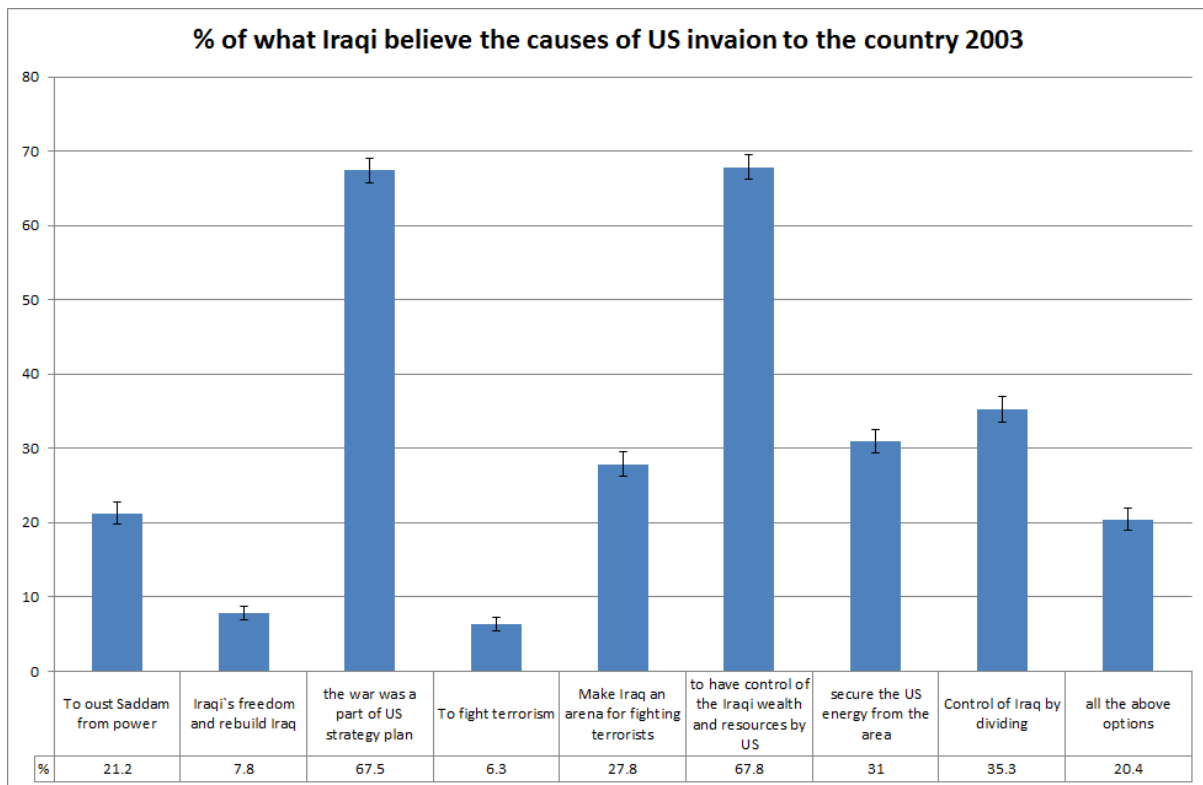


Table 18 and Figure 3 present the views of respondents on the main reasons behind the US occupation of Iraq. The majority of respondents believe that the main reasons for the invasion were that it was part of a US strategic plan (67.5%) and undertaken to control Iraq’s wealth and resources (67.8%).

4.4 US Strategic Policies during Saddam’s Regime (1979-2003)

In this section, the strategy of the US towards Iraq prior to the 2003 invasion will be analysed. The US strategic approach to Iraq is seen by realist critics as idealistic, ideologically motivated, and not founded on a pragmatic valuation of the situation based on the reality of Iraq – in short, driven by the ideology of the Neo-conservatives to transform the region and the world in the image of the USA itself – a modern capitalist democracy. The main US strategic plan for Iraq during the period of Saddam’s regime has been:

First: Hegemony over the Soviet Union. The US used Iraq’s wars to counter Soviet influence and to limit its expansion in the region. Moscow was dissatisfied with Iraq because it had forced

Moscow to state its position on the conflict openly, in addition to the potential danger of instability in Iran as a result of Iraq's war against it. A conflict on the USSR's southern borders could offer the West and the US an opportunity to involve themselves in that area where it had just suffered a great setback and affect badly the stability of the Soviet Union (King, 1987: 14-15). The Soviet Union was involved in a war in its neighbouring state of Afghanistan and also had a good relationship with Iran. Saddam's invasion of Iran therefore presented Moscow with the largest conflict since the end of World War II. One year after the end of the Iran-Iraq War, the Berlin Wall came down. The Soviet Union then collapsed and new states emerged in 1991, the same year of the First Gulf War (Wogan, 2006: 10-14; Fischer, 1999).

Second: US hegemony over the authority of the UN. Throughout the Gulf War of 1991, and especially during the air campaign, diplomatic efforts to stop the war continued. Moscow wanted to accept Iraq's decision to withdraw its troops from Kuwait under the UN Resolution 660. However, when Moscow indicated its willingness to accept Saddam's withdrawal, the US imposed extra conditions, thus preventing any possibility of averting the war. The UN was not in a position to act against the will of the US (Bennis and Moushabeck, 1991: 122-123). This provides insight into the relationship between the US and the UN at the end of the Iran-Iraq War and during the invasion of Kuwait: the UN complying with US pressure and attempts to impose its new world order. Spencer argues that Iraq's invasion of Kuwait helped to usher in Bush's "new world order". In global relations, the collapse of communism left the US as the only world superpower. US foreign policy decision-makers had hoped that the Soviet collapse would make the states in the world "unite under U.S. leadership and work together toward the goals outlined in Bush's State of the Union address. But as might have been predicted, instead of unity the world was beset with new or revived conflicts, not only between nations but also within national borders" (Spencer, 2000: 118).

Third: US hegemony over oil resources. The US strategy aimed at controlling the oil resource's region and the oil flow including global oil prices. Official planning papers are significant bases of evidence as they appear to clearly lay out US global goals. Post-war foreign policy towards the Middle East region consistent with time and countries explains the US's main objective: "to allocate the region's energy resources to allies like Japan and Germany and deny them to rivals like the Soviet bloc, and Russia and China more recently. Access to the oil for American consumption has been relatively unimportant. For instance, in the early postwar period, the United States used virtually no oil from the Middle East for its own consumption- in 1948 it accounted for less than 1% of total US consumption and in 1970 for about 4% - but still

intervened in the Middle East to ensure that its oil would be diverted to the needs of Western Europe and Japan to fuel their recoveries along capitalist lines and to prevent the Soviet bloc from accessing the resources” (Mercille, 2010: 331). The Middle East contains “two-thirds of the world proven reserves” and this explains why this region has a hugely dominant impact over the price of oil, which is a vital matter for the US, as was confirmed by Dick Cheney in 1999 when he was Chairman of Halliburton Company. He declared that, although there are many regions around the world that provide great oil opportunities, only the Middle East region “is still where the prize ultimately lies” and this is due to its huge reservoirs and the lowest costs in retrieving it (Cheney, 1999: 104).

Fourth: US hegemony over oil stockpiling. The US strategic goal since the beginning of the First Gulf War and during the sanctions on Iraq, was to preserve Iraqi oil for the future. According to Muttitt, “In 2000 Iraq accounted for less than 4 per cent of the world’s oil production. But this rate of production is only a snapshot which, on its own, understates the country’s significance. For the long term trend you have to look at the volume of the reserves below the ground. On this measure Iraq has 11 per cent of the world total and the Gulf region as a whole contains more than 60 per cent of proven reserves. Most of this lies beneath five countries, which form an arch around the Gulf: Iran on one side, Saudi Arabia, the Emirates and Kuwait on the other, with Iraq the keystone in the centre. Contrast Iraq with the USA, the world’s second largest producer at 10 percent of total production but from less than 3 per cent of reserves.... Given the different rates of depletion, OPEC, and especially Iraq, were set to become ever more significant players in the world oil market as other countries exhausted their reserves” (Muttitt, 2011: 33-34). Thus, the US regional strategy and oil demand were ultimately the reasons for the war. The increased demand for oil in the international market and Iraq holding the main backup oil reserves, but with its oil under UN sanctions, led to the war.

Fifth: US hegemony over the Iraqi state. It was another strategic objective of the US to mobilise Iraq’s ethnic and sectarian groups against Saddam Hussein. Before the US started the war in 1991, the US President George Bush Sr. asked the Iraqi people to revolt against Saddam and overthrow his regime. Michael Ashkouri states that the “United States’ President George Bush encouraged Iraqis to revolt and replace Saddam Hussein. When two of those three groups (the Kurds in the North and Shiite Muslims in the south) revolted, Allied support for their revolt fizzled, the United States and the Allies failed in their effort to use the Iraqi military in achieving what they could not do with direct military force” (Ashkouri, 2001: 166). Elden and Williams argue that it was the Bush administration’s failure to assist the Iraqi people’s revolt

that contributed to the collapse of the Iraqi state. The Kurds created their “de facto independent state when the President was forced to establish the safe haven for them. America’s indifference to the slaughter of Iraq’s Shiites drove them into the embrace of Iran” (Elden and Williams, 2009: 19-20).

This US policy weakened the Shi’ite position in relation to the Kurds with major consequences following the invasion in 2003. The Kurds, who did not suffer as much from the sanctions and the war, exercised major influence on the new Iraq, acting as an independent state whose policies affected the rest of Iraq while the central government in Baghdad had only minimal influence on the Kurds and their policies. This conflict between the autonomous Kurdistan Region and the central government in Baghdad is considered as one of the important reasons for the instability, failure and fragmentation of the Iraqi state. It has been therefore very difficult to control and manage Iraq as a sovereign state. Thus, as a result of the wars and sanctions Iraq regressed to the pre-1921 period when it had suffered tribalism, sectarian conflict, poverty, people’s rejection of their rulers and fragmentation of society. Klein (2008) correctly argued that Iraqis, “if all had gone according to plan, were supposed to be so shocked and awed that they would give up control of their oil reserves, their state companies and their sovereignty to U.S. military bases and green zones” (Klein, 2008: 17).

Compared to the case studies discussed in Chapter Three, important differences emerge in relation to Iraq. South Africa, Poland and Bosnia and Herzegovina have not been as Iraq targets of US hegemonic policies. Eastern Europe was during the Cold War era considered to be under the influence of the Soviet Union. Hence, providing US support for the democratic transition of Poland was in the strategic interests of the US expanding its realm of influence with the NATO expansion to Eastern Europe, an area in which the US did not exercise any influence before the end of the Cold War. South Africa has been an important ally of the US in the Cold War period. Therefore, Western hegemonic powers such as the US or Britain were quite lenient about the persistence of apartheid rule in the country. However, as South Africa’s position as a Western ally could only be maintained and legitimately justified with the end of apartheid rule, the US supported the democratic transition of the country and reconciling its different ethnic groups. In the case of Bosnia and Herzegovina, the US was rather drawn into providing a solution to the conflict after the failure of EU- and UN-led initiatives. Similar to the South African context, the US in cooperation with EU partners considered pacifying ethnic and sectarian relations paramount to stabilising the country and the region. For this reason, the US supported a ethno-sectarian power-sharing model to balance the interests of the different ethnic

groups. In Iraq, however, such policies were not really implemented as the above discussion illustrates. Rather than minimising ethnic and sectarian conflict, a model of power-sharing was introduced by the US-led coalition that yielded an imbalance of power between the different ethnic and sectarian groups in Iraq and further exacerbated ethno-sectarian discord.

Table 19 US strategic role and goals in Iraqi crises (1972-2003)

| | Crisis | US role | US reasons | Consequences | Date |
|---|-------------------------------------|-----------------------------------|---|---|-------------|
| 1 | Kurdish movement in North Iraq | Supported Kurds and Iran | Against the expansion of the USSR in Iraq | Cede half of, Iraqi Shatt al-Arab to Iran, and signed Algiers agreement, conflict between Iraq and Iran | 1972-1975 |
| 2 | Iran-Iraq War | Mainly supported Iraq | Against the Soviet expansion in the region, weakening Iran, arms trafficking, more US influence in Gulf region | Weakness of the Iraqi state, and the weakness of Iran and USSR | 1980-1988 |
| 3 | Saddam Hussein's invasion of Kuwait | Encourage Saddam to invade Kuwait | Send troops to Gulf area, reduce the influence of the USSR | First Gulf war, and increased weakness of the Iraqi state and the USSR | 1990 |
| 4 | First Gulf War | Headed the coalition | Control the main oil resources, prices, have more influence on the Gulf, Middle East, and the world towards the implementation of unipolar system | Weakness of Iraq's economy, infrastructure, army, public health, etc., and implement the sanctions against Iraq | 1991 |
| 5 | UN sanctions | Supported and implemented | Stockpiling of Iraq's oil, and increased Kurdish power | Weakness of Iraq's economy and society, and increased crime and poverty | 1991-2003 |

4.5 The Use of Chemical Weapons by Iraq and the US

The discrepancy between the US' declared aims and actual policies implemented on the ground in Iraq can clearly be seen in each dimension of Iraq's nation-building from the 1970s onwards. The use of chemical weapons and the political assessment of their use have been part of this discrepancy. As explained earlier, the US had ignored Saddam's use of chemical weapons against Iran and his own people. However, later on, it used this war crime as a pretext to impose sanctions on Iraq and to legitimise the 2003 invasion. Moreover, the US used a chemically toxic, radioactive substance, Depleted Uranium, during and after the invasion in 2003 and did not provide any help to the Iraqis affected by the side effects of these chemical agents.

Holland mentions that the US government was well aware of the regular use of chemical weapons by the Iraqi government in its war against Iran and nevertheless continued to support Iraq during the war. Even after the use of chemical weapons against the Kurds, the US government did not change its policy (Holland, 2005). Saddam had used WMD and poison gas in the war against Iran and against his people, and killed thousands (Mearsheimer and Walt, 2003; Bothe and Kondoch, 2002:281; Wedgwood, 1998: 724; Sapiro, 2003: 603). Later, the US used this information to attack Iraq in 2003. Furthermore, the US used Depleted Uranium (DU), a chemically toxic, radioactive substance in its munitions against Iraq during the invasion and caused a health disaster - the Iraqi people continue to suffer its consequences, including high rates of cancer and deformities.

Respondent 11, holding a senior position in a provincial health department, says in the interview that there is no cancer centre in a major city in southern Iraq due to the lack of specialised doctors in the city. However, after the war, there has emerged an urgent need for cancer centres in Iraq as a large number of people suffer from cancer because of the radiation from the US Depleted Uranium (DU) bombs used to destroy military vehicles, especially tanks, during the invasion. No investigation was conducted by the coalition forces into the effects of this ammunition, but Respondent 11 noticed this effect when he took up his position more than two years after the invasion:

“I found that the left-over parts of the vehicles and the atmosphere in the scrap area are contaminated with uranium. In fact, some residents were taking parts of these metals, like pieces of iron, to use them either at home or work, which is causing them to be infected by the radiation and thereby getting cancer. The percentage of cancer was rising in the city due to the uranium radiation” (Respondent 11).

The US used DU munitions before, during and after the First Gulf War in 1991. However, the first DU radiation was investigated after the war in 2003 when parts of destroyed Iraqi armoured vehicles were found contaminated with it in a scrap area close to Basra's oil refinery. The subject was brought to the attention of the US occupation authority in Iraq, but it refused to confirm the use of DU during the war. After several meetings, when proper evidence was produced, US authorities agreed to clean the area (Respondent 11).

In 2004, an authority was set up in coordination with the Iraqi Council of Ministers to investigate and control the health effects of DU. It was an explicit admission by the US of the use of DU in the war, although the US authorities never removed contaminated wreckage or cleaned affected areas. The Iraqi Ministry of Environment, however, had a monitoring role and not an executive one; they were not in a position to pressurise US authorities act. Additionally, the weakness of the Iraqi government has led to a disclaimer that the US is running away from its responsibility. The environment institution in a province in southern Iraq, working with simple and basic facilities and in cooperation with the local government, informed the central government about its findings in 2005. A decision was taken to create a committee that included members from the Ministry of Science and Technology, the Uranium Authority, the Radiation Centre in the Ministry of Environment and the local environment management authority. The committee confirmed the use of DU by US forces and its serious effect on the environment. In 2006, the committee began the task of determining the areas affected by DU radiation and attempting to remove contaminated material using basic means. A road digger and trucks were used to transfer the contaminated material, on a public road, to a specified area about 50 kilometres from the centre of the southern Iraqi city. The use of this primitive and atypical method characterised the lack of funding, experience, specialisation and support from the central government. The DU contamination also affected other provinces in Iraq, such as Basra and Fallujah (Respondent 9).

The US forces also used Iraq to combat-test prototypes of at least two new types of thermobaric weapons: thermobaric Hellfire missiles - AGM-114N, and a new thermobaric RPG called SMAW-NE (Shoulder-fired, Multi-purpose Assault Weapon - Novel Explosive). The use of DU by the US caused increased rates of cancer, ill health in the population, congenital anomaly rates, as well as increases in birth defects and infant deaths. Furthermore, the US not only refused to remove the effects of the DU that had been used during the war, but also did not remove other remnants of explosive munitions such as mines (Respondents 9 and 29, al-Askari, 2012; Alaani *et al*, 2011; Busby *et al*, 2010).

4.6 Looting during the 2003 Invasion

This section examines one of the most controversial aspects of the US-led coalition forces' actions during the invasion when large-scale looting in Iraq was at least tolerated. Towards the end of the war, in April 2003, massive looting of public and private property occurred in Iraq.

There are different explanations for the reasons behind the looting. Some have argued, as Stone and Bajjaly (2008), that for Iraq's rural communities, "the 'cradle of civilisation' is nothing more than desert land with 'fields' of pottery that they have the right to take advantage of because, after all, they are the lords of this land, and as a direct result, the owners of all its possessions" (Stone and Bajjaly, 2008: 136). This opinion would therefore suggest that looting is somehow part of Iraqi culture. While others, such as Bond (2007) thought that it was a part of a strategic policy. He argues that all these conflicts and the mass destruction of the nation of Iraq during the first days after the invasion raise a major question about the US strategic policy towards Iraq. Bond states that "although the looting of Iraq explicitly combined neoliberalism with military occupation, the strategic combination would be difficult to maintain in applications elsewhere" (Bond, 2007: xiii). The latter suggestion by Bond appears to be more plausible; rather than undertaking an essentialist assumption that looting is inherent to Iraqi culture, the occurrence of looting in many other conflict and war zones as a result of the complete breakdown of public order places the onus on the coalition forces and their lacking ability or willingness to prevent looting.

Dodge (2005) argues that what began in April 2003 as an uncontrolled celebration of the collapse of Saddam's regime led into three weeks of lawless looting and violence. This lack of security was the first and the worst problem that challenged the new Iraqi government. Thus, it was uncertain that it could succeed where the collective power of the sole global superpower had failed (Dodge, 2005: 9-10). As a result of the looting that happened during the invasion in 2003, the Iraqi companies that had still been suffering from the impact of UN sanctions were incapable of competing in the global economy (Klein, 2004). In fact, "the U.S. effort to remake Iraq never recovered from its confused start when it failed to prevent the looting of Baghdad in the early days of the occupation" (O'Leary, 2006: 235), hence significantly hampering any chance of economic recovering or reconstruction.

Interviews conducted with Iraqis during the course of this research help to provide further insight into the looting in Iraq after the invasion. For example, Respondent 36, a member of

the Board of Trustees in the Iraqi Media Network, argues that the US ignored the security sector in Iraq during and after the invasion:

“When the looting took place, the Iraqi opposition parties appealed to the US authority to protect the governmental and public facilities, but the US army said that they were a fighting army and not a peace force, and that they are not responsible for the security of Iraq” (Respondent 36).

Respondent 6, a former government minister, goes even further by accusing the US of a direct involvement in the looting:

“During my duty as minister of [...], there were many complaints by Iraqi civilians of looting – from their houses and cars – under the guise of an inspection by the US army. I spoke to one of the US authority officials who said that the US soldiers were still young and needed more training” (Respondent 6).

Looting affected most of Iraq`s sectors, except the Kurdistan Region, and returned them to “zero point”, thus contributing to the collapse of both the Iraqi state and economy. State institutions and industries had accumulated experience over many decades but suddenly collapsed – all their administration and services disappeared. Universities are suffering, until now, from the lack of laboratories and proper facilities (Respondents 36, 37, and 49).

The looting caused extreme damage to the Iraqi economy, security, infrastructure, services and all the sectors of society. The ensuing damage and destruction affected about (90%) of the infrastructure of state industries, resulting in the lack of electricity, water and communications. There was a total breakdown of law and order, and the police force was absent. As a result, the country experienced a destruction of human talent and potential. The US occupation authority did not sufficiently secure many industrial institutions, especially those which had been made part of a military industrial complex under Saddam`s regime but included competent bodies and industrial talents form various disciplines. The looting also had an enormous negative effect on Iraqi social thinking, encouraging more thefts and administrative and financial corruption. It changed Iraqi society`s class structure within a few days. As a result, there was a sudden emergence of new elites in the society; a group of people who had nothing to do directly with the overthrow of Saddam but came to power through US support. They used their newly-found wealth to buy property and even seize control of public buildings, and had influence over state projects by encouraging and using bribes. Meanwhile, professionals such as doctors or

engineers with more than 30 years' experience could not even buy a house. Furthermore, the new social layer, the looters, began to impose their influence on other classes through a financial lobby and creating their own gangs and militias. They have become one of the main actors in political life, with dire consequences for the Iraqi state, security and economy. On the other hand, the looting had a major psychological impact on Iraqis as well, especially on the educated class, such as university professors, government technocrats, doctors, researchers, etc. because all had close connections with the institutions that were looted and witnessed the destruction of the essential economic, scientific and cultural infrastructure of the country. While the US forces failed to protect Iraq's institutions, they protected the institution which was most important for their interests, such as the oil ministry in less than an hour after Baghdad's invasion. The US forces did not make sufficient effort to prevent looting by keeping Iraq's institutions and state factories unsecured and also failed to prevent it as an occupying power is required to do according to international law (Manacorda and Chappell, 2011: 149; Inal, 2013: 181; O'Leary, 2006: 240; Respondents 20, 21, 28, 37, 40, 41).

Thus, the looting destroyed the Iraqi economy and the infrastructure of many provinces, discouraged investment into the private sector, and encourages the import of foreign products at the cheapest price possible. These lootings opened the door for corruption in Iraq to flourish. Most of the looted items went to the Kurdistan Region, either for free or sold at very cheap prices. For example, many looted cars were sold in Kurdistan and only found to have been previously stolen when the new owners went to register them. According to my interviewees, the Kurdistan Region authorities encouraged this by providing new number plates for these cars, and the central government in Baghdad could not intervene because the regional authorities in Kurdistan acted as an effectively independent state. The original owners of looted cars were in most occasions killed during thefts (Respondents 29 and 39). By not interfering directly and only responding passively to the looting, US forces and the coalition authorities further allowed the Kurdistan Region authorities to retain and further expand their independency from the central government in Baghdad.

4.7 Iraq's Reconstruction during the Occupation

In this section, the US-led coalition's plans toward the reconstruction of Iraq during the occupation will be assessed. According to main nation-building theories, as discussed in Chapter Two, building a nation requires studying the reality of that state, the stability of

security, the building of the economic and infrastructure institutions and services, among others.

Before the 2003 invasion, Iraq was suffering from the effects of two wars and UN sanctions. What was consequently expected from the US to assist in rebuilding the country? According to Dodge (2005) “The difficulties the US has had in simply attaining despotic power in Iraq are an indication of the magnitude of the task ahead...Efficient administrative capacity is achieved and infrastructural power established once the population recognises the state as an essential and, most importantly, a legitimate presence in their everyday lives. Its regulation of society is then accepted as a necessity. This is the bureaucratic process that has to be enacted for regime change in Iraq to be successful, and for the US to leave behind a sustainable and legitimate state” (Dodge, 2005: 26-27).

In the beginning of this section the vision of the US civil governor of Iraq, Paul Bremer, is discussed and an assessment is made of the reasons for the failure of the construction process in Iraq and its transformation from dictatorship to democratic rule.

4.7.1 Arguments of the US Civil Governor of Iraq

Paul Bremer, who was appointed by President George W. Bush as the US civil governor of Iraq, thought that the rebuilding of Germany and Japan in 1945 was different from the reconstruction of Iraq in 2003 due to several reasons:

First; the post-war planning for Germany and Japan took more than three years, while the short preparation period for Iraq's war left the US with very little time for post-war reconstruction as well as rebuilding the collapsed economy that had suffered long-time mismanagement (Bremer, 2006: 37). During the preparations for the invasion, the US developed special strategic plans, including a plan for post-invasion and the future of Iraq that was developed by the Pentagon as well as Iraqi exiles (Corum and Howard, 2007: 223; Herring and Rangwala, 2006: 11). Such a plan was not available in the case of Germany and Japan.

Second; The US occupation of Germany and Japan resulted from different circumstances than that of Iraq and was also dealt with differently by the respective civilian authorities. The Germans and Japanese had lost a war and surrendered – in Iraq the war had removed a hated regime “but few were happy to find a foreign, non-Muslim army occupying their country” as

a result (Bremer, 2006: 37). In addition, the US-led coalition did not sufficiently secure Iraq's borders which allowed the influx of thousands of terrorists of Al-Qaida that had not existed in Iraq before the invasion in 2003. Those extremists and sympathisers, motivated by religion, came to Iraq from many nations to wage "war against the infidel". The majority of suicide bombers were non-Iraqis (Corum and Howard, 2007: 39; Matlock, 2010; Coates, 2012: 44). Matlock goes further when he argues that the US invasion and occupation of Iraq helped rescue Al-Qaida just when it seemed to be on the ropes following the overthrow of Taliban rule in Afghanistan (Matlock, 2010).

Third; the population in Germany and Japan had cooperated with the US because they were afraid that the Soviet Red Army would occupy their countries and replace the existing US military (Bremer, 2006: 37). In Iraq, however, two major decisions by the coalition, "de-Baathification" and "dissolving the Iraqi army", had a negative impact on the attitude of many Iraqis towards the coalition. This was further compounded by the failure to secure Iraq's borders which were left open for foreign terrorists. These developments and consequences strengthened suspicions among Iraqis about the coalition's real motives behind the war and occupation. In this respect, Klein (2008) claimed that the contemporary crusade, overzealous dictators, the Cold War, the War on Terror, and the invasion of Iraq are an advancement of pure capitalism to liberate world markets (Klein, 2008: 20).

Fourth; In Germany although there were differences between Catholics and Protestants, the country spoke one language and shared a common culture. In comparison, "the British had cobbled Iraq together from three provinces of the former Ottoman Empire...formed a patchwork with sharp ethnic and sectarian differences". The Sunni Arab minority (20% of Iraqi population) ruled Iraq for hundreds of years until 2003 over the Shi'ite Arab majority who "had strong religious ties to Iran" (Bremer, 2006: 38). Bremer believed that Arab Shi'ites had this connection with Iran, and yet still gave them the majority membership on the Governing Council, which was an Iraqi provisional government that was set up by and served under the occupation authority, the CPA, from July 2003 to June 2004. The sectarian make-up of the Governing Council contributed to deepening the sectarian divisions in Iraq. On the other hand, the British in 1921 chose a different, more balanced way to build the state, through establishing the judiciary and a legal system, setting up the Iraqi army, and conducting a long and in-depth discussion of the constitution and the election law as well as involving most of Iraqi elite in the nation-building process (Walker, 1976: 32-33; Dawisha, 2009: 15). The contrast to US-implemented policies is stark; the latter followed the exact opposite path. It can therefore be

argued that the US did not prevent the fragmentation of the Iraqi state into three regions along sectarian-ethnic lines.

Fifth; Iraq during Saddam's Baathist dictatorship emulated the repressive policies of Stalin's Russia and other authoritarian regimes. In Iraq, the Baath party similar to Germany's Nazi party and other single party states with its state security and spy network tightly controlled Iraqi society and spreading mistrust even within families (Bremer, 2006: 37-39). Therefore, Bremer attempted to relate all repressive policies of Saddam Hussain to the Iraqi state and justified its dissolution by claiming that it was aimed at eliminating Saddam's legacy. Furthermore, the coalition's decision-making process and the Governing Council were isolated, behind walls inside the heavily fortified Green Zone, away from Iraqi society and its realities.

4.7.2 US Policy towards Iraq's Security

This section discusses briefly the role of US to build the security of Iraq after the invasion. This subject will be discussed in depth in Chapter Seven, focusing on the security sector during the period of post-war nation-building. Although the main role of post-war nation-building is to establish peace and control any insurgence and violence, the US did not provide sufficient domestic security and allowed Iraq to be turned into a training ground for terrorists (Etzioni, 2007: 29). The coalition not only dissolved the Iraqi army and failed to send enough troops to stabilise the Iraqi state (Bremer, 2006: 12-59; Gale *et al*, 2011: 208), but its policies also to deepened sectarian divisions during the rebuilding of the new Iraq. The US refused to plan for and carry out a national census, arguing that it would take a long-time and be difficult to undertake given the instable and volatile security situation. Instead, it established the political system on the basis of a Shi'ite majority which was rejected by most of the Sunni Arabs. Sectarian conflicts and the state's institutional and political segmentation has increased in Iraq since 2003 (Herring and Rangwala, 2006: 22-47), and the post-Saddam state has been struggling to deal with numerous militias whose existence has served to widen the ethnic-sectarian gap between communities (Hashim, 2006: 299). This sectarian conflict has played a decisive role in the failure of Iraq's nation-building post-2003.

According to al-Khalidi and Tanner (2007), what happened during the occupation, and developed afterwards, was the killing and displacement of people from their areas based on sectarian reasons. That led to the isolation and segregation of people into ethno-religious

communities, especially between Sunni and Shi'ite areas, and violence penetrated society. More and more ordinary people developed ties with radical and militant groups. Lawlessness, which was closely linked to the actions of the radical and militant groups, the lack of basic services, delays in the resolution of property disputes, and the fighting between the insurgents and the multi-national military, as well as operations by the new Iraqi government, all contributed to the displacement of thousands of civilians (al-Khalidi and Tanner, 2007). The terrorist organisation ISIS (Islamic State of Iraq and Syria) or Daesh, which has attacked the Iraqi state, has its roots in Al-Qaida which had flourished in Iraq after the US the invasion in 2003, as a direct consequence of the dissolution of the Iraqi army and De-Baathification process. Senior officers from Saddam's disbanded army and security services now hold leading positions in the organisational structure of ISIS (Smith, 2015; Matlock, 2010, and Corum and Howard, 2007: 39). Although one of the main aims of the post-war nation-building is achieving security and stability and the security sector is very important to ensure the development of the state and to find solutions to conflicts (Dobbins *et al*, 2007; Timilsina, 2006; OECD, 2008), US policy worked against that, causing instability and undermining security.

4.7.3 Corruption during the Occupation

Iraq is one of the most corrupt countries in the world with a mammoth amount of money lost through vice (Allawi, 2011). Before 2003, there was a department called Supervision Financial Committee (SFC) that was known for high efficiency and an accurate control of the state institutions. After 2003, Paul Bremer issued Order Number 55 regarding the creation of the Office of Inspector General departments and the Commission on Public Integrity (CPA, 2004). The report of the Special Inspector General for Iraq Reconstruction Stuart W. Bowen Jr "indirectly assigns blame for mismanaging the endeavor to the Bush White House, which had the authority to force U.S. government agencies to coordinate their work but failed to exercise it. Instead, he points out, no single office was assigned to lead the effort, making stovepiping - a myriad of narrowly focused efforts - "the apt descriptor". But the largest responsibility for the screw-up lies generally at the Pentagon and particularly in the Army, according to the report. The Defense Department "held decisive sway over \$45 billion (87 percent) of the roughly \$52 billion allocated to the major rebuilding funds that supported Iraq's reconstruction"" (Smith, 2013).

According to Respondent 34, a former senior member of the National Investment Authority:

“The Inspector General in each ministry, as well as the Commission on Public Integrity, were appointed by political parties and therefore have significant influence on the transparency process. As a consequence of this order, the SFC was made weak in order to deal with a large numbers of audit departments with different policies, which clash with others causing administrative and financial corruption in the Iraqi state” (Respondent 34).

The creation of the integrity and inspector systems by the US authorities, and the appointments by political parties, increased the corruption and complicated administrative operations. In addition, the laws of the Iraqi state encouraged corruption, such as Law No. 136/b which gives authority to the minister to stop any action taken towards any corrupt employee in their ministry. There has been a lack of accountability and punishment of the large number of thefts, thus leading to widespread corruption and looting. Many state institutions, including overseeing authorities, have not agreed to appoint any person without receiving a monthly or weekly payment as a reward; otherwise, they will be transferred from their position. The appointee would then have to issue unjust fines, give bribes, or get involved in other forms of corruption in order to keep his or her position. If any citizen makes a complaint, the overseeing authorities would pass the complainant’s name to the official concerned to take action against the person, such as a punishment or a warning. He would also be compelled to withdraw the complaint and never do it again in order to prevent further complaints in the future (Respondent 8).

According to Savage (2013), the corruption also appeared in the US-led coalition’s administrations and institutions, such as USAID, CPA, RTI’s, etc. due to “the absence of shared doctrine, the lack of communication, the constant turnover in personnel, and the inherent organizational biases and modes of operating, all contributed to a history of independent decision making and action” (Savage, 2013: 202), and “the CPA’s mismanagement of Iraqi funds and the failure to develop other critical elements of Iraq’s public financial management system contributed to a lack of institutional accountability and transparency, which undermined the government’s ability to control corruption” (Savage, 2013: 70).

Moreover, the US army and other authorities were involved in the corruption. According to the Respondent 36:

“Nobody, until now, knows where all the money found by the US and that came from oil exports – which was at least 17 billion US dollars – had gone during that period” (Respondent 36).

Furthermore, the US failed to prevent financial and administrative corruption by extravagantly spending money on appalling and failing contracts and paved the way for corrupt Iraqi contractors by encouraging them to accept bribes. According to another interviewee, Respondent 14, who is a solicitor:

“Under the rule of Paul Bremer, there was no punishment for criminal offences. All kinds of corruption were allowed by the Iraqi state and people; they only received punishment if they fought against the US troops” (Respondent 14).

The encouragement of the subcontractors within the US companies during the rebuilding of Iraq after the war was the major corrupting factor entering the state of Iraq. According to Respondent 35, president of a university:

“The state is still suffering from it because they took a very high percentage of the cost without doing anything, and signed the first contract which took (50%) from the finance of the projects. This was followed by a subcontract which led to another subcontract until it reached the last contractor who would carry out the project without cheating due to the little amount agreed in the end. This is what happened to all the US tenders as well as the Iraqi tenders that followed. The coalition was not sharing the information required by the project with the Iraqi government and not allowing them to monitor and supervise these contracts, thus producing Iraqi contractors who cheat and look for quick profits. This is having a very negative effect on the reconstruction of Iraq, even now. The governments, ministries, institutions and also the provincial councils started following the corrupt way (looking for commissions only) in the rebuilding of Iraq. Furthermore, there was no punishment, monitoring or deterrence for the corruption” (Respondent 35).

In addition, the US contract allocations in Iraq were openly corrupt. They also worked separately in the planning and execution of contracts, away from the Iraqi authorities. The CPA consultations were insufficient which led to the failure of the construction projects as well as to applications for projects which Iraqi authorities did not need or want. The US Ambassador James Jeffrey mentioned this concern, stating that “there was never an impression that the

Iraqis were included in any decision process” about reconstruction programmes and projects (USAID, 2013).

Respondent 6 states that after two months in his position as government minister, two Americans came to meet him and asked him to go to the cities of Diwaniya and Diyala to lay the foundation stones for two new public buildings. He responded by referring to his authority and position as government minister whose department would have to approve the construction of these buildings. Respondent 6 asked them about the amount of money put into the construction of these building, and the time required to finish the projects. They said that it would be one hundred million dollars without any limit on time, and that they would stop and go back to the US when the money was finished. Respondent 6 added: “I told them I would not go to lay the foundation stones until I had answers to the following questions: First, I wanted to know the exact period in which the project would be concluded because there is no project in the world without a limit on time. Second, I wanted one of the Ministry of [...]’s engineers to oversee the projects to make quality checks.” Asked about the need for the construction of these buildings, “they told me that they got this contract as a subcontractor from a US company, and that they were not involved in all of these matters. Subsequently, I contacted the US embassy in Baghdad asking for the investigator to come and check what was going on, but no investigator came and after that I faced an assassination attempt” (Respondent 6).

This particular anecdote is revealing of the corrupt ethos that became prevalent after the US invasion. Although corruption has a negative effect on economic growth, creates a disorganised economy, reduces private investments and the regulation of public expenses, reduces the quality of public services, and produces an unjust society, US authorities did not respond to the rising level of corruption and at least ignored rise of giving public contracts in Iraq on a corrupt basis.

4.7.4 The Destruction of Iraq's Infrastructure

This section discusses the US-led coalition's orders with regard to rebuilding Iraq's industries and infrastructure. State-building needs to prioritise investment in human capital through education, training and recruitment in the right positions, while lack of investment in these areas increases the potential of a state's failure.

After destroying the infrastructure of Iraq during the war in 2003 and after it ended, through looting and corruption, Bremer's policies undermined the professional and experienced employees of the Iraqi industries and companies by sending most of them to their homes and giving them minimum salaries. This decision by the US occupation authority affected Iraq's financial position as the government continued to pay salaries without work. It also made these people lose their professional experience by forcing them to work in other varied jobs away from their original work so that they could survive and sustain their families. Hence, the potential contribution of these individuals and their experience in the professional sector was lost. Such a disruption of industries and the commercial sectors also affected research institutions connected to them (Respondent 40). Public sector administration cannot be maintained in any country by sending employees home and continuing paying their salaries. Such an act will lead to apathy among the people and indifference towards the state, which is exactly what happened later on. Theories on successful nation-state building, as discussed in Chapter Two and illustrated with case studies in Chapter Three highlight the centrality of economic recovery and development.

Materials for rebuilding the infrastructure were also not provided. Such a disruption of the industries affected the research institutions connected to them (Respondents 23, 26 and 40; Dobbins *et al*, 2009: 139; Schwartz, 2008: 133). Respondent 26, a dean at an agricultural faculty of an Iraqi university, provides the following example:

“The ABAA centre for agricultural research, had played a great role in the development of the Iraqi agriculture system before 2003. It conducted research on the development and improvement of animal husbandry, eggs, seeds, and others. The centre was suspended by Mr. Bremer because its administration had been administered by the Atomic Energy Commission” (Respondent 26).

On the other hand, the coalition did not cooperate sufficiently with any relevant Iraqi ministries or institution about any project, which led to the failure of all US projects. For example, the

coalition authorities provided a contract to build a new water pipe project in an area to a private contractor without the knowledge of the water supply management authority in that area and without any supervision neither from the US nor from the local government authority that was responsible for that area. This policy led to chaos in the work of Iraqi government institutions. According to Respondent 19: “the US did its work in Iraq without any plan or strategy in place” (Respondent 19). Examples like this reveal the chaotic management of post-invasion reconstruction efforts which ultimately hampered any efficient rebuilding of the country’s destroyed infrastructure and created an environment where infrastructural development for effective state-building could not be achieved. As such, the US-led coalition authorities failed to develop an economic context for the rehabilitation of industries and developing human capital and the economy overall, thereby laying the groundwork for the failure of the Iraqi state.

4.8 Conclusion

This chapter has shown that the US had a long-term strategic plan towards Iraq, and the invasion of 2003 was a consequence of this. Iraq was one of the cornerstone of the neo-conservative plans to ascertain and expand the US global hegemonic power during and after the Cold War – initially to curb Soviet influence in the region and then to assert US global hegemony globally and in the Middle East. The existence of huge oil reserves played into the geopolitical relevance of the region for the hegemonic ambitions of the US. In the case of Iraq, the US strategies included when achieving direct control was not feasible or desirable, Iraq’s isolation and, neutralisation by subjecting it to severe sanctions and by cutting its political and economic ties to the rest of the world.

The strategic objectives of the US towards Iraq before the invasion in 2003 might help to explain why the US-led coalition authorities did not invest sufficient political and economic capital into Iraq to rebuild its infrastructure, reconstruct state institutions, ensure security and public safety and facilitate economic development. The material presented in this chapter, based on secondary material and first-hand interviews with relevant stakeholders in Iraq, suggest that the US-led coalition authorities at least ignored the detrimental effects the occupation had on the country: the mid- and long-term consequences of the war on the health of the population were ignored, looting and corruption was not efficiently prevented, public institutions were undermined in their efforts to maintain order and security and to govern reconstruction efforts. A culture and ethos of widespread corruption emerged which was not

directly challenged by the US-led coalition authorities. All these developments led to the complete collapse of the Iraqi economy thereby depriving the Iraqi state of one of the important cornerstones of successful state-building in a post-conflict scenario. In contrast to the case studies discussed in Chapter Three and the typology developed out of them and general discussions around successful nation-state building, it can be deduced that the conditions established on the ground by the US-led coalition was not conducive to a successful transition to democracy: stability was not secured and seen as first priority, security was not sufficiently ensured and corruption similarly undermined efforts of successful nation-state building.

Table 20 Effect of US policy on Iraq’s nation-building during the occupation

| | US policy | Iraq’s nation-building | Academic study | US policies effect on Iraq |
|---|--|---|-----------------------|--|
| 1 | Use of chemical weapons | Negative effect on Iraqi people’s health | Against | Against their declaration of building Iraq |
| 2 | Looting | Destruction of the state | Against | State failed |
| 3 | Reduced security | Instability of the state, increased terrorism and criminality, encouraging civil war, and preventing Iraq’s development | Against | State failed |
| 4 | Corruption | Weakness, increased number of criminals, and terrorist. | Against | State failed |
| 5 | The Destruction of Iraq’s infrastructure | Weakness of the economy and rebuilding of the state | Against | State failed |

Chapter Five: The Political System

5.1 Introduction

This chapter examines the way in which the US conducted the democratic process in Iraq after 2003. Studies on successful nation-state building have argued for giving priority to bringing stability to the state as a means for bypassing conflicts and encouraging cooperation and coordination between political leaders of the state. The responsibility to establish stability rests on the occupying power, the US in the case of Iraq during its occupation, according to international law. The coalition stated several goals for the US to ensure that the post-war regime undertook fundamental transformations in Iraq. One of these goals was to establish a viable democratic system that would be accountable to the Iraqi people. Therefore, this chapter examines whether this aim of the US-led coalition in Iraq was achieved and whether the policies implemented were actually geared towards this stated goal of overcoming authoritarianism and establishing a viable liberal, pluralistic democracy in Iraq. The effect of the coalition's policies on the stability of post-Saddam Iraq will also be discussed.

Therefore, chapter will answer the following questions:

- 1- To what extent has a new “national narrative” been created to unify the nation after the fall of the Baathist regime?
- 2- What were the coalition's goals with regards to unifying and rebuilding the nation after Saddam?
- 3- What were the coalition's plans towards rebuilding the stability of the political system post-2003 and how successful were the policies implemented to achieve this?

5.2 Iraqi Opposition Parties

This section gives a brief overview of the background of the Iraqi political parties during their period in exile, including their structure, aims and views before taking power. Most of these parties have dominated the political system in Iraq post-2003. The Iraqi opposition movement included Islamic Shi'ite and Kurdish parties. According to Respondent 36:

“The Iraqi Islamic [Shi'ite] parties since their creation in the late 1950s and early 1960s until 1988 [the date of the end of the Iran-Iraq War], have worked under the Islamic

state ideology and have dealt with it as a philosophical concept rather than as a political one” (Respondent 36).

Furthermore, there have been attempts to write the Constitution of Iraq based on Islamic principles. According to Respondent 10, a supervisor in different universities and member of an Islamic party in exile:

“What was written in Islamic Constitutions since the creation of these Islamic parties until 1988 does not provide any comprehensive vision of the concept of the Islamic state. After 1988, the Islamic movement of Iraq gave up the main principle of establishing an Islamic state by overthrowing the regime of Saddam Hussein. However, they did not replace it with a new concept. Until now, the Iraqi Islamic parties, even after their experience in power, do not advocate the creation of an Islamic state” (Respondent 10).

From these statements, it is clear that one of the main branches of Iraqi opposition parties, Shi’ite Islamic parties, gave up their ideological commitment to the establishment of an Islamic state in Iraq in their overall aim to end the Baathist regime. However, party leaders have not developed since then an alternative ideological discourse of what the involvement of an Islamic party in a democratic state in Iraq would mean and how Islamic principles should inform its policies. It seems the primary motivation for Islamic Shi’ite party activists was to be involved in the process creating a new Iraqi state and to partake in power. In contrast, the Kurdish opposition parties had a clear view on the structure and nature of post-Saddam Iraq: They called for the federal status of the Kurdistan Region, at a major conference of Iraqi opposition held in Vienna in 1992. This will be discussed in the last section of this chapter.

The Iraqi Islamic opposition groups had initially connections either to Iran or Syria, or both, primarily. However, after the First Gulf War and the UN sanctions on Iraq in 1991, the relations between these Islamic opposition and Western countries, mainly with US, along with the rest of the international community, were forged with the creation in 1992 of the Iraqi National Congress (INC) that gathered most of the Iraqi opposition groups with direct support and influence of the US. For example, Ahmad Al-Chalabi, was appointed president of the INC with strong support of the Kurdish parties. According to Respondent 15, an ambassador to Iraq to one of the neighbouring Arab Gulf countries:

“A lot of divisions occurred inside the well-known Islamic parties, and prominent leaders abandoned them; for instance, Al-Asify, Al-Hairi and Al-Askari, left the Daawa party” (Respondents 15).

In order to achieve political power, respond to the geopolitical ambitions of the US and ensure a united opposition movement that was inclusive of the Kurdish parties, the INC began to give tacit approval of the creation of sectarian and ethnic divisions in the country rather than using a united platform to create a new “national narrative” that could ideologically underpin the post-Saddam nation- building process.

Most Iraqi opposition groups were primarily interested in the “federal” structure of agreement new Iraqi state as a means to ensure sharing power among themselves after Saddam. Rebuilding a united nation-state does not appear to have been their primary objective. This surfaced at a London Conference of opposition parties that was held a few months before the fall of Saddam’s regime in April 2003. Respondent 36 points out that:

“They got a golden chance to become rich and hold high positions, whereas they had spent all their lives depending on help from various governments” (Respondent 36).

Respondent 8, a legal advisor to the Iraqi government, highlights the ghastly effects of sectarianism and the absence of the rule of law in the political process in Iraq: “Most of the figures of the opposition parties, who came to Iraq after the war of 2003, had only worked before and relied on social benefits or funds from different sources” (Respondent 8). This meant that they did not possess the relevant work experience or qualifications. Thereby, the US-led coalition supported the emergence of a new political elite in Iraq that had no experience of governing. On this Salmoni (2004) observed that “this is not entirely unlike the British setting up the foreign Hashemite family in Baghdad, with their Arab nationalist fellow travelers. Also like the British, by focusing on our expatriate Iraqi "friends," we missed aspects of indigenous mobilization among Iraq's Shia, who could have proven more supportive had we not neglected them throughout the 1990s” (Salmoni, 2004).

For the opposition parties, the fall of Saddam’s regime was the main objective to be achieved because of its brutal and oppressive nature. However, they were unable to overthrow it on their own. There was some cooperation and coordination between various opposition parties, but there were deep disagreements among them. According to Respondent 20

“There was disagreement between the Daawa party and the Islamic Supreme Council on managing the work of the Islamic opposition and allowing/disallowing Iran to get deeply involved in the work of the Iraqi opposition in exile” (Respondents 20).

The reality of Iraqi opposition in exile can be described as follows: *First*, most of the Islamic party actors, who had gained power after the war in 2003, lacked competence and experience in governing a country. *Second*, there was an acute lack of cooperation and coordination among them in exile, especially among the various Islamic Shi’ite parties. There were only a few meetings among party representatives which never resulted in a shared sense of collaborative action. *Third*, the Islamic opposition parties did not develop a clear political programme on how to achieve regime change and the nature of the new political order after the fall of Saddam. This apparent lack of a clear political programme had repercussions on the planning of the reconstruction of the country. Rather than working towards rebuilding the country, providing organisational and administrative services, focusing on developing the economy, and raising the living standards of people, most political actors were primarily concerned about the process of power sharing in the new political system based on competition and rivalries that had already existed while these actors were based in exile. *Fourth*, the Islamic opposition party activists suffered from lack of actual governing experience because all of them had been political leaders in exile, used to giving talks and lobbying but without any expertise in institution-building, politics and government work. This lack of experience and political leadership among the main Islamic parties allowed the US-led coalition to retain actual political power during and after the war of 2003, according to Respondent 20:

“The US controlled everything in Iraq. They took all the decisions, while the Iraqi politicians had no influence whatsoever” (Respondent 20).

Hence, the US established the new Iraq relying on a new political elite, formed in exile, with no coherent ideology, who were politically weak and lacked governing experience, having spent most of their lives out of Iraq, being out of touch with realities of Iraqi society and deeply divided among themselves.

5.3 Governing Council

The US governor of Iraq, Bremer, used his authority to form an Iraqi interim administration, the Governing Council (GC). This was based on UN Security Council Resolutions, in particular

Resolution 1483 which emphasised that the GC and the CPA, each in coordination with special Representative of UN Secretary General, were assumed to work together in a consultative and cooperative procedure on behalf of the Iraqi people (Ehrenberg *et al*, 2010: 191). Therefore, this section will discuss how the coalition established the GC, how both institutions cooperated with one another and what steps for taken to a successful transition to democracy.

Bremer explained that, “we assumed that the Shia would have to be a majority of the Council since they were believed to make up 60 percent of the population...we also needed to find effective, patriotic Sunni members. Finding them brought us face to face with a major structural problem inherent in Iraq’s post-Liberation politics: a lack of credible Sunni leaders. Almost all politically active Sunnis had been co-opted into Saddam’s security services or Baath Party, or killed as traitors” (Bremer, 2006: 93). Therefore, Bremer created the GC with 25 members – thirteen Shi’ites, five Kurds, five Sunnis, one Christian and one Turkmen. That meant, according to Respondent 8:

“Bremer came to Iraq with broad guidelines based on the rule of the majority Shi’a who had no experience, were weak and had no advisors. The law of the GC stated that each member had the right to recruit 15 advisors, but their recruitment included unqualified relatives, personal relations, party-related, most of them having been outside Iraq for a long period not knowing the reality” (Respondent 8).

Visser (2010) argues that “the idea of ethno-sectarian quotas became the dominant principle of government in Iraq in 2003-2004 during the rule of Paul Bremer, who famously exemplified its underlying logic by referring to a gathering of seven Iraqis as “unrepresentative” because only one Sunni Arab was present” (Visser, 2010: 215). This affected the subsequent political process. The effort by Bremer “to enshrine ethno-sectarian identities in the governing structure of the Iraqi state through the creation of the so-called governing council back in 2003 set the tone for the politics and the constitutional regime that emerged during the two first years of the occupation: The subnational identities of the Iraqis were given greater weight than their shared sense of being a nation” (Visser, 2010: 12).

Diamond (2004: 46) argues that the GC did not achieve its goals of facilitating a stable democratic transition for a number of reasons: *First*, all of its members had lived in exile and most Iraqis living in Iraq had now contact with the council members; *Second*, the included too many controversial Iraqis, such as Ahmed Chalabi, preventing it from gaining credibility and legitimacy within the wider population; *Third*, the CPA failed to move rapidly enough toward

the creation of a more representative and legitimate body; *Fourth*, the CPA failed to encourage GC members to reach out and develop constituencies.

However, an in-depth investigation into the composition of the GC reveals that the majority of its member did not come from Shi'ite Islamic parties, but most of the Shi'ite representatives were of a secular background or orientation such as Ayad Allawi, Hamid Majeed and Ahmad Chalabi. Respondent 8 describes the Shi'ites represented in the GC:

“Some of the Shi'a secular members were appointed directly by the CIA such as Ahmad Albarak and Raja Al-Khozaie, who had no background in political fields while in exile” (Respondent 8).

Respondent 13, holding a senior position in a government ministry, confirms this:

“The 13 Shi'a members of the GC were much differentiated, and most of them are not religious” (Respondent 13).

The function of the GC had a negative effect on Iraqi politicians as they increasingly considered political actions with a sectarian or ethnic lenses, which the composition of the GC and the rationale for it further rectified. Shi'ite political activists intended to achieve political ascendancy and to prevent Saddam's Ba'ath party from assuming power in Iraq again. Sunni political activists wanted to retain their power even with the backing of supporters of Saddam's regime. The rotating presidency of the GC, where each member would become president of the council for only one month (O'Leary *et al*, 2006: 279), did not facilitate stable and continuous political leadership to rebuild the state. As Respondent 13 argues:

“The purpose behind Bremer's idea of the GC's president rotation was to ensure the satisfaction of its members and making them learn, individually, how to react to the rules and how to ignore rebuilding the country” (Respondent 13).

Thus, the GC did not possess any real power, but ultimately it was Bremer who decided what to do; for example, the Administration Law for the Transitional Period and the draft Constitution, were written by an American and not by the GC. It was Bremer who decided when to pay the salaries to the members of the GC, further underlying their complete dependency on him. Furthermore, the members of the GC had no background and experience

in governing a state and setting and implementing policies and were hence unable to respond to the unfolding challenges in the transitional period. Respondent 6 confirms this observation:

“When the violence and terrorism started in Iraq, the security deteriorated. As a result, the GC and other politicians were away from the reality of the situation in Iraq and were for a long time living in the Green Zone” (Respondent 6).

In addition, the GC had very limited power. It gave some advice to Bremer and dealt with some major conflicts within the council. However, according to Respondent 8:

“The Council had no internal system of governing, and its duties and responsibilities were without any clear power” (Respondent 8).

The US supported the weak Shi’ite-dominated GC which in turn encouraged some Sunni nationalists to turn to al-Qaida in Iraq, a radical group formed by a Jordanian, Abu Mosab al Zarqawi, after the invasion (Ehrenberg *et al*, 2010: 216). Al-Zarqawi was followed later on by a Baathist military Colonel Samir Al-Khilfawi (Haji Bakr), a leading strategist in the military campaign of ISIS in Syria and Iraq leading to the capture of Mosul on 9-10 June 2014, followed by Tikrit and Anbar. ISIS has committed horrific massacres against Christians, Yazidis, and Shiites, among others, in Iraq (Rasheed, 2015: 14-61), creating the greatest recent challenge to Iraq, threatening its unity and raising the possibility of real division of the Iraqi state. These developments have also exposed the links between al-Qaida and the remnants of the Baath party and its supporters and collaborators.

Thus, the members of the GC were: *First*, responsible for the situation in Iraq; *Second*, lacking competence, capacity, ability, experience, strategy, planning and proper legal advice; *Third*, did not work as a team and could not agree on one leader to manage the council’s work; *Fourth*, they had different ideas and beliefs; *Fifth*, did not take any step forward in Iraq’s nation-building. The complexity of the political system that was put in place by the US was unprecedented, especially after a dictatorship such as Saddam’s regime/The US -led coalition intended to illustrate that the GC was dominated by Shi’ite activists while this was not true, as the majority of the Shi’ite representatives were pursuing secular policies. Finally, the Islamic Shi’ite groups had no plans or views for Iraq’s nation-building or their own group’s ideological identity, which was exhibited by other groups such as the Kurds, and as a result their performance in the council was very ineffective.

A political process in Iraq was initiated based on sectarianism, conflicts and political weakness which hampered at the very start efforts to successful nation and state-building. The establishment of the GC with its ethno-sectarian quota system created the cornerstone of the conflict in Iraq by giving nominal power to the Shi'ites and keeping away the Sunnis and the Kurds enjoying significant regional autonomy within the state of Iraq. The conflicts created during existence of the GC affected the political process when the US handed over power to the Iraqis through a provisional government, as will be shown in the next chapter.

5.4 Political Parties

“Of all regimes of which we know [modern democracy] is the only one to have represented power in such a way as to show that power is an *empty place* and to have thereby maintained a gap between the symbolic and real. It does so by virtue of a discourse which reveals that power belongs to no one; that those who exercise power do not possess it.” (Claude Lefort quoted in Arato, 2009: 59)

Poe and Tate suggest that “democracies provide citizens the tools to oust potentially abusive leaders from office before they are able to become a serious threat” (Poe and Tate, 1994: 855). In Iraq, however, the most problematic outcome of the US policies which laid the ground for further was an unstable political system. The political system in Iraq was introduced by Paul Bremer when he created the GC based on ethno-religious quotas. The US authorities, instead of setting policies to chart the path ahead towards building the political process in Iraq, created the sectarian-ethnic quota system, thereby enshrining ethnicity and sectarian belonging as sources of conflict in Iraq’s political fabric. According to former Prime Minister Nouri Al-Maliki, political conflict, based on ethno-sectarian discord, is the main reason for the deteriorating security in Iraq since 2003 (Al-Maliki, 2011b). Former Prime Minister Ayad Allawi concurs that the political conflict also encouraged violence in Iraq (Allawi, 2011). The political process in Iraq can thus be defined as conflictual from its inception until now (Al-Maliki, 2009). Therefore, the new Iraqi political elite has been vying for positions of political power within the ethno-sectarian quota system – a system that thereby favours political bargaining and the promotion of partisan interests rather than achieving a sense of common political purpose needed in a successful nation-state building process.

Furthermore, this quota system enhanced the political power of the US authorities as well as Iran. “Just like Iran, Biden came to Baghdad to talk about “Kurds, Shiites and Sunnis” at a time Iraqis were struggling to transcend these categories” (Visser, 2010: 35), during the preparations for the 2010 election. This raises a major question about the rationale behind the creation of the quota system by the US, which did not support the reconstruction of an Iraqi nation after the toppling of Saddam Hussein. Visser argues that the US will “never pass ontological puberty in Iraq: Even as they celebrate non-sectarian tendencies they still want to make sure all the sectarian parties are in there, disregarding that the Kurds have actually already been empowered locally through federalism and the fact that Shiites and Sunnis clearly dislike the idea of enshrining sectarian identity at the level of the state” (Visser, 2010: 37).

The democratic process and successful nation-building in Iraq have failed due to the quota system for the following reasons:

First, the success of one party means failure of the other, even if they belong to the same ethnic or sectarian group. Politics becomes a crude zero-sum game where winner takes all and patron-client relations are established to maintain this. According to Respondent 20:

“Each party tries to thwart other parties and prevent them from succeeding, such as the major conflict between the two main Shi’a parties – Islamic Daawa party and Supreme Islamic Council. These two parties have been in conflict since the 1980s” (Respondent 20).

Collier (2009) makes the same argument when he identifies a politics of “zero-sum game” as one of the factors leading to the failure of post-conflict nation-building. Rather than establishing a political system that fosters national unity, ethno-sectarian discord was enshrined in the political system by the US-led coalition.

Second, the quota system appoints affiliated people from these parties even when they are incompetent, while barring individuals who are not party members from positions, even if they are more competent and highly experienced. However, the quota system in the state body became even more problematic when the Kurds expected their inclusion in any agreement among politicians in Baghdad. Therefore, if Sunni and Shi’ite parties reach any agreement within the central government, the Kurds demand to be part of this agreement. During the formation of the new government in 2011, the main Arab parties had an agreement to share the defence and interior ministries, but the Kurds requested that their share of power includes

control of the main security services – the intelligence apparatus. The Kurdistan Region and Kurdish political parties are the main beneficiaries of the ethno-sectarian power sharing system which weakens Shi'ite and Sunni Arab political actors.

The sectarian quotas have created and fuelled a corrupt patron-client state system. As a consequence, senior positions in the state have been staffed by unqualified individuals. The recruitment of un- or underqualified personnel can be observed in the entire public sector, including ministries and provincial councils, thus leading to poor governance which has contributed to the failure of state-building in Iraq. Political conflicts and infighting between different government departments have also affected the state; according to Respondent 35:

“In Baghdad University, only eight deans have been recruited for 30 posts due to conflict between the university, education ministry, education minister's deputies and the Council of Ministers, which was caused by the sectarian quota conflict” (Respondent 35).

The distribution of senior posts in the public sector is based on sectarian quotas and with the parties promoting and supporting their own supporters, as confirmed by Respondent 3, a specialist in general surgery:

“Even if they are good enough because they might lose that post to other parties” (Respondent 3).

Therefore, according to the interviewees, the political parties have not benefited from qualified and experienced Iraqis; they have given politics priority over professional and scientific talent. They have blocked state posts from qualified individuals who are not interested in joining political parties, as mentioned by Respondent 34:

“The quota system in the political system expanded corruption, from its narrow area during Saddam's regime, to the general sphere around the state, becoming the norm in society and public institutions” (Respondent 34).

The result is widespread bribery, commissions and personal enrichment over public interest which has contributed to the failure of nation-building in Iraq. According to Respondent 29, working for Baghdad Provinces Transport:

“There are no politicians in Iraq, but only people with personal and party benefits. There is a lack of any criteria and regulations controlling these parties and their interests” (Respondent 29).

Respondent 24, holding a senior position in the Planning Sector in the Governorate of Basra confirms this:

“Politicians have exploited the deteriorating security and administrative chaos for their own interests, in order to hold power for themselves only” (Respondent 24).

Respondent 39 confirms Respondent 24’s point of view by adding:

“The political parties adopted measures that were similar to those of the Baath party through creating crises. They were careless about people’s interests and led them to be averse to what politicians did. They were only interested in keeping power under their control” (Respondent 39).

This is how the political process, built on the foundation of an ethno-religiously divided Iraq, has evolved leading to further divisions among the parties.

Other interviewees, such as Respondent 14, gave a different view on the political system in post-2003, highlighting continuities from the Baathist regime:

“The people who hold the main power in the state are mostly from the previous regime, which explains why Iraq is moving from bad to worse” (Respondent 14).

The observation of continuity is plausible if one considers the different layers of the new Iraqi political elite. The sectarian conflict created three layers within Iraq’s new political elite that have emerged since 2003: *First*, the upper layer, which includes leading figures such as members of the parliament, ministers, ministers’ deputies, and so on, and people who returned from exile; *Second*, the middle layer that includes members of the executive and legislative authorities, such as state advisers, judges, managers, legislators and others who mainly belong to the old regime; *Third*, the public layer, including public employees who suffered during the old regime and are in the same state under the present one. Therefore, the top leadership is held by people who do not know much about Iraq, as they have been away for decades. They rely, therefore, on the middle layer for advice and the management of the State. Members of the middle layer of Iraq’s new political elite block state positions and benefits from the people who

had suffered during Saddam’s regime while supporting those who worked within the old regime.

The cooperation between the government and the population is crucial for the success of any nation-building process. In particular, in the transition to a post-authoritarian system it is essential that a discourse and politics of inclusion is created to suggest that the new political order empowers groups and constituencies that have been disempowered in the past, as the example of South Africa particularly illustrates. Therefore, this research thought it to be imperative to conduct a survey in order to understand how Iraqis perceive this relationship. Four questions were asked to get an insight into people’s attitudes towards the government and the new political parties.

The first question was: “Do you think that you can use all your rights as a citizen, without joining or getting support from political parties?” The results were as follows:

Table 21 Do you think that you can use all your rights as a citizen, without joining or getting support from the political parties?

| | Number | Population | Percentage | LL 95% CI | UL 95% CI |
|---------------|--------|------------|------------|-----------|-----------|
| Yes | 672 | 3024 | 22.2 | 20.8 | 23.7 |
| No | 1968 | 3024 | 65.1 | 63.4 | 66.8 |
| I don` t know | 384 | 3024 | 12.7 | 11.6 | 13.9 |

Figure 4 Do you think that you can use all your rights as a citizen, without joining or getting support from the political parties?

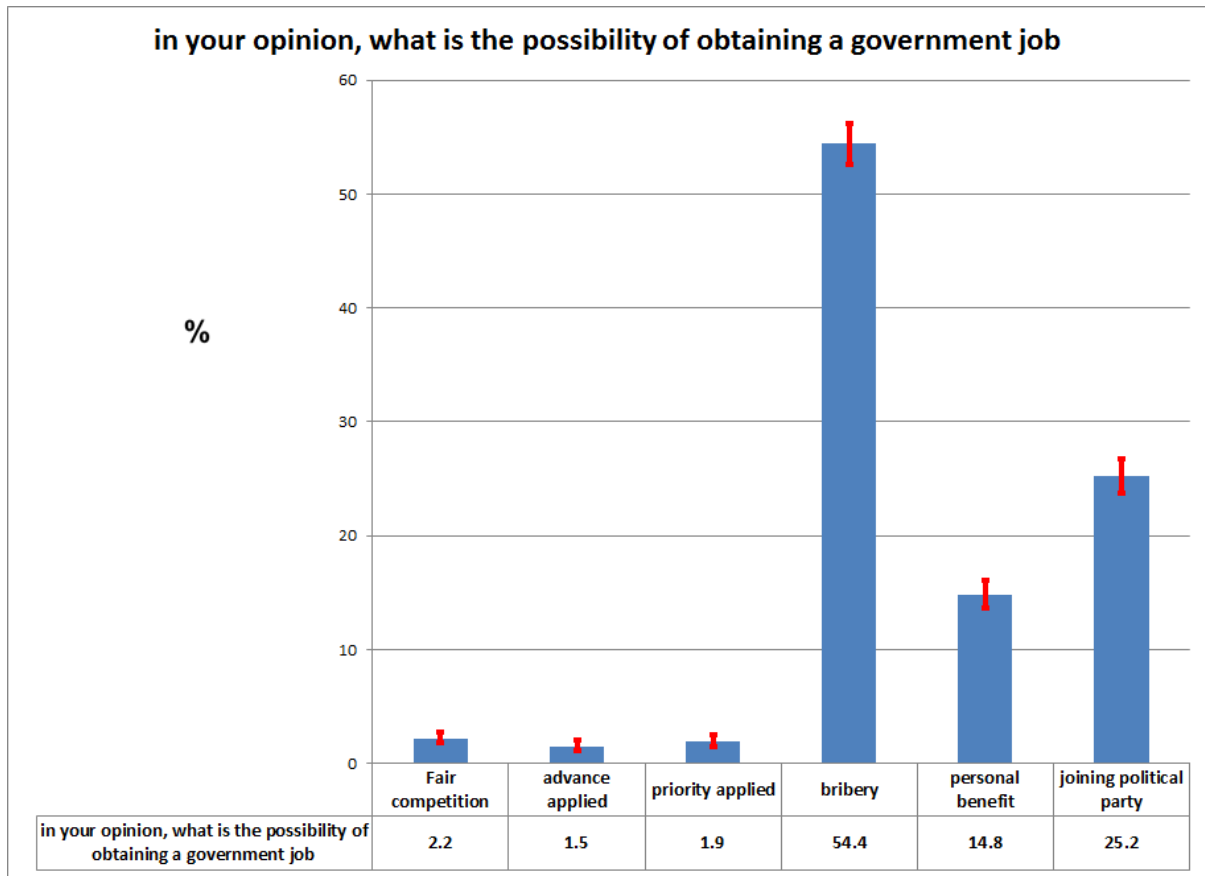


Table 21 and Figure 4 illustrates the survey’s results about the influence of the political parties on social life. (65.1%) of the respondents think that they could not claim their rights as citizens without support from or joining one of the political parties, while (22.2%) believed that party affiliation or support had no influence on their life as a citizen.

The second question was: “In your opinion, what are the chances of obtaining a government job?” The answers were as follows:

Table 22 In your opinion, what are the chances of obtaining a government job?

| | Number | Population | Percentage | LL 95% CI | UL 95% CI |
|-------------------------|---------------|-------------------|-------------------|----------------------|----------------------|
| Fair competition | 67 | 3015 | 2.2 | 1.8 | 2.8 |
| Advance applied | 44 | 3015 | 1.5 | 1.1 | 2 |
| Priority applied | 58 | 3015 | 1.9 | 1.5 | 2.5 |
| Bribery | 1640 | 3015 | 54.4 | 52.6 | 56.2 |
| Personal benefit | 446 | 3015 | 14.8 | 13.6 | 16.1 |
| Joining political party | 760 | 3015 | 25.2 | 23.7 | 26.8 |

Figure 5 In your opinion, what are the chances of obtaining a government job?

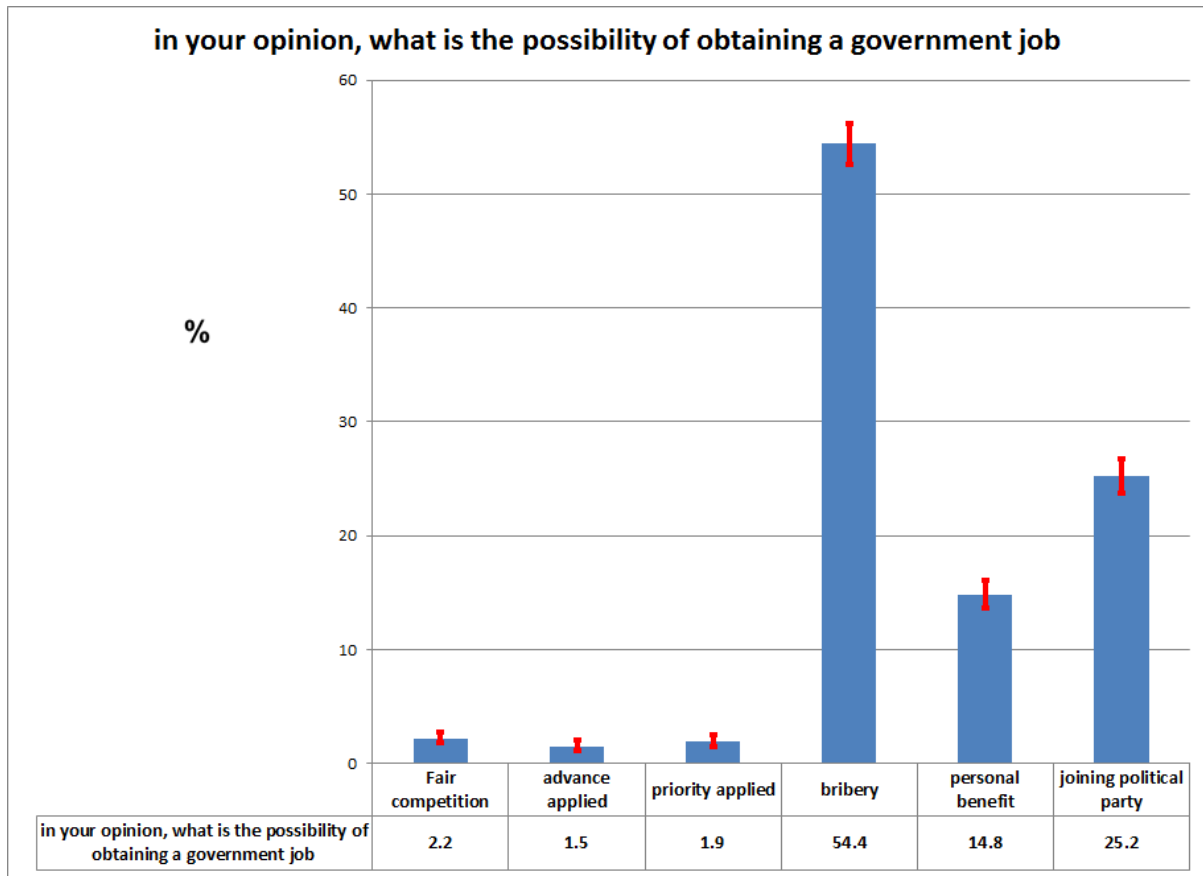


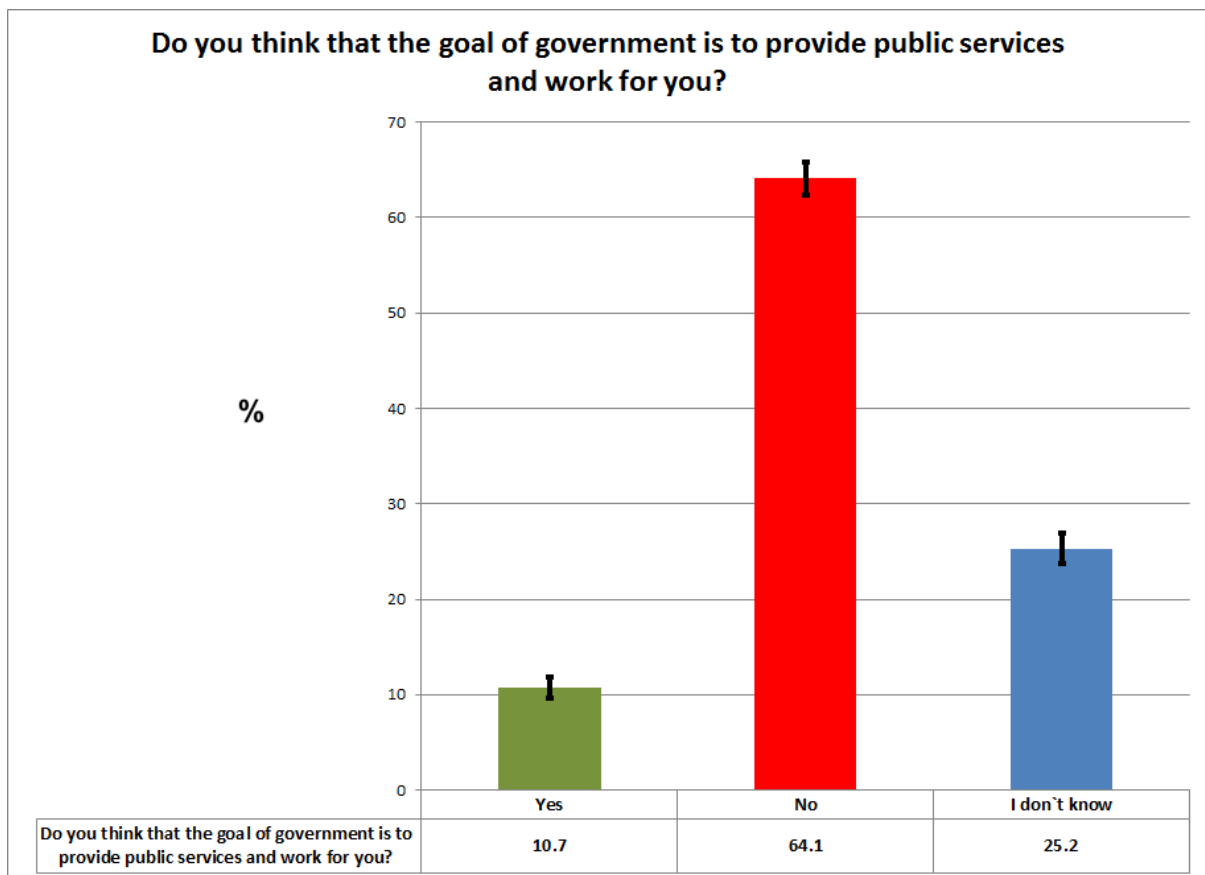
Table 22 and Figure 5 show how the Iraqi respondents of the survey estimate the chances of obtaining a government job after 2003. The answer had six options and there was a freedom of choice to select more than one option. It can be seen that most respondents believe that the main way of obtaining a government job is through bribery (54.4%), while (25.2%) believe that joining a political party is the best way to obtain a government job

The third question was: “Do you think that the goal of government is to provide public services and work for you?” The results were as follows:

Table 23 Do you think that the goal of government is to provide public services and work for you?

| | Number | Population | Percentage | LL 95% CI | UL 95% CI |
|--------------|--------|------------|------------|-----------|-----------|
| Yes | 308 | 2884 | 10.7 | 9.6 | 11.9 |
| No | 1848 | 2884 | 64.1 | 62.3 | 65.8 |
| I don't know | 728 | 2884 | 25.2 | 23.7 | 26.9 |

Figure 6 Do you think that the goal of government is to provide public services and work for you?



The survey results for the opinions about the government's role of providing services are shown in Table 23 and Figure 6. The statistical analysis of the results shows that (64.1%) of respondents do not approve of the services provided by the government. Only (10.7%) of respondents agree that the government provides good services.

The last question was: “If you have a problem, to whom do you think you should complain?”

The analysis of the results for this question are as follows:

Table 24 If you have a problem, to whom do you think you should complain?

| | Number | Population | Percentage | 95% CI UL | 95%CI LL |
|--------------------------|---------------|-------------------|-------------------|----------------------|---------------------|
| Government | 261 | 2929 | 8.9 | 7.9 | 10 |
| Parliament | 58 | 2929 | 2 | 1.5 | 2.6 |
| Independent Organisation | 87 | 2929 | 3 | 2.4 | 3.6 |
| Media | 348 | 2929 | 11.9 | 10.8 | 13.1 |
| None | 1711 | 2929 | 58.4 | 56.6 | 60.2 |
| I don` t know | 464 | 2929 | 15.8 | 14.6 | 17.2 |

Figure 7 If you have a problem, to whom do you think you should complain?

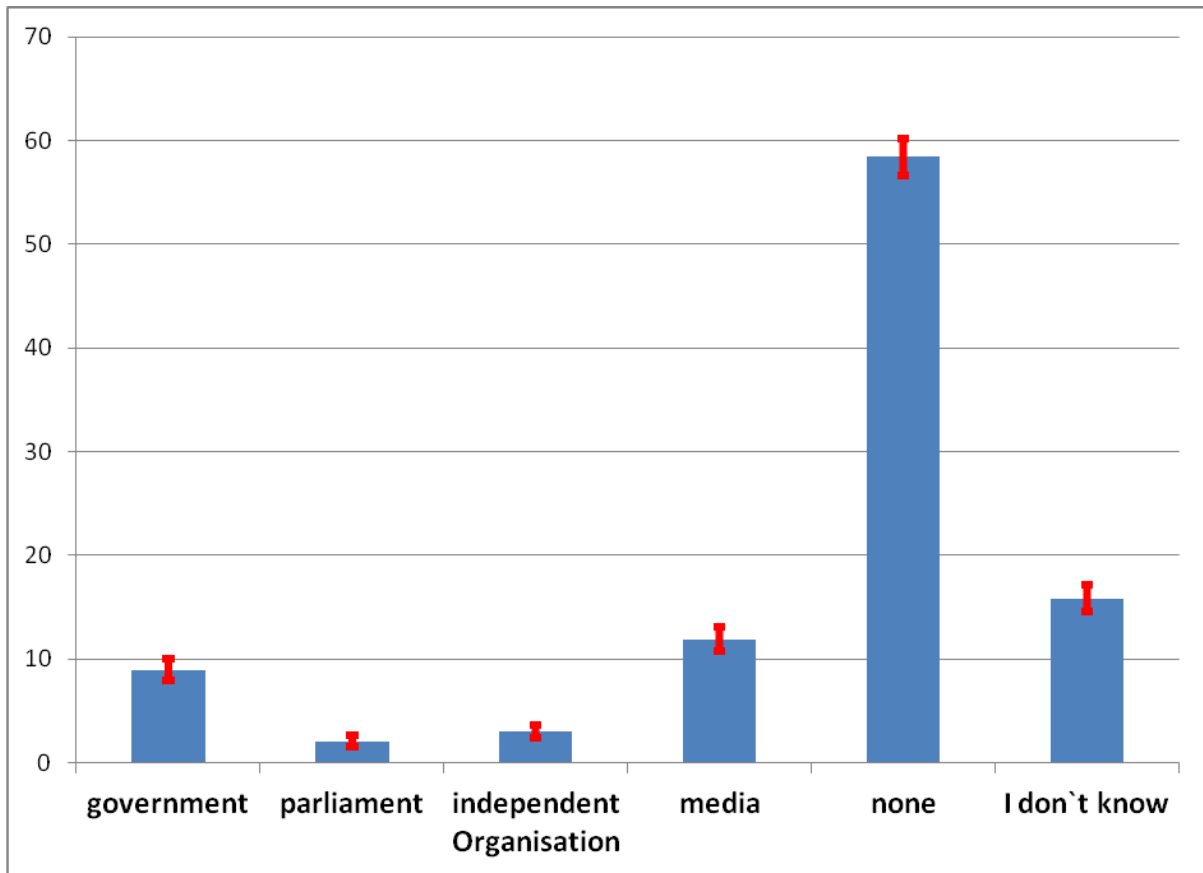


Table 24 and Figure 7 shows to whom Iraqi respondents to the survey would direct their complaint if they had a problem. The answer had six options and there was a freedom of choice to select more than one option. The results show that (58.4%) of the respondent believe that there is no place or authority in the state which they can approach to have their complaints heard. (15.8%) of the respondent do not know if there is any authority in that state to whom they should complain. In addition, (11.9%) believe that they can complain through the media, while only (8.9%) think they can address their complaint to the government.

Therefore, these results indicate a major division between the Iraqi government and the Iraqi population. There is an absence of the idea of meaningful citizenship. The state has been built on the basis of the influence of corrupt political parties and not on the constitution and institutions of the state. This is also borne out by the results for the last question where most of the respondents believe that there is nowhere to go to complain about their problems, while others do not even know to whom they should complain. Thus, there is a lacking sense of

political inclusion with the population having sense of being disenfranchised and being governed by a government that is out of touch with their own needs. This attitude contravenes one of the main principles of democracy and nation-building, in particular after the end of an authoritarian system. Wider society in the form of civil society actors needs to be involved in the political process and in particular in developing the political, legal and constitutional framework for the new state. South Africa's post-apartheid constitutional process illustrates this approach most successfully.

5.5 De-Baathification Order

At the end of World War II, the Western allies established a De-Nazification tribunal, which was headed by the US officers to try criminals of the Nazi party. The tribunal considered each individual case on the basis of evidence and proof, such as witnesses and documents. It was found that the actual De-Nazification trials would have required employing, at least, more than ten thousand Americans, and that even then there was no guarantee that Germany would remain De-Nazified. Therefore, the responsibility for the De-Nazification trials was gradually handed to the Germans. The Allied Military Government, which was established after the war, made two opposing assumptions regarding former members of the Nazis party: *First*, all Nazis members were incorrigible and were therefore beyond redemption; *Second*, that there are a lot of Nazi party members who were victims due to the circumstances under the Nazi regime. Therefore, as valued members of their society, they were “worthy of rehabilitation”. This paradox helped clarify the ambiguities of the De-Nazification trials under the rule of the Allied Military Government. Thus, the regulations on De-Nazification were replaced by new German directives, which converted to German Law 104, entitled Liberation from National Socialism and Militarism, on 5 March 1946. Furthermore, the Military Governor protected young Germans from the worst effects of this law, and declared a youth amnesty which stated that every person born after 1 January 1919 would be excluded from the De-Nazification law and would not be tried. However, there was an absence of evidence and a lack of experience and professionals within the new Germany, such as within universities. In addition, German politicians started to compete with one another, each trying to outbid the other for support by more and more outspoken attacks on the occupation governments which caused the failure of the De-Nazification law. Finally, the separation between East and West Germany became more pronounced between 1946 and 1947, and it became increasingly problematic for the Western

allies to agree with the Soviets about the running of the German economy and the building of new social and political institutions (Fitzgibbon, 1969: 165; Bower, 1981: 151-162; Herz, 1948: 592; Thacker, 2006: 231 and Tent, 1984: 84).

Bremer states in his book *My Year in Iraq* (2006) that on the morning of his last day in the Pentagon before he left for Iraq, on 9 May 2003, “Under Secretary Douglas Feith had shown me a draft order for the “De-Baathification of Iraqi Society”” (Bremer, 2006: 39). He underscored the political importance of the decree: “We’ve got to show all the Iraqis that we’re serious about building a New Iraq...and to wipe the country clean of the Baath party’s ideology” (Bremer, 2006: 39). Bremer describes the real meaning of this order as the removal of all Baath party members from the first management layers of all the State institutions was very different, in fact, from what had happened in both German and Japan. According to him, the De-Baathification order “our concern was only the top four levels of the party membership, which the order officially excluded from public life [...] the top three layers of management in every national government ministry, affiliated corporation, and other government institution, including universities, institutes, and hospitals, would be reviewed for possible connection to the Baath Party” (Bremer, 2006: 40-41). Iraq had been governed by only one party (the Baath party) before 2003 for more than 30 years (compared to 12 years of the Nazi regime). For this reason, many Iraqis did not join the Baath party willingly because Saddam’s regime forced them to do so under the laws of the state. Furthermore, the De-Baathification order, first declared by the coalition after removing Saddam’s regime, caused one of the most intractable conflicts in Iraq. Hurst argues that the De-Baathification order had two major consequences: *First*, it demolished what had remained of the Iraqi state by excluding and purging civil service officers, senior party members, senior administrators as well as the technocratic class; *Second*, it was to alienate many of the Sunnis against the new government and against the new Shi’ite political actors of Iraq because for many Sunnis the De-Baathification law was effectively seen as a De-Sunnification order. This led to around 100,000 qualified state employees and public servants losing their positions, including the majority of Sunnis for whom Baath party membership had been essential to furthering their careers; *Third*, the De-Baathification law stirred up divisions within Iraq’s society as Bremer appointed Ahmed Chalabi, a Shi’ite, to head the De-Baathification commission, only to persuade Sunnis even more that this was a sectarian procedure (Hurst, 2009: 186). Therefore, the new law meant making most of the qualified and experienced public sector employees redundant, which ultimately led to a complete breakdown of the state bureaucracy and hence public services. The US-led coalition’s

approach was markedly different to the allied approach after World War II in Germany and Japan when allied forces established the first international criminal tribunals to prosecute and punish war criminals.

Hashim (2006) further argues that the decision of De-Baathification also affected Iraqi security. He gives the city of Samarra city, North of Baghdad, as an example. It was a stronghold of the Baath party and had thousands of men employed in the military and security forces. The population of Samarra, however, faced punishment, killings and unemployment during Saddam's period. "Despite its trials at Saddam's hands over the years, However, Samarra remained loyal to Ba`thist and nationalist sentiment, so, its people viewed the US presence with undisguised hostility. The inability of the Coalition to restore services or provide employment and reconstruction added more fuel to the fire" (Hashim, 2006: 128).

Visser (2010) contemplates that this decision of De-Baathification was the main reason behind the sectarian conflict in Iraq and was used by some members of the Shi'ite parties, selectively, who came to power after several decades in exile. He said that it is an historical fact that Shi'ites and Sunnis alike cooperated with the old regime in their millions, and many Shi'ite tribes participated in suppressing the "Shi'ite" rebellion in the South in 1991 shortly after the First Gulf War. However, the exiles who came back to Iraq after the war in 2003, created a new historical narrative in which the role of pragmatic or opportunistic Shi'ites working with the Baathist regime was ignored. Instead, political adversaries, mostly Sunnis, were singled out as "Baathists" and were silently co-opted to political groups, especially to Shi'ites, without stating their Baathist links. That hypocritical and sectarian method of implementing De-Baathification would lay the new Iraq on unstable foundations. "The main problem with the De-Baathification measures, then, refers not so much to systematic and overt sectarianism or partisanship as such as to despotism more generally, albeit clearly with the ulterior goal of perpetuating a sectarian political atmosphere" (Visser, 2010: 139).

Respondent 20 presents another point of view on the application of the De-Baathification law saying that Baathists, both Sunni and Shi'a, mostly returned to their previous positions by corrupt means. The De-Baathification was not implemented correctly, for Sunni and Shi'a Baathists, as most of the employees of the old regime were allowed to return to their jobs, based on a decision that they were exempt from the order:

"The De-Baathification authority returned more than 13,000 Baathists to their original jobs and positions which they had before 2003" (Respondent 20).

This means that many Baathists returned to their former positions in the state rather than being purged by the De-Baathification authority. Very often, exemptions were granted to former Baathists by the authority by paying bribes.

The De-Baathification law also affected other sectors such as the judiciary when Bremer removed most of the highly-qualified judges from office. The De-Baathification law was not correctly implemented as most of the employees of the old regime returned to their previous positions through various exemptions. The law sent most of the qualified and experienced employees into unemployment which caused a complete failure of public administration and security. The judicial system was severely affected by Bremer's decision to relieve most of the principal judges from their positions. Unemployment and Bremer's decisions on the De-Baathification law fed the terrorist movements in Iraq. Therefore, the De-Baathification law became one of the effects of the US policy that contributed to the failure of Iraq's nation-building, rather than being part of the process of rebuilding the state as was the case with the De-Nazification law in Germany after World War II. The difference between De-Baathification and De-Nazification laws can be seen in the following table.

Table 25 Comparison between De-Baathification and Denazification implemented by the US

| | De-Nazification | De-Baathification |
|---|---|--|
| 1 | Each case considered individually. | Based on the main three layers in government ministries, institutions, universities, hospitals, etc., and not based on individual consideration of cases and criminals |
| 2 | Based on evidence | No evidence required |
| 3 | Tribunals mainly, and headed initially by Americans | Tribunals headed by Iraqis |
| 4 | Many Nazis were victims, valued members, and worthy of rehabilitation. | No such consideration for Baathists, and no rehabilitation |
| 5 | Became law on 5 March 1946 in Germany | Law was drafted in the Pentagon before the war ended, and was issued in Iraq immediately after the war |
| 6 | German politicians worked together to reduce the numbers of people covered by the law to a few persons. | Iraqi politicians pursued a sectarian policy and were driven by their interests rather than state interest, causing a conflict between Sunnis and Shi'ites, and Iraqis affected by the law increased to 100,000 persons. |
| 7 | The law ended one year after it was issued. | The law is still in place and continues to cause conflict among Iraq's communities. |

5.6 The Rising Power of the Kurds in Post-War Iraq

This section discusses the rising power of the Kurds and the Kurdistan Region vis-à-vis the weakness of Shi'a political power inside Iraq, before and after the war and invasion in 2003.

5.6.1 The Kurds' Position in the Period between the First and Second Gulf Wars

The First Gulf War brought major changes in the Kurds' position in the state of Iraq. The Kurds were weak before 1991 and their main parties were supported by the Islamic opposition parties. After the First Gulf War in 1991, the Kurds' role was augmented subsequent to their success in the aftermath of the popular uprising, the Intifada that was crushed in southern Iraq by Saddam's regime. They enjoyed support from the US which, along with its allies, proclaimed a no-fly zone to Iraqi military aircraft in Northern Iraq to protect the Kurdish population. This decision helped to create a semi-independent regime in the Kurdistan Region. According to Respondent 10, after the uprising took place in March 1991, while the Iraqi opposition conference which was held in June 1992 in Vienna (Austria), the Kurds asked the Islamic opposition forces to endorse their call for a federal status to the Kurdistan Region. The position that the Iraqi opposition movement had adopted before the First Gulf War was to grant the Kurdistan Region autonomous rule within a unified democratic Iraq. The Islamic opposition groups that attended the Vienna Conference initially refused, but they agreed and signed up to the federal system when Kurds threatened to withdraw from the unified Iraqi opposition movement. The Kurdish parliament voted in favour of a federal Iraqi structure and the Iraq National Congress (INC) adopted this policy in the same year and reaffirmed it in its 1999 conference in New York (Ehrenberg *et al*, 2010: 291; Respondent 10).

The interview with Respondent 10 confirms this in more detail:

“After the failure of the Intifada and the foundation of the Iraqi assembly, the Kurds proposed federalism at the conference in Vienna, which shocked the Iraqi opposition, especially the Islamic groups. However, they relented, after initially rejecting it, due to the Kurds' pressure and threatening non-co-operation and to withdraw from the opposition movement. The Kurds had US protection and support during the UN sanctions on Iraq, and they received an annual oil income (12%) from Iraq, but they managed their area independently and away from Iraq's central government or any other country” (Respondents 10).

After the end of the First Gulf War, US authorities created the “No-Fly Zones” to prevent Saddam from “sending his aircraft into Kurdish areas in the north and Shi’ite areas in the south” (O’Brien, 2010: 10). This decision, on 5 April 1991, was justified by President George Bush Sr. and his administration as being part of an effort to protect the Kurds as a result of Iraq’s failure to comply with UN Security Resolution 688 (Williams, 2007: 517-518). The US, however, ignored the need to protect the south of Iraq and kept it exposed to the onslaught of Saddam’s Republican Guard (Cordesman, 1999: 29). The units of the Republican Guard had remained out of the war and intact as a military power and were not attacked by the US air force. Saddam first defeated the Shi’ites in the south, who had few modern weapons and lacked experience. Shi’ite opposition forces made their final stand in the holy cities of Najaf and Karbala to defend the shrines of Imam Ali and Imam Hussain (Spencer, 2000: 125; Cordesman, 1999: 181).

Respondent 20 reflects on the Intifada of 1991:

“America helped Saddam against the Shi’ites when it allowed him to pull army units and heavy weapons from Kuwait, as well as the Republican Guard which had not been bombed, to put down the uprising of the Shi’ites in the south. In addition, they allowed Saddam to use his military aircraft to attack the Intifada in Shi’ite regions, bomb civilians in Iraqi towns and crush the Intifada which had covered all the provinces in southern Iraq” (Respondent 20).

According to Respondent 22, former governor of an Iraqi province:

“The Kurds had full support from the US since 1991 and this has continued after 2003” (Respondent 22).

Hashim believes that US support for Kurdish autonomy within Iraq was the first step towards the national division of Iraq, and the separate identity of the Kurds. The profound differences between their region and the rest of the country have become divisive issues in the new Iraq (Hashim, 2006). Similarly, Ahmed argues that the creation of the no-fly zones was not for humanitarian purpose and to protect Kurds, but to protect US interests and to advance their economic and strategic goals (Ahmed, 2003: 94-197).

The difference between Kurdish and other Iraqi opposition parties is that that the Kurds acquired a territory in the Kurdistan Region after the 1991 war, with the support of the US. This brought several benefits for Kurdish political actors: *First*, the Kurds have been able to

establish a power base and influence other Iraqi political actors; *Second*, they have accumulated experience as a result of having their own independent government and ruling the Kurdistan Region for more than ten years; *Third*, they have become experienced in international law and have developed close diplomatic relations with countries around the world; *Fourth*, they possess more power in comparison with the other opposition parties who came to power after the Second Gulf War with the support of the Bush administration, who lacked knowledge and experience in state and nation-building and in governance and running a state. The latter also lacked knowledge of international law as well as popular support on the ground in Iraq.

Therefore, “the main Sunni Kurds parties, Kurdistan Democratic Party (KDP) and Patriotic Union of Kurdistan (PUK) were operating in the Kurdistan area outside the central government since 1990 where they built their institutions and militias forces” (Herring and Rangwala, 2006: 17). The US supported the Kurds in 1991, even when one of their main parties entertained relations with both the Baath party and the Iraqi opposition. Respondent 20 argues:

“Kurds have had their own project since 1991, when they got an area in Kurdistan with the support of the US. Also, some of them dealt with and had good relations with Saddam’s regime and opposition parties; for example, Massoud Barazani, the leader of the KDP, worked with the opposition parties, but asked Saddam for military support against his opponents in Kurdistan, the PUK, in 1996” (Respondent 20).

A major question arises from the above discussion: why are the Kurds seeking only federalism for Kurdistan and not complete independence? According to Hashim the sincerity of the Kurdish claim that they wish to stay in a federal and secure Iraq is questionable: “it can be argued that the Kurds will use their presence within the central government to expand as much as possible their autonomy and the resources at their disposal” (Hashim, 2006: 226). The agenda of Kurdish political actors in Iraq post-2003 confirms this suspicion, as they increased their influence on the Iraqi central government in Baghdad with the support of the Bush administration.

5.6.2 The Position of the Kurds after the Second Gulf War

There was a difference in US policies towards the Kurds and the Shi’ites. The 2003 war had no negative effect on the Kurds; in fact, they gained significant political capital by improving their status and securing benefits for their Kurdish troops. The Kurds after the First Gulf War

and until the Second Gulf War became more stable with their own army, of around 100,000 Peshmerga fighters, and with their borders to Iran, Turkey and Syria. Therefore, the Kurds have more power than other parts of Iraq due to: *First*, the foundation of the Kurdistan regional government after the Second Gulf War and their experience of ruling for 13 years with full power; Kurds have been internationally and diplomatically represented with a private army (Kurdish Peshmerga forces), which was in direct contrast to the rest of Iraq where the entire army was dismantled post-2003. *Second*, the Kurds were involved in an internal war, over two years 1996-1998, between the two main parties KDP and PUK over control of the Kurdistan Region. As such, Kurdish political actors have learnt their lesson of the immense disadvantages of continuous political divisions and conflict. *Third*, the Kurds were receiving (12%) of the Iraqi federal budget since the First Gulf War, which increased to (17%) after the Second Gulf War. The reason for this increase, while the population of their region is less than (12%), is the weak position of Arab political groups in the central government.

According to Respondent 20:

“No party wants to lose the support of the Kurds; so, they shoulder no responsibility but get most of what they want. Their demands serve their own interests and are detrimental to others” (Respondent 20).

The Kurdish political leaders received approval of the federal system in 1992 whilst in opposition, as mentioned earlier. Later on, they supported establishing a federal system for the whole state of Iraq in the new Iraqi constitution after 2003. This was due to the fact that they had great influence on the process of drafting the constitution, and also because of the short period allowed for writing the constitution by the US. In addition, as a result of the conflict between the Shi'ites and the Sunnis, Shi'ite political groups just wanted to set up any new system in order to prevent the return of the Baathists to power. According to Visser, the Kurds have disproportionate access to and control over the central budget without restrictions and question from any authorities inside Iraq. For example, “parties representing all communities have realized the importance of passing a budget, although in this case an open “ethnic” dimension did materialize: the Kurdish demand for a 17% share of the federal budget has been criticized as being too high and out of touch with demographic realities and the compromise solution of a promised new percentage calculation for next year’s budget survived in parliament but was nevertheless criticized by some non-Kurdish parties later on” (Visser, 2010: 72). In

addition, the Kurds have become one of main powers of the Iraqi state, exercising influence on other political parties, each vying for support from the Kurds.

While being a part of Iraq, the Kurdistan Region is de facto independent. Respondent 6 deliberates that the Kurdistan Region is an independent state – a conclusion supported by many:

“As the chairman of the lawyers’ syndicate, after the war, I wrote to the chairman of the lawyers’ syndicate in Kurdistan to cooperate. The answer I received was that they were not willing to cooperate with the centre” (Respondent 6).

Thus, the Kurdistan Region as acted like an independent state which is not accountable to the central authority in Baghdad with regard to decision-making, in areas such as oil extraction or any other sector related to Kurdistan (Chorev, 2007: 1-11). The Kurdistan Region raises its own flag instead of the Iraqi national flag, has its own constitution and independent local government, as well as its own security forces (Peshmerga) constituting the largest militia inside Iraq. The Kurdistan Region also has its own president and signs agreements to invest in and export its oil with many international companies.

The Kurdistan Region collects customs and taxes without contributing to the central government. Respondent 26 argues that the Kurds are not only independent; they have a negative impact on the central authority. For instance, if the federal government decides to close the borders to any imported product, this decision does not apply to the Kurdistan Region because they are not subject to the law. Specific products, banned by the central government, can still be imported via Kurdistan. Crossing Iraqi border crossing, however, is much more difficult and usually causes significant delays.

According to Respondent 26:

“Traders prefer to go through the Northern border, Kurdistan, where there is nothing when it comes to quality control tests” (Respondent 26).

The Kurdistan Region ultimately remains outside of the political control of the central government in Iraq which has negatively impacted on all sectors, including on security and the economy and has further weakened the central authority of the Iraqi state.

5.6.3 The Isolation of Kirkuk from the Government of Baghdad

The Kurdistan Region has also claimed that the oil-rich city and area Kirkuk is part of territory. However, many scholars, such as Visser (2010) and Wolff (2010), have argued that in the past, and before the 1960s, not much was heard of the Kurdish claim to the city of Kirkuk. The largest community living there at the time were the Turkmen who had a good relationship with Baghdad. This changed, however, when Kirkuk began to produce and export oil leading to large-scale Kurdish immigration to the city. Wolff argues that “Kirkuk would enjoy a special status within Iraq option would be that this just might be acceptable to the main parties involved would have some important future-proofing qualities as it would create arrangements that would give Kirkuk real powers independent of either the KRG or the central government and facilitate local governance by establishing power-sharing arrangements that would enhance the quality of democracy experienced by its residents” (Wolff, 2010:1379). However, US authorities supported the Kurds in their aim to take suzerainty over Kirkuk. Bremer claims that “the Iraqis had settled thousands of Sunni Arabs onto Kurdish lands in and around the key northern city of Kirkuk” (Bremer, 2006: 38), thereby legitimising the Kurdish claims to the city.

The Iraqi constitution, in Article 53(A), which specifies the areas that fall under the jurisdiction of the Kurdistan Regional Government (KRG), indirectly defines the disputed territories as those located outside the area controlled by the KRG before the Second Gulf War. This means that they are not included in the Green Line zone. So, the KRG’s official jurisdiction remains as it was before the invasion, strictly within the Kurdistan Region, excluding Kirkuk. Article 140 of the constitution, which calls for a referendum in the areas referred to as “disputed territories” to determine their future, nonetheless does not specify these areas, except Kirkuk (International Crisis Group, 2015: 22).

The Kurds took control of Kirkuk in July 2014 when Iraq’s map had become dramatically fragmented. The central government had lost control over much of the country, save the capital and the south; the Islamic State (ISIS) ruled Sunni Arab-populated areas in central and North-Western Iraq; while the Kurdish regional guard force (Peshmerga) capitalised on the Iraqi army’s disintegration to seize some of the disputed territories, including the city of Kirkuk (International Crisis Group, 2015: 22). Therefore, Kurds became the main beneficiaries of the weakness of the Arab communities, Sunni and Shi’a alike, after the emergence of ISIS in 2014.

US policies after the invasion of Iraq encouraged many of the now intractable divisions between Shi'ite and Kurdish political actors as Table (5.6) summarises. These divisions impacted on the political stability and territorial integrity of Iraq and have prevented both state- and nation-building after the fall of Saddam.

Table 26 Main US division policies in Iraq post 2003

| | Main US division policies |
|---|---|
| 1 | The creation in Northern Iraq of a semi-independent region (Kurdistan), out of Iraq's central government's control and authority. |
| 2 | Divisions among the rest of Iraq, among Sunni and Shi'a Arabs as result of the sectarian set-up of the political system |
| 3 | Division of Iraq between people living inside and those outside; giving most of the state's power to people who had been living outside the country for decades |
| 4 | Dividing people into those who lived in the Green Zone and those outside it |
| 5 | Dividing people into Baathists and non-Baathists |
| 6 | Dividing people by paying different government salaries for the same positions; between those who lived in the Green Zone and others living outside it. Also between the people who hold leading positions in the state; such as members of parliament, the President, the Prime Minister, Ministers and their deputies, who received salaries of more than \$20,000/month, while other government employees received on average less than \$500/month. |
| 7 | Changing Iraqi society's fabric by ignoring looting and corruption and not prosecuting perpetrators |
| 8 | Only Iraqis who join ruling political parties can get proper positions in the state and enjoy their rights, thus causing deep divisions in society. |

5.7 Conclusion

The US-led coalition based its policy in Iraq on different political interests. It facilitated politics based on sectarian divisions and a connected quota system, which was created by the coalition and shaped the structure of the political system in Iraq. That was the one of the main problems that faced Iraq after the invasion because this conflict not only affected the political system but also affected all the sectors of the state, such as the new constitution, laws, government authorities and similar. The political system installed by the US in 2003, which was based on sectarian-ethnic quotas, undermined any prospect of successful nation-state building in Iraq and has thus furthered the fragmentation of the Iraqi state.

Post-2003 Iraq has been marked by the conflict between the Kurds and the Arabs. The Kurds have gained more power since 1991 with backing from the US during the sanctions regime. US support increased after the 2003 war. Kurdish political actors have played a dual role that also affected the rest of the Iraqi state, i.e. the Arab majority. While they govern their own autonomous and quasi-independent region, they also exercise immense influence on the policies of the central government. In addition, the Kurds were immediately granted a federal status, whereas other regions of Iraq were left with a controversial law that gives a province the right to transform into a federal region eventually. The Kurds also received funds from the Iraqi federal budget, thus affecting the budgetary autonomy and flexibility of the central government. Therefore, the Kurds were enabled to pursue their own national aspirations outside of an Iraqi state.

The primary political conflict, which has plagued Iraq since 2003, was caused by the decision of the US occupation authority to create the Governing Council (GC) on a sectarian basis, thus deepening sectarian divisions. This decision caused a major conflict between Sunnis and Shi'ites while not affecting Kurdish actors to such an extent. Finally, and according to the research data, the US-led coalition allowed weak and inexperienced Shi'ite political actors to assume state power, while the ethno-sectarian divisions undermined their authority and effectiveness, thus producing a failed state. Not only were they inexperienced in government work and nation-state building, after giving up their aim of establishing an Islamic state in Iraq after the fall of Saddam, they lacked any ideological vision of post-Baathist Iraq.

Table 27 Summary of US Policies towards Iraq

| No. | US policy | The effect on Iraq`s political system | Academic studies |
|-----|--------------------|---|--|
| 1 | Sectarian politics | Caused the weakness of the state and political instability, and encouraged violence and the nation`s divisions | Agreement of political parties to work for the benefit of the State |
| 2 | De-Baathification | Caused political and societal conflict, encouraged and increased the violence | To create stability for state-building, and to re-build bonds of trust and confidence |
| 3 | Uprising of Kurds | Fragmentation of Iraqi society; weakness of the central government; financial problems; creating a state within the state of Iraq, etc. | The international community must have a plan to create stability for state-building in post-conflict situations based on priority and supply of suitable assistance, and not to cause conflict |

Chapters Two and Three identified factors that lead to successful nation-state building in a post-conflict or post-authoritarian scenario and used the examples of Poland, South Africa and Bosnia and Herzegovina as examples. In particular, using South Africa and Bosnia and Herzegovina as comparators the failure of policies in the Iraqi context becomes most evident. In South Africa and to a significant extent in Bosnia and Herzegovina, political actors need to exhibit a strong will to a complete transition towards democracy. In the case of Iraq, such an effort to democratic transition was undermined by

- the implementation of ethno-sectarian politics with different political actors vying over and competing for political power,
- the exclusion and marginalisation of the old Baathist political elite (a policy which was perceived by Arab Sunnis as disguised anti-Sunni sectarian politics and as a strong sense of deliberate exclusion from power), and the territorial fragmentation of the Iraqi state.

An ideological discourse and political commitment to national unity was also identified as crucial. However, in the Iraqi context one of the most powerful political force, the Kurdish political parties, has exhibited an ambivalent commitment to the national unity and territorial integrity of Iraq and has used the federal system and the ethno-sectarian system underpinning it to advance its own national aspirations. While similar dynamics can be equally observed in the case of Bosnia and Herzegovina where the Serbian entity equally aspires independence if not joining Serbia, it has been constant international pressure and the political and military presence of the international community that guaranteed the territorial integrity of Bosnia and Herzegovina. In contrast, the US-led coalition, as the provided data suggests, has not used its full political capital to delimit Kurdish independence tendencies – evidence suggests it even implicitly supported them. Furthermore, in the case of Bosnia and Herzegovina Croat and Bosnian Muslim political actors have been more empowered and – with international backing – are in a stronger position to counter Bosnian Serbian efforts to undermine the unity of the country. In Iraq, Arab political actors, Sunnis and Shi'ites alike, have been divided among themselves and lacked experience and political capital to counter Kurdish policies towards independence.

As the cases of South Africa and in particular Bosnia and Herzegovina illustrate a functioning model of power sharing is crucial as well. The pervasiveness of ethno-sectarian politics in Iraq in all areas of public life and the entire sector has not only furthered incompetency and corruption, it also prevented a sense of common purpose and cross-ethnic and cross-sectarian cooperation to emerge. The Bosnian mix of integral and consociational public institutions has not been without tensions but ensured that at least some central public bodies are not under the complete sway of ethno-sectarian politics but need to arrive at decisions by consensus. In the context of Iraq, such a model was neither implemented by the US-led coalition nor is it desired by the main political actors across the ethnic and sectarian divides.

Chapter Six: The New Constitution and Legal System

6.1 Introduction

In the last chapter, the research discussed the failure of the political system in Iraq as a result of policies implemented by the US-led coalition. This chapter will focus on the building of the legal foundations of the Iraqi state after the 2003 war, including the drafting and passing of a new constitution, new pieces of legislation addressing the needs of the new Iraqi state, the reconstruction of the judiciary after the fall of the Baathist regime and the building of a new federal system. Theories of successful nation-state building emphasise the centrality of a thorough, inclusive, sufficiently long constitutional process to lay down the constitutional and legal principles defining the new state and to foster links between different social and political actors and to increase the legitimacy and popular recognition of the new nation-state. The case of South Africa in particular illustrates – despite issues of continuous inequality in South African society – that an inclusive constitutional process is crucial to build a stable constitutional and legal structure for the new nation-state and build trust into the new post-authoritarian nation-state.

This chapter will answer the following questions:

- 1- To what extent was the rule of law applied and implemented after the fall of Saddam?
- 2- How was the new constitution drafted and implemented and to what extent has the Iraqi constitutional process instilled confidence in and legitimacy of the new nation-state?
- 3- To what extent has a functioning legal and judicial system been established in Iraq post-2003 as a consequence?

6.2 Iraq`s Constitution

The importance of the constitution for the success and development of nation-building was discussed in Chapter Two and further illustrated in Chapter Three with reference to the example of South Africa. In this chapter, the focus will be on the role of the US in the development of the new Iraqi constitution.

Much of the literature regarding the Iraqi Constitution, such as publications by Visser (2010) and Jawad (2013), has discussed its problems and limitations. The Iraqi Constitution was put forward for a referendum in 2005; it was written in haste and therefore not fully capable of addressing the urgent legal needs of the Iraqi state. Jawad (2013) argues that Iraqis accepted the Constitution in a vote, but they agreed on an insufficient and incomplete as well as poorly written draft constitution, which was known as “Transitional Administrative Law” (TAL) (Jawad, 2013). The speedy way in which the Constitution was drafted under the pressure of the US-led coalition, several international interventions in its drafting, the lack of constitutional expertise and the absence of Sunni Arab representation, have all furthered strengthened the precarious situation in Iraq. Visser (2010) discusses the influence that the US and Kurds exercised on drafting Iraq’s Constitution. The Transitional Administrative Law (TAL), which was Iraq’s provisional constitution after the war and occupation in 2003, had been written by the Americans and the Kurds and approved by the Governing Council (GC) in March 2004. As such, it was rather imposed by both parties without sufficient consultation with major political stakeholders in Iraq such as Sunni Arabs and Shi’ite Islamic political actors (Visser, 2010). Haider Al-Abadi, the current Prime Minister of Iraq, also argues that the Constitution caused too many problems and conflicts because it lacked clarity on many issues. It did not explicate division of power – in particular between federal and regional levels. As a result significant problems emerged with the interpretation of those powers (Al-Abadi, 2010a).

Examining the process of drafting the constitution illustrates that the most significant problem was the short period allowed to consider and endorse the Constitution and other important pieces of legislations of the new state. For example, according to the TAL, Iraq should have regained its sovereignty in June 2004, assigning to the Americans responsibility for state security only. Once full sovereignty had been gained, elections for the National Assembly would be held and a new government established in December 2004. In August 2005, the final Constitution – replacing the TAL - should have been written and sent to a public vote and the general elections should have been held in December 2005. The TAL stated that if any these steps were delayed, the entire process would be deferred for an extra year. Even those Iraqi politicians sceptical of the hasty timetable implemented by the US-led coalition acquiesced to the schedule out of fear that any further delays in the political process could lead to a deterioration of the already very volatile security situation.

Thus, the ethno-sectarian mode of power-sharing had a great influence on the drafting of the new constitution. Iraqi political leaders had reached a tenuous compromise over this process,

on the basis that the real negotiations over interests would take place during the formal discussions of the constitution in the summer of 2005. This made it even more important for the various political parties to consolidate their power in the transitional political system as well as effective state institutions and ignore enacting a law for political parties because it would not have served their interests and would curtail their influence on the state (Al-Ali and Pratt, 2009). The constitution, itself, includes many potential points of conflict and possible contradictions, as articulated in Articles 1 and 2:

Article 1

The Republic of Iraq is a single federal, independent and fully sovereign state in which the system of government is republican, representative, parliamentary, and democratic, and this Constitution is the guarantor of the unity of Iraq.

Article 2

First: Islam is the official religion of the State and is a foundation source of legislation:

A. No law may be enacted that contradicts the established provisions of Islam

B. No law may be enacted that contradicts the principles of democracy.

C. No law may be enacted that contradicts the rights and basic freedoms

stipulated in this Constitution (Iraq Constitution, 2005)

One of the areas of conflict is the relationship between the Constitution's adherence to Islamic principles and its foundation in democratic values. How the rules of Islam and democratic norms are to be reconciled has not received any clarification in the Iraqi context. According to Tulis (2010): "the constitution in Afghanistan (2004) and Iraq (2005) reflect precisely that type of dual commitment to principles of Shari`a, and to principles of human rights, constitutional law, and popular sovereignty. In several other countries such as Indonesia and Malaysia, the constitutional precepts of Islam have been incorporated into constitution, penal code, and personal status laws of subnational units" (Tulis, 2010: 259). On a crucial constitutional issue, identifying the very identity of the new Iraqi state and the place of Islam therein, only vague references are made thereby inviting conflict and divergent interpretations among political actors of its implications.

Respondent 6 also argues that the Iraqi constitution is not appropriate due to Article 2 which keeps the place of Islam and its legal principles and their relationship to democratic principles ambiguous:

“Each paragraph of this Constitution contains a hidden bomb and is potentially explosive at any time. For example, the religion of the state is Islam. No law should be incompatible with Islam, or with human rights, or with public freedom. So, how can such a law exist?” (Respondent 6).

In addition, the Constitution states that Iraq is a federal system, although only one federal region exists in Iraq, which is the Kurdistan Region administered by the KRG, whereas the other parts of Iraq are governed directly by the central government. This limited federal structure has created significant disparity between the Kurdistan Region and the other 13 provinces of Iraq. Thus, the Kurdistan Region has enjoyed a privileged position over the rest of the country. This power imbalance was further aggravated by an order issued by Bremer, Order Number 21, as will be discussed in the following section. Visser (2010) refers to this by saying, “In many centralized states, powers not explicitly granted to the regions belong to the centre. In Iraq's Constitution of 2005 it is the other way around, and the list of central government powers is hilariously short when compared to other federations of the world.... It is very easy to see how Kurdish gains in the TAL and not least in the 2005 constitution are based on this contribution from Galbraith” (Visser, 2010: 262-263), “the former U.S. diplomat Peter Galbraith has been one of the most prominent figures in shaping the state structure of Iraq in the period after 2003, especially with his vocal advocacy of various forms of radical decentralization and/or partition solution for Iraq's political problems” (Visser, 2010: 260).

The interviewees confirm the main argument about the failure of the US-led coalition to adopt a proper and democratic constitution that would help to unify post-Saddam Iraq. Instead a constitution was developed that embeds ethno-religious divisions in the country. Respondent 8 argues:

“The concepts of backwardness and democracy are not deeply rooted in Iraq; so, there is a need to put a very clear and detailed picture in the Constitution. The only authority that can provide details for the Constitution is the ‘Federal Court of Cassation’, but this court – appointed by Bremer – has no law until now, and it feels weak in the face of political parties, so, it is not doing its job correctly. For example, the expensive plots granted to VIPs, such as members of parliament and ministers and other highly-placed

people, by the parliament and the Council of Ministers, are against the law and the Constitution as these plots are only to be sold and rented under the Iraqi law and not granted to VIPs. In addition, a high salary is paid to a VIP; it is more than a hundred times the normal salary for any other government and state employee” (Respondent 8).

Furthermore, the presidency, Prime Minister and parliamentarians determine their salaries and expenses by themselves; no one knows the total amount used by them from the public fund. This first appeared when Bremer allocated the pension salary for members of the GC who held the position for nine months only. The Iraqi government, after the addition of provisions in the pension, also applied it to the members of parliament, Prime Minister’s council, province councils, municipal councils, etc. However, in other democratic countries of the world, there is no significant difference between the salaries of officials and those of regular staff in the state (Al-Akeley, 2011; Al-Abadi, 2010b). In addition, there are ministries – such as the oil and electricity ministries – that pay their employees’ salaries and allowances that are higher compared with other ministries; Thus causing an imbalance among the staff of the Iraqi state (Al-Daraji, 2009). All of this can be stopped by the Federal Court, but it has not fulfilled its role properly due to the above reasons.

In most countries, there are legal procedures to modify and amend the constitution. In the case of the new Iraqi Constitution, however, it is very difficult to enact changes or amendments. Respondent 8 observes:

“The politicians – pushed by the Kurds – closed the path to any change in the Constitution. If one wants to apply to any law, they could face many opponents due to gaps in its construction. Any changes in the constitution would need the approval of the parliament and then a public referendum. This did not happen due to the sectarian and ethnic differences between the political parties” (Respondent 8).

The interviewees confirm the failure of the US-led coalition to adopt a democratic constitution that would help to unify post-Saddam Iraq; instead a constitution was drafted and implemented that embeds ethno-religious divisions in the country. In addition, there is a paragraph in Article 141 of the Constitution which states “Legislation enacted in the region of Kurdistan since 1992 shall remain in force, and decisions issued by the government of the region of Kurdistan, including court decisions and contracts, shall be considered valid unless they are amended or annulled pursuant to the laws of the region of Kurdistan by the competent entity in the region, provided that they do not contradict with the Constitution” (Iraq Constitution, 2005). The

special clause allowing for legal continuity of the Kurdistan Region not only furthered weakening the central government but also had significant repercussions on the distribution of oil revenues, one of the main sources of state income which were not channelled by the Kurdish authorities to the budget of the central government. An important source of income for the state was not fully available to the federal government, thereby impeding crucial investments to develop the Iraqi economy. The continuous authority of laws passed in the Kurdistan Region before 2003 allowed this impasse to continue.

Therefore, the new constitutional set-up allowed the Kurdistan Region to strengthen its autonomy (achieved already since 1991) and to delimit the power and authority of the central government. As such, special legal provisions for the Kurdistan Region were reaffirmed in the Iraqi Constitution in 2005. Hence, the Kurds consider the new Iraqi Constitution as being supportive of their views and its implementation as conditional for the Kurdistan Region to remain part of the Iraqi state. According to Respondent 36:

“We can say that only the Kurds have a state concept after 2003, whereas they were busy during the period of opposition to Saddam in building their own power. Therefore, the new Iraqi Constitution is not projected to build the Iraqi state, but rather, is focused on a map for sharing power between Kurds and Arabs” (Respondent 36).

Ultimately, the new Iraqi constitution failed to contribute to a successful transition to democracy for a number of reasons: *First*, the Constitution was written in haste without proper consultation with relevant stakeholders, the public and civil society and therefore lacked the inclusiveness of successful constitutional processes as evidenced in the case of South Africa. *Second*, the constitutional process occurred in a period of immense political instability, conflicts and lack of security. This further prevented a proper consideration of its various proposed provisions and encouraged a hasty conclusion of the constitutional process. *Third*, the Iraqi Constitution was written by individuals without the necessary expertise in constitutional law; this is particularly true for the Arab political actors involved in the constitutional process. These appointees used their position to advance party, sectarian or ethnic community's interests rather than seeing the constitutional as a central instrument to preserve and maintain the territorial integrity, welfare and stability of the state. *Fourth*, Kurdish political actors managed to ensure that the new Iraqi Constitution encapsulates – or at least – does not disrupt their own national aspiration while the Sunni Arab political actors were divided into two conflicting parts. Some joined the political process and participated in drafting

the Constitution while others did not join and became hostile to the Constitution and the entire political process. Shi'ite political actors, however, agreed with the Kurdish side on the federal structure of the new state; however, later retracted from this position after realising that the majority of Iraqi Shi'ites – the particular constituency they represent – rejected a federal notion of Iraq. *Fifth*, the application of the Constitution was guided and informed by the partisan interests and benefits of political actors, breaching its provision or preventing its application when opportune to their own interests. For instance, according to the Constitution, a new government needs to be formed within 30 days of the election results. After the election on 7 March 2010, the new government was formed in January 2011. It meant that the formation of the new government took about one year, and the posts of the crucial security ministries (Defence and the Interior) remained vacant during this period. *Seventh*, the Constitution does not make any reference to concepts that political leaders could use to guide their policies such as consensus, national partnership and unity, etc. Hence, the new Constitution does not fully articulate a sense of Iraqi unity. The Constitution equally fails to mention the ethno-sectarian quota system which has become the backbone of the political process and nation-state building in Iraq. Unlike the case of Bosnia and Herzegovina where different modes of ethno-sectarian power-sharing are enshrined in the Constitution, the lack of any references to this in the Iraqi constitution allows for informality and lacking transparency in the manner in which power is shared by the different ethnic and sectarian groups in Iraq. *Eighth*, the Kurdistan Regions is de facto a state within the state. For example, based on Article 140 regarding the city of Kirkuk, Kurdish authorities laid claim to a border strip from Kalar in the Sulaymaniyah province to Alshahabi in Wasit province, describing stretch as a disputed area. Territorial disputes only exist between different countries and not between provinces of the same state. Article 140 maintains a potential source of conflict in Iraq, evidenced when it actually became a conflict in 2014, as mentioned in the previous chapter. *Ninth*, the Constitution is replete with ambiguities allowed political actors to implement its provisions based on their own discretion. For instance, “Article 121, Second” covers the relationship between regional and national legislation. It states that “In case of a contradiction between regional and national legislation in respect to a matter outside the exclusive authorities of the federal government, the regional power shall have the right to amend the application of the national legislation within that region” (Iraq Constitution, 2005). According to this article, the government of a federal region can enforce its own interpretation of national legislation when a contradiction arises with its own legislation. This particular article was added at the insistence of Kurdish authorities to

ensure the continuity of their legal autonomy within the new Iraqi state. Ultimately, this article further erodes the power and authority of the central government.

The new Iraqi Constitution contrasted greatly with the one introduced by the British in 1921, and the politicians should have been given a period of no less than four years to study the Constitution in order to make appropriate amendments and to enact laws. However, such a course of action is now impossible because the Constitution is closed to any change.

The following Table shows the differences between the approaches of the two main cores of the world system towards Iraq state-building.

Table 28 Main differences between the British and US policies towards Iraq and their differing methods of nation-building after occupation

| | British policy towards Iraq | US policy towards Iraq |
|----|---|---|
| 1 | The Constitution was written by Iraqis, sharing the advice of most of the society as well as the British authority. | The US wrote the draft Constitution and passed it to Iraqi politicians to submit it to a public referendum. |
| 2 | Passed the Constitution to a vote after a long period of discussion | Passed the Constitution to a vote in a hurry with much conflict within it |
| 3 | Established the Iraqi army | Dissolved the Iraqi army |
| 4 | United the Iraqi provinces | Caused conflict between Iraqi provinces |
| 5 | Gave Kurdistan region to Iraq | Isolated Kurdistan region from Iraq |
| 6 | Established the parties` law | Ignored the parties` law |
| 7 | Built the infrastructure of the state | Left behind a weak infrastructure |
| 8 | Established the judiciary system | Weakened the judiciary system |
| 9 | The British gave advice to Iraqis during the authority period | Iraqis gave advice to the US authority during the transition period |
| 10 | Established Iraqi`s state boundaries and constituent ethnic groups did not quarrel among themselves | Conflict in boundaries inside the Iraqi state and constituent ethnic groups quarrelled among themselves |

6.3 The Legal System

The policies of the US-led coalition during the occupation of Iraq from 2003 contravened the laws of war and relevant international conventions which prohibit an occupying power from setting new legislation or changing existing laws. The prohibition stems from Article 43 of The Hague Conventions, which generally compels an occupier to preserve existing laws and

institutions except where public order and safety otherwise require. The Article states: “The Occupying Authority shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country” (cited in McGurk, 2004-2005: 458). As per the international law, the occupying powers should be responsible for the security of the occupied countries and should have no authority to set a new legislation or change the original legislation of those countries. However, the US authorities gave Paul Bremer and the CPA all the legislative and executive powers and rights to change and add civilian legislation to Iraqi laws after the occupation. According to Respondent 6:

“The US authority ignored the main responsibility of extending security to innocent civilians. As far as these matters are concerned, the US authority was acting against the International Law” (Respondent 6).

At present, there are seven sources of legislation in Iraq: The Revolution Command Council of Saddam Hussein, CPA and Bremer, the Governing Council (GC), the National Assembly, the Constitution, and other legislative and government orders. All of these are still valid in Iraq and no studies have been conducted of any of these sources. Saddam’s regime did not issue a permanent Constitution; it changed and modified the laws at any time. Bremer’s orders and laws were issued without any consultation with relevant stakeholders in Iraq. In addition, political differences often led to the rejection of particular laws in the context of post-2003 Iraq. On the other hand, the State Consultative Council is dominated by sectarian and ethnic divisions. Legislating is therefore a long process, with the possibility that any new parliamentary legislative initiative can be rejected by the President and his two deputies.

According to Respondent 13, a solicitor:

“The parliament should be the source of legislation as this is its main duty. But because of the conflict and opposition from the political parties, they have passed this duty to the ministries” (Respondent 13).

The basic foundation in the democratic transitions of a state from a post-authoritarian context is the firm establishment of the rule of law. Respondent 14, a solicitor, confirms how the political set-up of post-Baathist Iraq does not instil confidence in the legal system:

“In Iraq, no correct laws have been issued or modified since 2003 – beginning with Bremer’s laws, which were mostly wrong and are still valid, and also the Baath party’s

laws from the old regime. The reasons for all this are the conflicts among the politicians and their personal, party, sectarian and ethnic interests” (Respondent 14).

Respondent 16, a senior advisor to a government ministry, argues that the State Consultative Council is controlled by former supporters of Saddam’s regime, as one of the most important conditions for membership of this council is 15 years of service in the state. No one could have reached this position within Saddam’s regime unless they agreed with the regime’s ideology:

“My proof of this is the long-time taken and the big delay in discussing the draft Communications Law in the State Consultative Council” (Respondent 16).

This was confirmed by Mohammed Sahib Al-Daraji, the Minister of Reconstruction, who said that most of the laws now applied in Iraq are really laws dating from Saddam’s era (Al-Daraji, 2009). The US-led coalition therefore left many issues in the Constitutional and legal system unresolved by mixing an immature new Constitution with the laws of the old regime. A sense of a new legal system, based on a strong onstitution and the firm establishment of the rule, so crucial in democratic nation-state building, did not emerge.

The other force acting against the rule of law has been the main branch of the state’s legislative, the parliament because it does not lead the legislative process due to either lacking expertise or concern or conflict between political parties. The members of the parliament discuss their salaries, grants, privileges and allowances in closed sessions and are not forced to be held accountable to the public. According to Respondent 6:

“The original principles say that the parliament’s sessions are public and they become closed only when they are related to nationally important matters; but in Iraqi parliament, the opposite happens. On the other hand, the federal court that was created by the GC, under the Transitional Administrative Law, mentions that the federal court is in charge of legal oversight. The law for this court was issued later under Prime Minister Ayad Allawi in 2004; it includes: a) that court members serve for life; b) it does not have an age limit for retirement, and c) the court’s position is similar to the ministries and its members are paid the same salaries. The Constitution recognised and confirmed the federal court, but a new law for this court should be issued by the parliament. This law has not been issued to date” (Respondent 6).

Thus, there are four major problems that affect the legislative process in Iraq:

First, most of Iraqi state laws date back to the time of Saddam's regime, which were implemented at an ad hoc basis, and are therefore not applicable and adequate to the new Iraqi state. In order to be able to change these laws the parliament needs to study, change, modify and apply new laws that are compatible with new realities of post-Saddam Iraq based on appropriate legal expertise and research. However, conflicts among the political parties and sectarian conditions make it difficult for the parliament to enact new laws or reform previous legislation. The parliament's overall legislative power has been quite marginal and its ability to respond with new pieces of legislation inappropriate. Compared to the experience of Poland, while its initial parliament was quite weak and politically fragmented, the country's democracy was strengthened and stabilised by shifting legislative power to the parliament and turning it into the centre of parliamentary checks-and-balance of the government. In the case of Iraq, the parliament has remained weak and ineffective, thereby depriving the new Iraqi democracy of a central element of a successful parliamentary democracy.

Second, the State Consultative Council, which is responsible for considering the laws and sending them to parliament, has inhibited and obstructed the legislative process. According to Respondent 20:

“The State Consultative Council takes a long time in just renegotiating very simple and less important matters. Also, if any law is mentioned in any ministry then its consideration is suspended until they meet the representatives of that ministry. So, if the law is related to five ministries then the State Council needs to meet five representatives from those ministries separately. One can imagine how long it would take under the weak administration of the government and with very slow communication between various departments of the ministries. It might even take several months” (Respondent20).

Third, if a law is passed by the State Consultative Council, it is then sent to the Council of Ministers to be approved. If it is passed, it goes to the parliament for a vote. In the end, it is sent to the presidency council for their unanimous approval. Given the various ethno-sectarian and partisan pitfalls in all these institutions, the process of passing of a law is thereby further procrastinated.

Fourth, the public announcement of a new law requires further scrutiny by the State Consultative Council before it becomes effective. Therefore, it might take several more months to implement the law even after all state organs have given their consent. This is a very long

and tedious process for enacting laws which hampers the establishment of legal foundations for the process of nation-state building.

Furthermore, the many members of parliament lack expertise and have disregarded their responsibilities in the legislative process. Respondent 8, a government senior advisor, makes this particular point:

“The Iraqi constitution states that the parliament should issue at least 61 legislative acts within its first term, but it issued only a few laws. Also, most of these laws were not for the benefit of the public, but for their own benefit and against the Constitution, such as granting themselves high salaries, plots, etc. It is illegal to issue laws for their own benefits. All the decisions made by the previous and current parliament are illegal as they give benefits to themselves. Nobody in the parliament has asked: where are the 80 billion dollars that have gone out from the annual financial budget for the year 2010? How were they spent? Nobody knows and nobody cares” (Respondent 8).

One example in this respect is the failure to issue a law relating to driving licenses in Iraq post-2003, despite the fact that road safety is nowadays one of the major public health concerns. According to the World Health Organization, more than one million people around the world die in road crashes and twenty million are injured or disabled by road traffic injuries each year. This is a big challenge for developing countries, but also for the OECD countries, where more than 116,000 people were killed in car crashes in year 2000 (Bourgeon and Picard, 2007: 2). Respondent 29 was interviewed about the effect of the lack of a driving license law in Iraq:

“No car driving license has been required since the US invasion, even until now. A driving license was required to drive a car in Iraq before 2003. Also, an MOT test was compulsory as an annual safety measure for the car, along with sticking to road and traffic light rules and the accountability of the driver in the street” (Respondent 29).

This means that the US-led coalition not only failed to issue proper laws, prevent conflicts between laws and remove the long bureaucratic process to issue laws, but also suspended many laws which had already existed in Iraq before the invasion. This even pertained to relatively minor legal issues, such as a law regulating driving licenses, which was abolished with a new law not implemented since then.

The questions of the survey asked respondents about the application and effectiveness of the traffic laws after the 2003 war, in order to understand the implementation of law after the

occupation. The questionnaire consisted of four questions about the rules for driving in Iraq after 2003. The first question was: “Are there any rules for the conduct of vehicle traffic in the cities of Iraq?”

Table 29 Are there any rules for the conduct of vehicle traffic in the cities of Iraq?

| | Number | Population | Percentage | 95% CI UL | 95%CI LL |
|--------------|---------------|-------------------|-------------------|----------------------|---------------------|
| Yes | 648 | 2538 | 25.5 | 23.9 | 27.3 |
| No | 1377 | 2538 | 54.3 | 52.3 | 56.2 |
| I don`t know | 513 | 2538 | 20.2 | 18.7 | 21.8 |

Figure 8 Are there any rules for the conduct of vehicle traffic in the cities of Iraq?



Table 29 and Figure 8 show how respondents to the survey view existing traffic laws in Iraq. It can be seen that most respondents (54.3%) believe that there are no rules for vehicle traffic in Iraqi cities, while (25.5%) believed that traffic laws exist and are enforced.

The second question was: “Are there any annual safety checks for cars?” The results are as follows:

Table 30 Are there any annual safety checks for cars?

| | Number | Population | Percentage | 95% CI UL | 95% CI LL |
|--------------|--------|------------|------------|--------------|-----------|
| Yes | 81 | 2781 | 2.9 | 2.3 | 3.6 |
| No | 2187 | 2781 | 78.6 | 77.1 | 80.1 |
| I don't know | 513 | 2781 | 18.4 | 17 | 19.9 |

Figure 9 Are there any annual safety checks for cars?

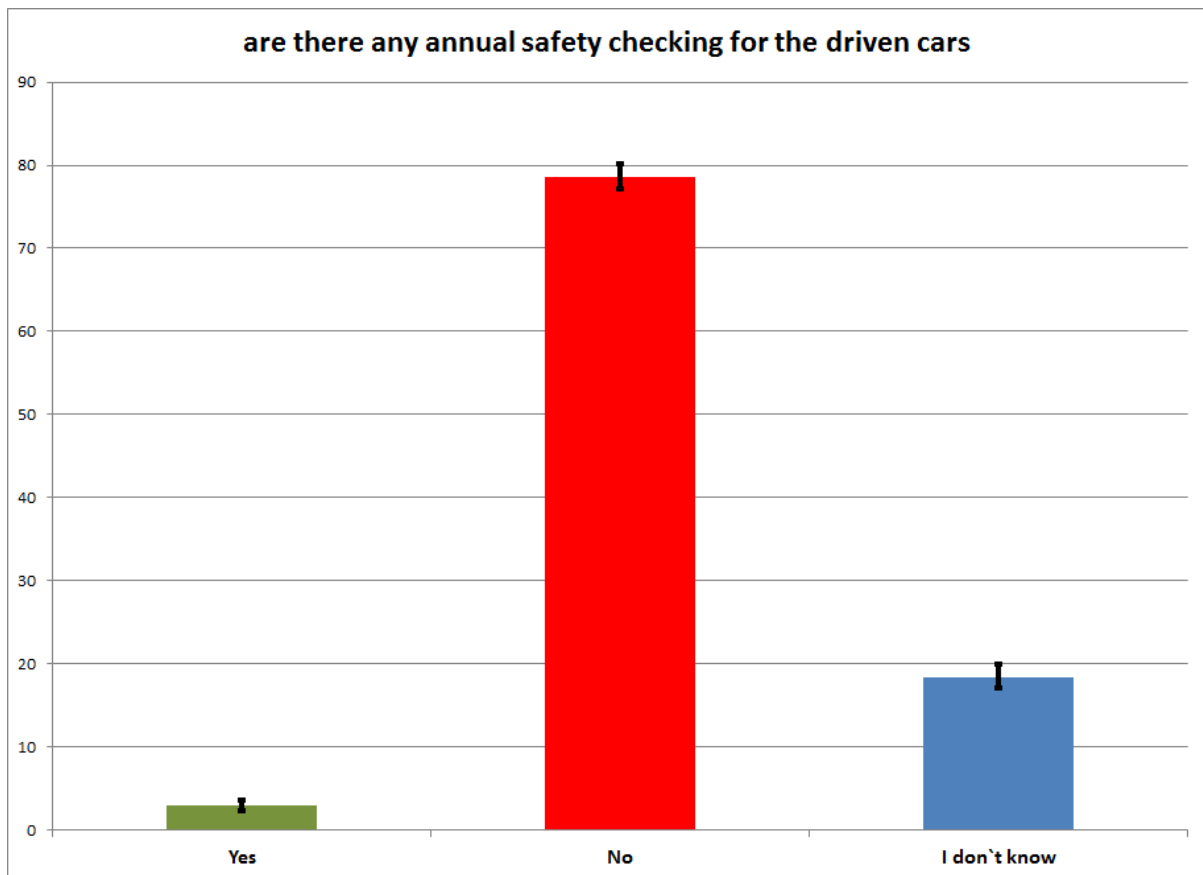


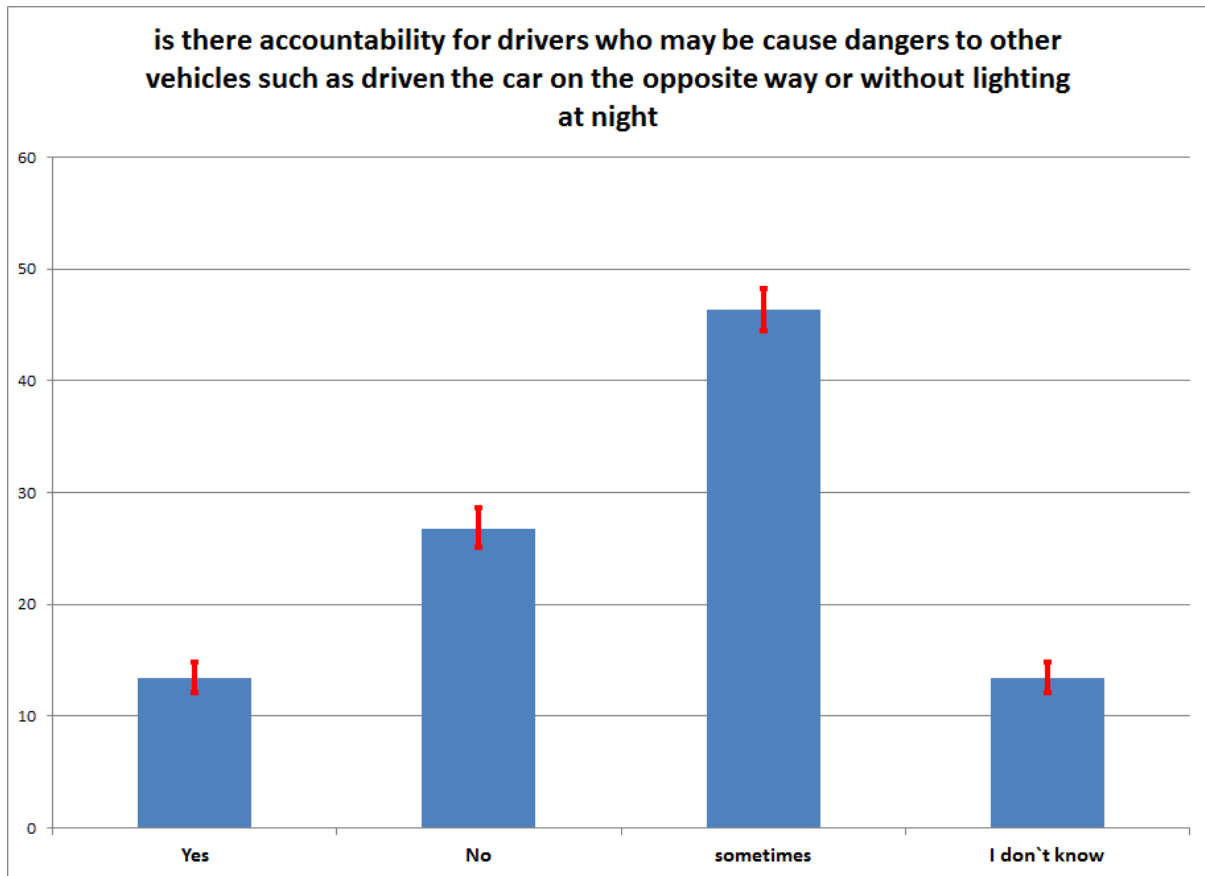
Table 30 and Figure 9 show that most respondents (78.6%) believe that there are no such safety checks for cars on Iraq's roads, while (2.9%) thought they were required.

The third question was: "Are the drivers, who may prove dangerous for other vehicles (by driving the car on the wrong side of the road, etc.), held accountable?"

Table 31 Are the drivers, who may prove dangerous for other vehicles (by driving the car on the wrong side of the road, etc.), held accountable?

| | Number | Population | Percentage | 95% CI UL | 95%CI LL |
|--------------|---------------|-------------------|-------------------|----------------------|---------------------|
| Yes | 338 | 2522 | 13.4 | 12.1 | 14.8 |
| No | 676 | 2522 | 26.8 | 25.1 | 28.6 |
| sometimes | 1170 | 2522 | 46.4 | 44.5 | 48.3 |
| I don't know | 338 | 2522 | 13.4 | 12.1 | 14.8 |

Figure 10 Are the drivers, who may prove dangerous for other vehicles (by driving the car on the wrong side of the road, etc.), held accountable?



The results of the survey question about what Iraqis believe about the accountability of drivers who may cause danger to other vehicles can be seen in Table 31 and Figure 10. This question provided an option of four answers and only one answer could to be selected. It can be seen that more respondents (46.4%) believe that there is occasionally accountability for drivers who might cause danger, while (26.8 %) think there is no accountability, and (13.4%) believe that there is accountability.

The last survey question regarding traffic laws asked: “Is it a requirement to obtain a driving license to drive a vehicle on the road?”

Table 32 Is it a requirement to obtain a driving license to drive a vehicle on the road?

| | Number | Population | Percentage | 95% CI UL | 95% CILL |
|--------------|--------|------------|------------|--------------|----------|
| Yes | 394 | 2503 | 15.7 | 14.4 | 17.2 |
| No | 1245 | 2503 | 49.7 | 47.8 | 51.7 |
| I don't know | 864 | 2503 | 34.5 | 32.7 | 36.4 |

Figure 11 Is it a requirement to obtain a driving license to drive a vehicle on the road?

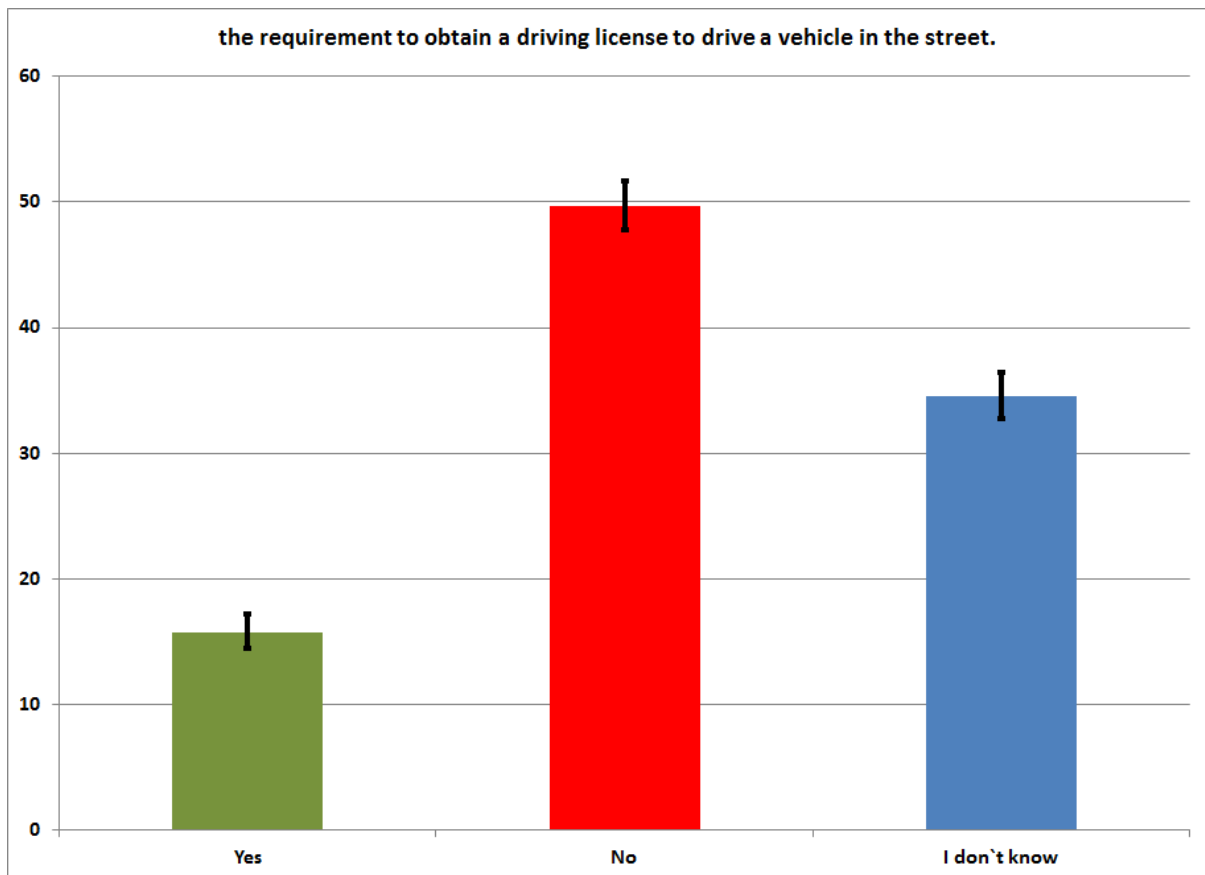


Table 32 and Figure 11 show that more respondents (49.7%) believe that a driving license is not required, while (15.7%) responded that it is required.

The above-stated four survey questions covered a very practical issue to illustrate the lack of due legislative process and of the implementation of the law during the period since the

occupation. While lacking laws and regulations about traffic, motor and road safety contain very concrete dangers, in the Iraqi context they are also symptomatic of the new state's failure to implement and reform laws and to instil among the population confidence in the state's ability to ensure the rule of law.

6.4 The Judiciary

This section will examine the judicial system in Iraq after the invasion in 2003, to understand the role of the US-led coalition in building this sector and to assess its impact on nation-state building. The judicial system is very important for the development of the state in all sectors, particularly the economy (Messick, 1999: 117). After the failure of the US-led coalition to ensure political stability and security in Iraq and to provide the secure and stable constitutional and legal foundations for the new state the coalition also failed to build the judicial system.

Although in Germany, after World War II, the Allies removed from office all state officials, including judges, who had been a part of the Nazi Party (Steinweis and Rachlin, 2013: 170), the main courts were headed directly by the US. In addition, Germany did not suffer from sectarian, ethnic and political conflicts, nor was a new political elite formed out of individuals who had been living outside Germany for more than twenty years, as was the case in Iraq after 2003. A judge in Germany would also have been held accountable for any abuse committed while in office. In Iraq, however, the occupying power removed most of the experienced and professional judges. Respondent 8, a solicitor, confirms during an interview that:

“The judges’ files were examined by a panel led by American judges. Paul Bremer removed many judges and appointed a Judiciary Council headed by Medhat al-Mahmoud, Saddam’s adviser, and restructured the judiciary and the federal court with Baathists and mostly unprofessional and incompetent people” (Respondent 8).

Furthermore, Bremer separated the judicial authority from the Ministry of Justice and curtailed most of the ministry’s power (GAO, 2004: 81). This created a conflict among decision-makers in the judicial system, similar to what the coalition did with many other departments in Iraq’s institutions. Medhat al-Mahmoud was appointed as the head of the Supreme Judicial Council, as well as the Chief Justice of Iraq. However, Mahmoud had worked as Saddam’s legal adviser before the invasion and had been appointed by Saddam as a cabinet adviser in the Baathist regime (Ismael and Ismael, 2015: 131). Bremer separated the judicial function from the

Ministry of Justice and withdrew most of the ministry's authority on the premise that the Judiciary Council should become independent – administratively and financially – from the government, without giving any reason for this decision. This was also confirmed in the Constitution, in Article 19; First: “The judiciary is independent and no power is above the judiciary except the law” (Iraq Constitution, 2005).

At the same time, by appointing al-Mahmoud, a prominent legal figure of the Baathist regime, was placed in charge of the judiciary and its reform, significantly undermining any trust in its transformation into a pillar of a democratic Iraq. According to the interview with a former government minister, Respondent 6:

“Mr Bremer's decision to separate the judiciary function from the Ministry of Justice and to appoint Medhat al-Mahmoud and granting him most of the authority of the judicial system created the main conflict and caused the failure of the functions of the judiciary system in Iraq after the Second Gulf War” (Respondent 6).

Respondent 23, an Iraqi army officers who served in the southern provinces, thinks that there was a significant link between the judiciary and administrative corruption in the state:

“There are people who were arrested on charges of kidnapping, killing, looting, etc. – with all evidence – but after a while they could be seen free or being arrested in a different terrorist or criminal case. There is corruption in the judiciary” (Respondent 23).

Respondent 5, who served officer in the Baghdad Provinces Operations, agrees with Respondent 6 and Respondent 23, asking a rhetorical question:

“How can the judiciary be independent in such disputes and conflicts and with partisan quotas in everything in the state? It has been affected by the influence of political parties, as well as the high level of corruption within the judiciary system (Respondent 5).

Although the Iraqi Constitution approved the formation of the Federal Supreme Court, which is now the main court in the state and arbitrates any conflict within the federal Iraq, there are many problems within the function of this court. According to the Constitution, the Supreme Court should include judges, legal scholars and experts, as mentioned in Article 92, Second:

“The Federal Supreme Court shall be made up of a number of judges, experts in Islamic jurisprudence, and legal scholars, whose number, the method of their selection, and the

work of the Court shall be determined by a law enacted by a two-thirds majority of the members of the Council of Representatives” (Iraq Constitution, 2005).

However, this court was not established in accordance with the Constitution and functioned in isolation from state authorities. It was based on the decisions of Medhat al-Mahmoud during the rule of the coalition authorities. The sectarian conflict further contributed to perpetuating the failure of this court. According to Respondent 8, a solicitor:

“The Federal Supreme Court comprises only judges, which is against the law, and the court members should be appointed by the parliament, which is still yet to happen due to the political conflict” (Respondents 8).

Although the Constitution provides for an independent judiciary in all regions, the judiciary in the Kurdistan Region has remained part of the KRG executive branch’s Ministry of Justice (Cordesman and Mausner, 2009: 187). As a consequence, institutions-building in the Kurdistan Region has also been marked by more stability in the case of the judiciary than in other parts of the country.

The Federal Supreme Court, therefore, was not formed in accordance with the Constitution, but by issuing a special law for the court and by the elected parliament. Apart from the particular predicament around the Supreme Court, there are problems within the judiciary system of a more general nature: *First*, an ill-prepared selection of the judges; *Second*, defective legislations; *Third*, widespread corruption in the judiciary; *Fourth*, the absence of oversight and weak regulatory agencies; *Fifth*, the Court of Cassation, which should oversee the judges and harmonise the judiciary system, did not set any rules and procedures to identify and dismiss incompetent judges. So, if a judge is involved in the misconduct of justice frequently, the Court of Cassation does not intervene; *Sixth*, the lack of legal expertise among the members of parliament and its legal committee has a negative effect on the parliamentary oversight of the judiciary; *Seventh*, the Court of Cassation has been implicated in the release of terrorists from detention due to sectarian influence and corruption.

The survey conducted for the purpose of the current research included the following three questions related to the judiciary and police practice and justice: Question 1: “Do you get justice if you have a case in an Iraqi court?”; Question 2: “Do you get justice if you have a case in an Iraqi police station?”; Question 3: “If the answer is ‘no’ for one or both of the previous questions, what do you think is the reason?” The results are shown in the following tables.

Table 33 Do you get justice if you have a case in an Iraqi court?

| | Number | Population | Percentage | 95% CI UL | 95% CI LL |
|--------------|--------|------------|------------|--------------|-----------|
| Yes | 240 | 2760 | 8.7 | 7.7 | 9.8 |
| No | 2080 | 2760 | 75.4 | 73.7 | 76.9 |
| I don't know | 440 | 2760 | 15.9 | 14.6 | 17.4 |

Figure 12 Do you get justice if you have a case in an Iraqi court?

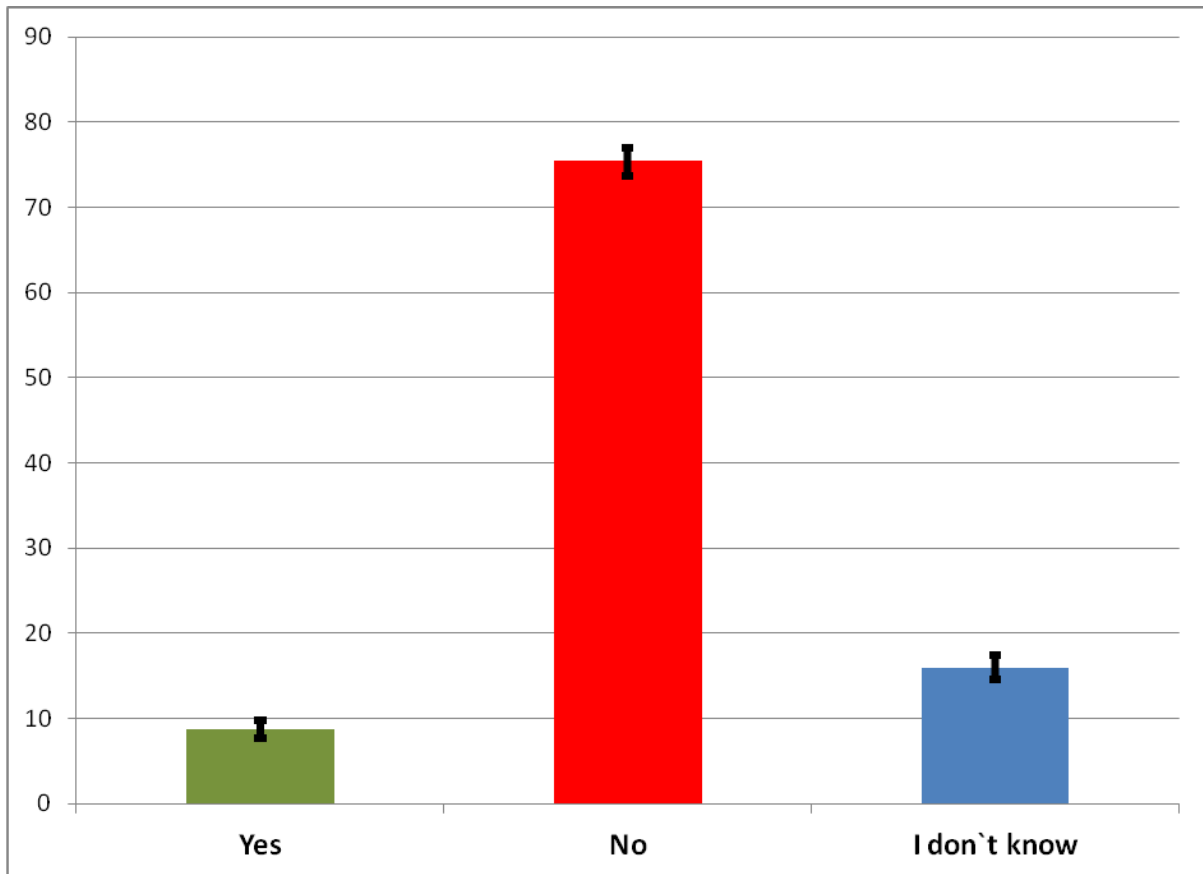


Table 33 and Figure 12 show how respondents view the judiciary system. The majority (75.4%) believe that there is no effective system of justice, while only (8.7%) believe justice is served in an Iraqi court.

Table 34 Do you get justice if you bring a case to an Iraqi police station?

| | Number | Population | Percentage | LL 95% CI | UL 95% CI |
|--------------|--------|------------|------------|-----------|-----------|
| Yes | 127 | 2752 | 4.6 | 3.9 | 5.5 |
| No | 2236 | 2752 | 81.3 | 79.7 | 82.7 |
| I don't know | 344 | 2752 | 12.5 | 11.3 | 13.8 |

Figure 13 Do you get justice if you bring a case to an Iraqi police station?

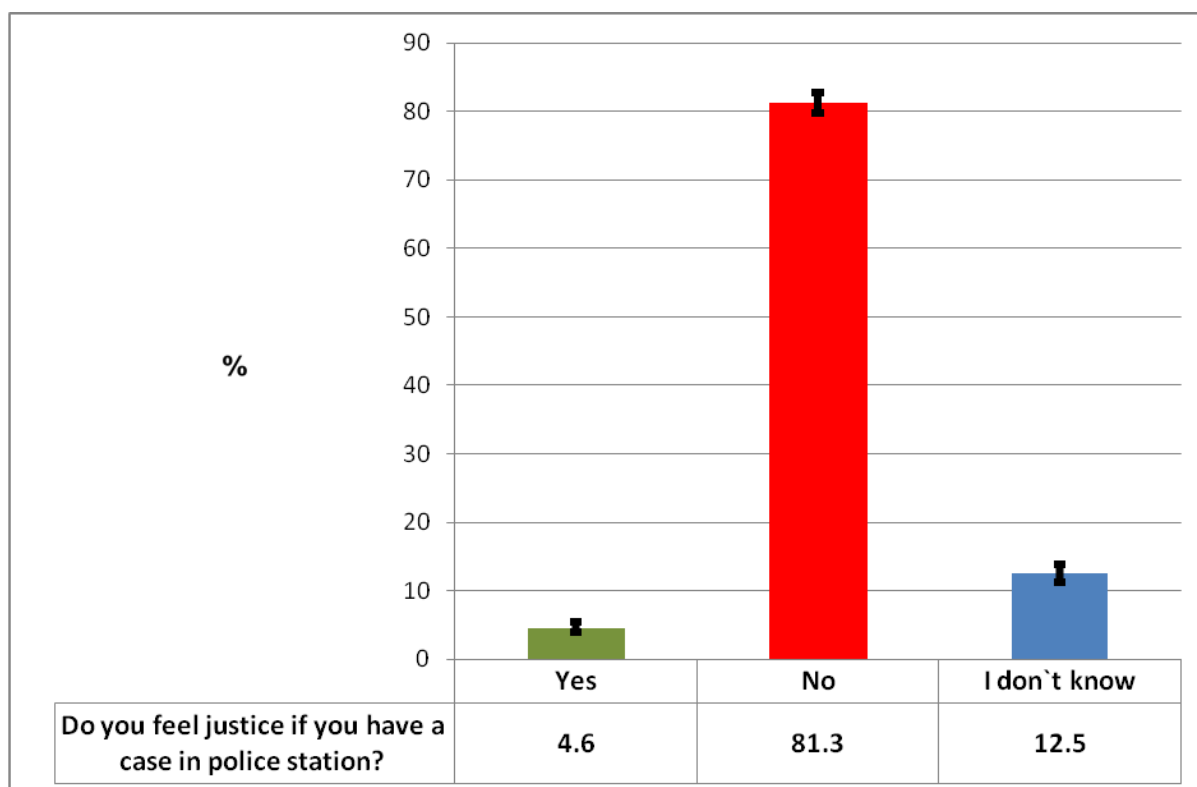
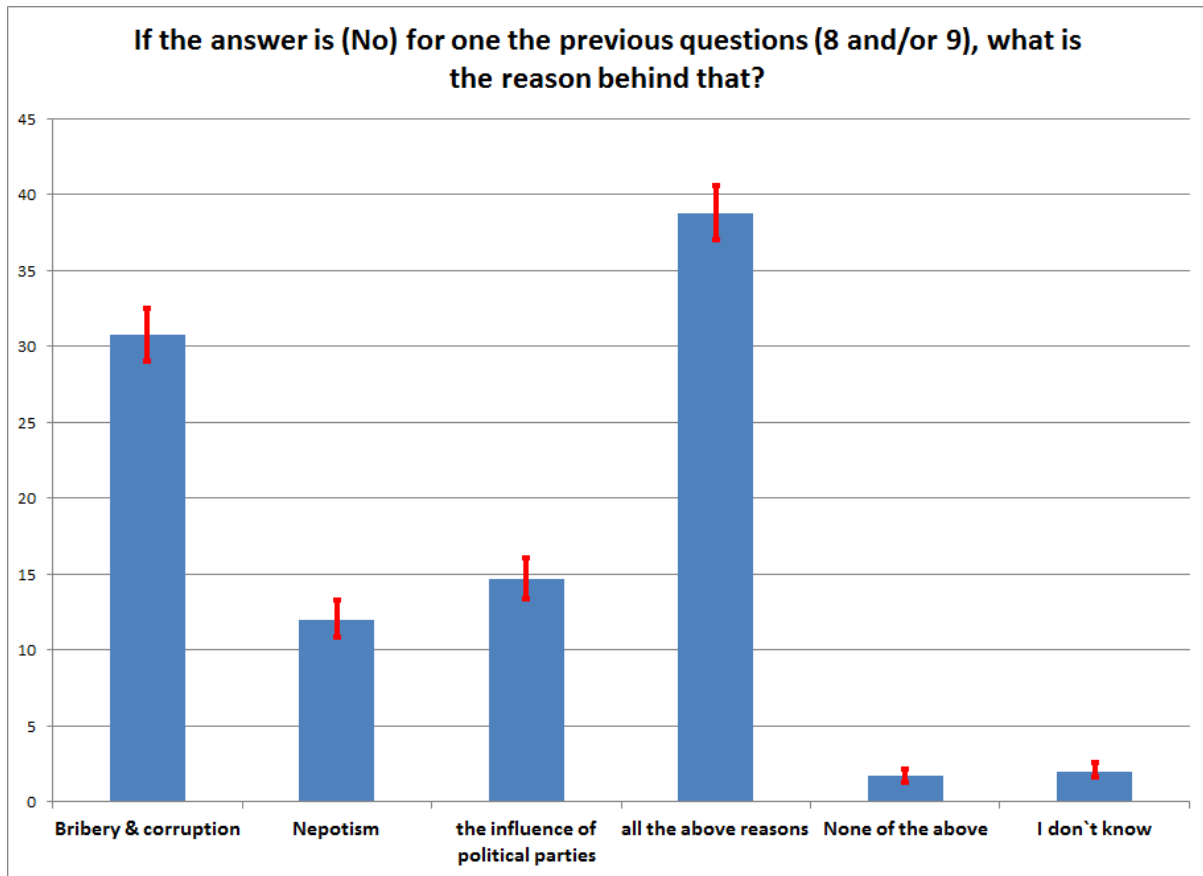


Table 34 and Figure 13 illustrate how the respondents view the justice delivered by the police. The majority (75.4%) believe that there is no justice delivered by the police, while (4.6%) believe that they would receive justice if they bring a case to a police station.

Table 35 If the answer is “no” for one or both of the previous questions, what do you think is the reason?

| | Number | Population | Percentage | 95% CI UL | 95%CI LL |
|------------------------------------|---------------|-------------------|-------------------|----------------------|---------------------|
| Bribery & corruption | 828 | 2692 | 30.8 | 29 | 32.5 |
| Nepotism | 324 | 2692 | 12 | 10.9 | 13.3 |
| The influence of political parties | 396 | 2692 | 14.7 | 13.4 | 16.1 |
| All the above reasons | 1044 | 2692 | 38.8 | 37 | 40.6 |
| None of the above | 45 | 2692 | 1.7 | 1.3 | 2.2 |
| I don` t know | 55 | 2692 | 2 | 1.6 | 2.6 |

Figure 14 If the answer is “no” for one or both of the previous questions, what do you think is the reason?



The opinions of respondents about the reasons behind not finding justice in an Iraqi court and/or a police station are given in Table 35 and Figure 14. The questionnaire provided an option of six answers with respondents free to choose more than one answer. It can be seen that most respondents (38.8%) believe that bribery, corruption, the influence of the political parties and nepotism are the main reasons for the injustice of an Iraqi court and a police station, while (30.8%) believe that bribery and corruption are the main reason. Therefore, it can be clearly seen from these results that Iraqis do not feel confident, neither with the judicial system nor with police officers, mainly due to corruption and the influence of political parties.

6.5 Electoral: Law and Process

After discussing shortcomings in the Constitutional process and the lacking effectiveness of legislative mechanisms in Iraq after the war and occupation in 2003, along with a failed judicial system, this section will discuss the electoral law and process as another example of implemented laws contravene the Constitutional commitment to democracy.

Visser (2010) argues that “a hybrid system has been adopted (voters can choose between a list and an individual candidate), but the counting rules are clearly biased towards bigger entities. Whereas the votes for a party list will count towards a cumulative total score which will enable the party to maximize its share of all remaining seats available in a given province, votes cast for an individual representative will apparently become ‘redundant’ once a candidate has received enough votes to win a seat for him/herself. This would be a major disincentive against voting for an individual instead of a standard list, because there is a very real chance that the individual vote can be wasted-incidentally” (Visser, 2010: 80). The electoral system favours electoral lists comprising parties representing particular ethno-sectarian groups and therefore favours election results that further enshrine ethno-sectarian divisions. Independent candidates outside of the political platforms representing particular ethno-sectarian groups have less chances to succeed.

On the electoral law, Respondent 6 makes the following observations:

“The election law is incorrect as it would allow the electoral commission to cancel what it considered spoilt votes. During the first election in 2006, the authorities used a closed list process which meant that voters can elect only the whole list without the ability to elect a specific person” (Respondent 6).

The closed list pushed votes to be cast along sectarian and ethnic lines. In the second election in 2010, open lists were used but the names of the candidates were not included, resulting in the voters being confused. In addition, under the election law, larger lists attracted votes from smaller lists.

Respondent 36 argues that:

“The conflict caused by the voting process, along with other reasons, affected the integrity of the elections, especially when we are dealing with a society where the literacy rate is just over (40%). The political parties that control the elections and win a majority of the votes are closed parties based on sectarian and ethnic grounds. In addition, there is no law for political parties in Iraq since 2003 and until now” (Respondent 36).

Therefore, these parties exerted a huge influence on the election law and the electoral process, and hence also the results. This was also confirmed by Respondent 20 who says:

“The big lists attract votes away from the small lists because of their influence on state power, including the system of laws” (Respondent 20).

The disparities in the electoral law further illustrate how the political process has been dominated and manipulated by the major ethno-sectarian political platforms and alliances to dominate Iraqi politics and to pursue their own particular agendas successfully.

In addition, the electoral law and its application effectively eliminated smaller lists along with their candidates. According to Respondent 6:

“Votes that did not reach the required level all went to the major lists” (Respondent 6)

As a result, independent candidates were severely disadvantaged in the elections due to the dominance of the larger parties on the political scene and an electoral system that favours their performance in elections. Respondent 20 also confirms this outcome:

“Independent candidates do not have any financial capacity to compete with the leaders of these parties. Even if they had the money they cannot have the adequate protection and safety to stand for the elections” (Respondent 20).

Thus, the political parties that have been in control of the political process under the US-led coalition could increase their political sway under an electoral system working in their favour by putting severe disadvantages to independent candidates and thereby limiting their chances of accumulating sufficient votes to be elected.

Respondent 8, a solicitor, describes this in more detail:

“Any person who wants to be a candidate in the elections needs to pay 25 million Iraqi Dinars [\$20,000], which is irretrievable if he loses the election and completely refunded if he wins. The elections are therefore suitable only for the big parties. So, a lot of people make an effort to join these parties in order to have a chance to win in the elections” (Respondent 8).

The hybrid electoral leads to significant inequity in the distribution of votes. The votes won by one candidate could be transferred to another one with fewer votes if the latter had joined a winning list. For example, if a person requires 25,000 votes to win a seat in the parliament and receives 24,500 votes, his remaining votes will be distributed among other winning lists and, it is possible that someone with only 500 votes would get a seat in parliament.

Respondent 20 agrees that there are people who have received very few votes, and yet managed to win a seat in parliament, after being nominated and appointed by the party leader. He gives the following example:

“This happens when ten of members of parliament give up their seats to get other professional jobs. Among such cases were Al-Sheikh Humam Hammoudi and Jawed al-Bolani who entered the parliament despite getting very few votes in the election” (Respondent 20).

Furthermore, the US-led coalition insisted on a high quota of female members in parliament. This quota “was introduced in Iraqi politics due to heavy American pressure in 2005, Iraq was propelled to a position where it currently ranks among the 30 countries in the world with the highest female parliamentary representation, way ahead of countries such as Canada, the United Kingdom, and indeed the United States itself a high female quota becomes an obstacle for the election of candidates with real popular support” (Visser, 2010: 80). The quota gives (25%) of the seats in parliament to women, and as a result, many women who only receive a few votes can still win in election seat. While this quota was meant to increase female representation in parliament, it acts as a further mechanism to bend electoral results.

Respondent 39 provides another point of view: that the main problem in the election process in Iraq is caused by the lack of a population census since 2003:

“Nobody knows the exact number of Iraqi people and their names. They continue to rely on an old census, whereas a lot has changed as a result of the many developments in Iraq. So, every person should have a unique identification number to be used in his transactions in Iraq, including the election process. Also, all the computers used in the election process should be open to public scrutiny and it should be possible to watch the process live on TV to stop any improper practices” (Respondent 39).

6.6 The Creation of Independent Institutions

The Coalition Provisional Authority (CPA) issued many orders to create independent institutions and commissions. These bodies laid the ground for a feeble state because all of them worked without a legal foundation or any co-operation and co-ordination with the State. One example is Order Number 65 that established the Independent Communications and Media

Commission (ICMC), which later became the CMC (Juhasz, 2004). This Order is another example of the way that measures taken by the US-led coalition after the occupation in 2003 caused conflicts and problems within Iraqi state institutions. Bremer explains that he wanted to create an independent authority that regulates the communication sector, as in the US. However, the Ministry of Communications (MoC) had been part of the Ministry of Transport and Communications before the 2003 war, and it became independent by Decree Number 13 issued by the Governing Council (GC) in September 2003. Bremer, in his Order Number 65, failed to mention the (MoC) and gave its entire authority to the Communications and Media Commission (CMC).

Respondent 16, senior advisor to the Ministry of Communications, describes the conflict caused by Bremer's Order as follows:

“The authority over the strategic communications sector was taken away from under the feet of the MoC” (Respondent 16).

Respondent 7; a senior manager in the Iraqi Telecommunications and Post Company, confirms this observation, adding:

“The CMC has dual functions, legislative and executive, at the same time” (Respondent 7).

Many researchers, such as Katulis and Klein, confirm how interdepartmental conflicts were caused by the orders issued by the CPA. Katulis argues that Bremer supervised, personally, the appointments of key positions; for example, he chose Dr Siyamend Zaid Othman as the Chief Executive Officer of the ICMC. Then he appointed three of the ICMC commissioners in April 2004. The ICMC's responsibility was set to include new standards and codes of conduct for media professionals, establishing policies for radio-frequency management, as well as licensing the media and telecommunications operations. Its main task was to suggest a new Communications and Broadcasting Law to the upcoming sovereign Iraqi government. The CPA and the ICMC were criticised by the main Iraqi newspaper *Al-Sabah* that their proposals destined that the ICMC would be more authoritative than the MoC. Iraq's former Minister of Communications, Haider Al-Abadi, complained that the ICMC substituted him and that CPA authorities had not kept him apprised of the plans for the ICMC as they developed (Katulis, 2004: 22).

Klein (2004) also confirmed Katulis' argument by saying that Bremer announced the establishment of many independent regulators, which would drastically reduce the power of the Iraqi government's ministries. For instance, the *Financial Times* reported that "officials of the Coalition Provisional Authority said the regulator would prevent Communications Minister Haider Al-Abadi, a thorn in the side of the coalition, from carrying out his threat to cancel licences the coalition awarded to foreign-managed consortia to operate three mobile networks and the national broadcaster" (Klein, 2004).

Bremer's Order Number 65 did not clarify ICMC's relationship to the Ministry of Communications which is supposed to set the communications policy as it is the case in countries around the world. According to this order, the ICMC was supposed to be linked to the parliament and help it to draw the communications policy, whereas the parliament did not exist at the time. However, when it did eventually exist, there were no professionals in parliament who would understand the communications policy or could develop adequate legislation around it.

Respondent 16 argues that:

"A lot of conflict occurred due to that order which is a concern until now because there is no clear line separating authority and power between the Ministry of Communications and the CMC. The conflict has terribly affected the development of communications in Iraq. No law has been enacted by the Iraqi parliament as yet" (Respondent 16).

This also applies to the media that has become a huge machine operating without any responsibility and accountability. As a result, there has been a state of confusion in the telecommunications sector of Iraq.

Furthermore, according to Respondent 7:

"Most of the Iraqi ministries installed their own communication systems, in isolation from other ministries and state bodies due to the absence of the MoC's role, and hence the lack of a communications policy" (Respondent 7).

Respondent 2, a former government minister, gives another reason for the decline of the communications system:

"Communications were used by terrorists, especially the mobile phone system, for bombing buildings and killing people" (Respondent 2).

Respondent 39 confirms this conclusion:

“The new communication and mobile phone system helped to increase the violence in Iraq post-2003. It was used by the terrorists for kidnapping and killing thousands of Iraqis during the violence” (Respondent 39).

Therefore, instead of building an independent institution to support the functioning of the government, the CPA created other authorities that yielded conflict within government department of the Iraqi state. This conflict can be seen in every order issued by the CPA and in Bremer’s decisions which often replicated responsibilities and thereby further undermined the authority of the central government.

6.7 Iraq: Centralised and Decentralised Power

The effectiveness of decentralising public services to local governments is an issue faced in many developing countries. Therefore, the state needs to strike a balance between centralisation and decentralisation in the provision of public services. One of the important benefits of decentralisation is to reduce the bureaucracy and the corruption of the central government. This requires various financing mechanisms such as revenue decentralisation, user fees and intergovernmental fiscal grants, as well as the use of technical expertise at the local level. In addition, successful decentralisation requires independent decisions by the central government and local governments as part of a strategic plan of the state, including resource sharing and market-like mechanisms (Bardhan and Mookherjee, 2001).

On 6 August 2003, Bremer, issued a new order No. 71 for Iraq’s decentralisation to set the relationship between the central government and the provinces (CPA, 2004). The Law of the Provinces Not Associated in a Region, No.21, issued on 19 March 2008, stated that all decision-making power by local government should refer to the federal government. However, there is an overlap between their powers and lack of clarity on the extent of their authority.

Respondent 17, heading the economic commission in one of the provincial councils, gives an example of the conflict:

“If the local government in Basra wants to take a decision to raise the efficiency of the Iraqi port, it needs to get permission from the border force of the Ministry of Interior, which is responsible for the port work and function. In all countries around the world,

the border force of an interior ministry is responsible for border security, but in Iraq it is responsible for everything including the economic sector. This issue is not just related to the border force but extends to all directorates, including electricity, agriculture, finance, land and all other departments that need to get permission and approval from the centre” (Respondent 17).

The line of authority between the local government and the central government has caused great obstruction in achieving any development in the Iraqi provinces. Under the law, the provincial governor holds all authority and responsibility for his province, and decision-making is conducted from his office. At the same time, all the power is held at the centre, and the governor needs to obtain permission from the capital for most of the decisions that he needs to issue. This includes matters such as recruitment, investment, government companies and departments, land and oil wells, etc. As a result, a provincial governor may have the authority but lacks real power.

Therefore, Respondent 23 deliberates that:

“The decision in favour of federalism would be the biggest mistake in Iraq. First, the federal regions will divide into Sunni and Shi’a regions, which will encourage divisions in the society and lead to dividing Iraq. Second, during more than one thousand years of Iraq’s history, the Iraqi tribes, Sunni and Shi’a, never faced any kind of division and there was always harmony and cooperation. Federalism will divide them and will prove disastrous for the Iraqi state and the region. Third, the sharing of Iraq’s resources among the federal regions will weaken the Iraqi economy and lead to a collapse of the Iraqi state” (Respondent 23).

Respondent 25, holding a senior position in the customs authority in a southern province, describes the conflict between the province and the centre as follows:

“The ministries in Baghdad did not consult any province when they issued this decision and it caused conflicts in various Iraqi provinces except the Kurdistan Region, which is outside the control of Baghdad’s government. Also, the projects issued by the provincial council need to be approved by the Ministry of Planning before implementation. The agreements run for a year, and the annual financial year starts in April and ends in December each year. The approval from the Ministry of Planning gets delayed by around four months, so we reach July or August. Another month is gone with

advertisement, the assignment of the contracts and providing guarantees, including bank guarantee and letters of credit. As a result, it is by then already the end of the year, and the project has neither started nor finished. The provinces would then need to let the agreement continue in the following year, and so on” (Respondent 25).

Respondent 21, dean at university in southern Iraq, agrees with this observation:

“The transactions between the provinces and the central government are very complicated and cause delays. For example, a college of pharmacy once needed an electronic microscope and the financial expenses had to be approved by the Council of Ministers. The process began with the college writing to the university; then it went to the Ministry of Higher Education, which submitted it to the Council of Ministers. From that point, the process would take at least six to eight months. In addition, there is no time limit on processing the tender and may not be completed in that year” (Respondent 21).

Respondent 35 adds:

“Each province would manage its internal affairs and investments, and the province is managed by its people. Only the oil, financial, military and political sectors should follow the centre. The reason for this is that the bureaucracy at the centre is very big with a complex routine, which leads to a slow process in reconstruction and obstructs the economic activity” (Respondent 35).

Respondent 22 considers the long-term implications of the ineffective power-sharing between the central government and provinces:

“The limited power granted to the governor while most of decision- making takes place in Baghdad, in addition to the conflict between the local and central governments, will lead to some provinces becoming federal regions, and Basra would be one of them” (Respondent 22).

Respondent 27, dean at a university in southern Iraq, points at the lacking coordination within departments of the central government:

“The missing of the directorate general of the provinces to all departments of the Ministry of Municipalities, which is an important service is one of the most important reasons for the failure of the provincial council” (Respondent 27).

Respondent 18, security adviser to a governor in a southern province, agrees with that by saying:

“The control of decisions by the centre impacts negatively on the development process in the provinces. This is especially so in the interior ministry due to financial and administrative corruption in every department and corner of the ministry” (Respondent 18).

On the other hand, Respondent 12, holding a senior position in the Office of Inspector General in one of the provinces, blames political rivalries for the ineffectiveness of provincial councils and decentralised governance:

“The security situation of the provinces is not good due to weakness in the policy leadership, which is responsible for the security operation command in the provinces. The reason behind this weakness is the effect and influence of the political parties on the provincial council. The appointment, dismissal and fate of the police in each province are controlled by the provincial council. The political parties that control the provincial council in the major cities of Iraq have issued orders to the police authorities that serve their personal and party interests, and have intervened in most of their work. The same has occurred in most sectors of the province. The provincial council was involved in the contract process and projects in various aspects. This included the direct commissioning of contracts to their relatives, friends and whoever shares the benefits with them. The managers who do not agree with them would be pressurised, including threats of dismissal from their jobs. For example, the Director of Health in Wasit province was dismissed from his job because he refused to sign a deal to supply medical equipment, which were second-hand and in poor condition, for the amount of 10 million dollars” (Respondent 12).

The decentralisation and the federal system have also faced another problem related to Iraq’s resources, especially oil. This is supported by the academic literature, such as Elden and Williams argue by saying:

“Iraq’s vast deposits of oil are located in two relatively small geographic areas within the state. Therefore, it is unsurprising that some Iraqis are opposed to any fragmentation of Iraq, seeing this as a potential for dispossession, while others living within these resource-rich regions are less concerned about Iraq’s future construction, and indeed at

times are expressly pushing for its breakup. Such strategic considerations help to explain some of the tactics of those holding positions of power within post-2003 governments” (Elden and Williams, 2009: 20).

According to the literature and interviews, another aspect hindering successful state-building post-2003 has been the inconclusive federal system which created an Iraq neither centralised nor decentralised. In conclusion, the following problems can be identified preventing successful state building: *First*, Bremer’s directive regarding the powers of provincial governments, Order Number 71, which was issued on 6 April 2004, stated that “it is illegal to issue any law or legislation contrary to the federal law”. This in effect centralised authority and power within the central government (with the exception of the Kurdistan Region), instead of facilitating a political process based on consultation between the centre and the provinces to find the best solutions or policies that serve the interests of the state.

Second, projects that are approved on a local level face a complex and lengthy processes that harms both the contractor and the recipient, and thus obstruct the efficient delivery of public services. The Ministry of Planning in Baghdad sometimes does not agree to extend a project into the following year and as a result the province would lose the funds allocated to that project and have to revert back to the Central Bank of Iraq to apply for funding.

Third, the ministries override the role of the provincial council and direct their departments to conceal some of the relevant documents related to projects and not to provide them to the provincial council. For example, a former Minister of Education issued a directive to education departments in the provinces ordering them not to provide the province any records of investigations conducted by the directorate. As a result, whenever the provincial council receives a complaint from someone regarding a specific school, the ministry prevents the council from any access to the investigation. As a consequence, the council loses control over the government institutions in the province.

Fourth, according to the provinces’ law, the provincial council has the authority to hold accountable or dismiss any general director representing a central department in the province, after questioning him and voting, but has no power to dismiss him.

Fifth, if the province takes a decision to dismiss or fire a general director from any department ministry for any satisfactory reason, the central government might give him a higher position in the same province. For example, Basra’s provincial council voted to dismiss the chief of

Basra police. However, he was reappointed by the Ministry of Interior as a top commander in the ministry, although according to the law he cannot obtain a similar or a higher post for a period of time and would need more training in order to do so.

Sixth, the absence of general directors on the provincial level in all the departments of the Ministry of Municipalities and other ministries has negatively affected the services they provide. The Ministry of Municipalities is the most important ministry with regard to the needs of the provinces and public interest, because it is responsible for providing services such as water and electricity. It also controls most of the government land in all provinces of Iraq. For example, if a province wants to extend sewer or water to any area or building, they need to obtain a permission from Baghdad – which takes several months and is a very complex process – and not from the local representation of the ministry. Also, the province cannot hold accountable or dismiss any director from any department of these ministries.

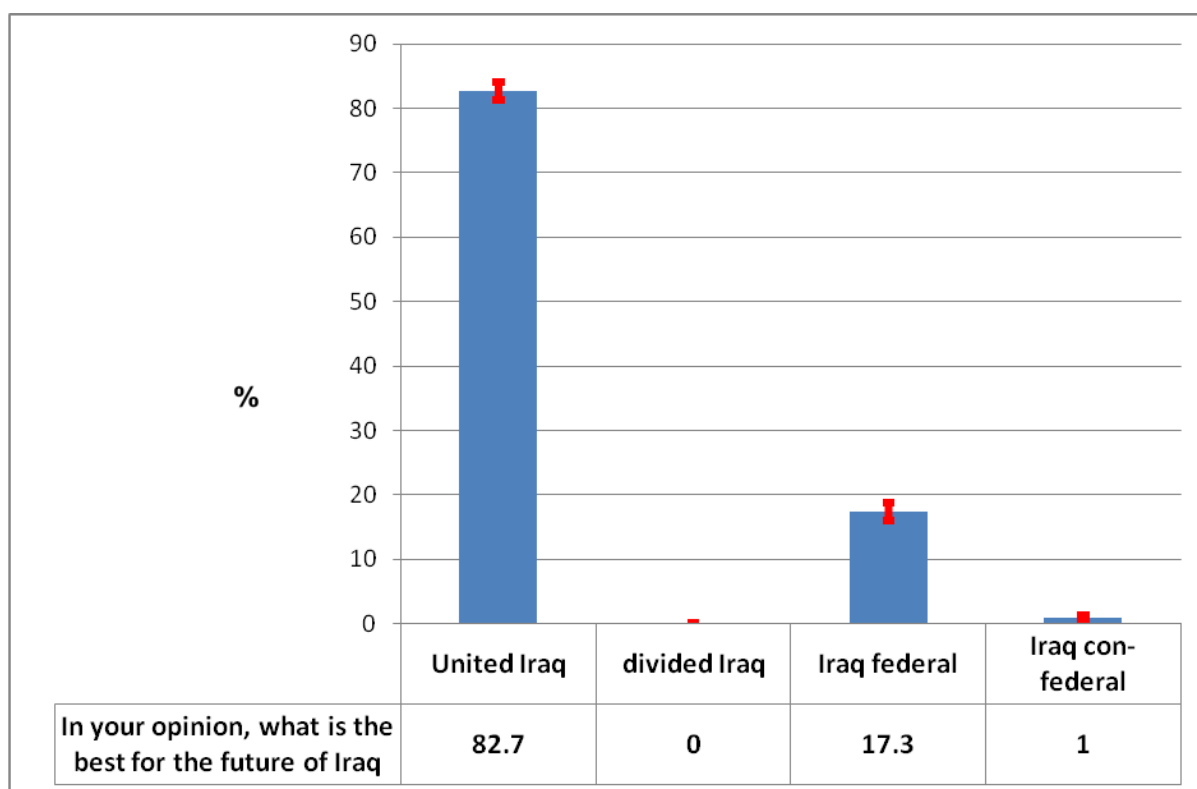
Seventh, the General Secretariat of the Council of Ministers can issue a directive that would not reach other departments, including the provincial council. Therefore, any person in any ministry or department of the ministry in the centre, or in the province, can stop an order or directive by not disclosing it, if it is against his party's interest, without any accountability.

In light of the issues around the relationship between central and federal government, a survey question was included to ask about the respondents' view on the future of Iraq and the place of federalism in its political structure. When the survey question "In your opinion, what is the best for the future of Iraq?" was asked, with four options to be selected, the results were as shown in the following table:

Table 36 In your opinion, what is the best for the future of Iraq?

| | Number | Population | Percentage | LL 95% CI | UL 95% CI |
|-----------------|--------|------------|------------|-----------|-----------|
| United Iraq | 2480 | 3000 | 82.7 | 81.3 | 84 |
| Divided Iraq | 0 | 3000 | 0 | 0 | 0.1 |
| Federal Iraq | 520 | 3000 | 17.3 | 16 | 18.7 |
| Confederal Iraq | 30 | 3000 | 1 | 0.7 | 1.4 |

Figure 15 In your opinion, what is the best for the future of Iraq?



The opinions of respondents to the question “What is the best for the future of Iraq” are given in Table 36 and Figure 15. The questionnaire provided an option of four answers of which only one could be selected. It can be seen that most Iraqis (82.7%) want to stay in a united Iraq despite all the problems they have faced, while (17.3%) believe the federal system is the best

for Iraq's future, and only (1%) considered a confederal system the best alternative. However, none of the respondents' supports a divided Iraq.

6.8 Conclusion

This chapter has discussed the way that the US-led coalition built the new Iraq and changed the political structure of the state. It has dealt with Bremer's directives issued under the rule of the occupation authority, the CPA, as well as the drafting of Iraq's new constitution, which should have been the foundation of the new Iraq and the basis for state-building. As Chapters Two and Three illustrate a proper constitutional process that creates solid legal foundations for the democratic transition, is inclusive and transparent and manages to yield a new "national narrative" is key to nation-state building in post-conflict or post-authoritarian scenarios. This is particularly illustrated by the example of South Africa. In the context of Iraq, however, a constitution was hastily drafted and passed within a short period of time and lack of public consultation. As a result, the new Iraqi Constitution contains ambiguities and effectiveness. Furthermore, the Constitution – unlike Poland or South Africa – has not instilled legislative effectiveness of parliament and trust in the rule of law. On the contrary, the legislative process because of a poor constitutional foundation has been marked by inefficiency and corruption.

Bosnia and Herzegovina is an example earlier mentioned that had – similar to Iraq – to establish a post-conflict nation-state out of a profound experience of ethnic discord. While state-building has been relatively successful in Bosnia and Herzegovina, nation-building less so, as the country's different ethnic communities have been pulling into different political directions. However, state-building has been much more efficient in the Bosnian case than in Iraq. Unlike Iraq where ethno-sectarian politics has been dominant *de facto* but never acknowledged *de jure*, the Bosnian Constitution and further legislation defines the ethno-sectarian set-up of state institutions and political decision-making processes. This allows for more transparency in the way political representatives assert their claims and agendas as part of the political process in contrast to Iraq. Another factor that distinguishes the Bosnian from the Iraqi experience pertains to the composition and control of certain federal key institutions: The Constitutional Court, the Central Bank and the Human Rights Commission among others are not operating under the sectarian quota system but act according to majority vote – thereby minimising the impact of ethno-sectarian politics in these institutions. In contrast, the Iraqi context is determined by sectarian politics in all state institutions and at all levels.

Other policies implemented by the US-led coalition in Iraq that also included reconstructing the judicial system had a profound impact on the emerging state and laid the basis for major conflicts and divisions along sectarian and ethnic lines. The negative effects of the implementation of a federal system, and the conflict between the central government and provincial governments that was caused by Bremer's decentralisation orders, have also been discussed in this chapter with the help of the results of extensive interviews with Iraqis. The creation of independent institutions has been the cause of another conflict in the Iraqi state because they have not operated based on solid legal foundation. They lacked proper regulations for their roles and also lacked co-ordination with other institutions of the state. This led to further weakness in the state and government.

Chapter Seven: Security of Iraq After 2003

7.1 Introduction

This chapter discusses in depth the policy and influence of the US-led coalition in maintaining Iraq's security after the war and occupation in 2003. As pointed out in Chapter Two, academic studies on nation-state building stress the vital importance of security and stability. This also further confirmed by the case studies of South African, Poland and Bosnia and Herzegovina. In particular, the security situation in Bosnia and Herzegovina was prioritised by the international community to overcome ethnic conflict and to establish stable state structures. The question addressed in this chapter is whether the US-led coalition and its policies provide a robust framework to ensure the security of the country after its invasion in order to facilitate a successful transition to a democratic nation-state.

7.2 Iraq's Security under Saddam

During the UN sanctions regime on Iraq (1991-2003), and as a result of the proliferation of organised crime, Iraq's economic situation deteriorated. Crime accounts for (80%) of the violence in Iraq today, as "These groups have been revitalised by the lawlessness of present-day Iraq, the ready availability of weapons, the absence of an efficient police force and the CPA's lack of intelligence about Iraqi society" (Dodge, 2005: 15). The second group responsible for the surge in violence are remnants of the Baathist regime's security services (Dodge, 2005: 15). In addition, Saddam initiated the release of prisoners during the war in 2003. According to Bremer, "the security situation was much on our mind...before the invasion; Saddam had released tens of thousands of common criminals, rapists, murderers and bandits, and armed street gangs were becoming a problem" (Bremer, 2006: 75).

Iraq's security situation was relatively stable until June 2003. Three important things occurred after that; *First*, the destruction of the UN headquarters in Baghdad on 19 August 2003, which killed more than 20 US official staff including UN envoy Sergio Vieira de Mello; *Second*, the slow withdrawal of the US forces; *Third*, the majority of Iraqi decision-making authorities including ministries were moved to the Green Zone area (Herring and Rangwala, 2006: 19-58). This caused a "highly limited interaction between Iraqis cooperating with the Coalition and Iraqi society" (Herring and Rangwala, 2006: 58). The US as the occupying power, was

responsible for protecting the UN headquarters against any possible attack and US forces managed to protect their own diplomatic mission and personnel. The attack on the UN headquarters shifted leadership in the transitional period in Iraq from the UN to the US; at this point the security situation also began to deteriorate significantly. The attack on the UN headquarters and the complete withdrawal of UN personnel side-lined this organisation in the transitional process and thereby minimised the influence and role of the international community in Iraq's nation-state building.

The examples of Poland, South Africa and Bosnia and Herzegovina have illustrated in particular how crucial international support, whether military, political or economic is to achieve the successful building of democratic structures in a post-conflict scenario. In particular the case of Bosnia and Herzegovina highlights the centrality of the international community maintaining peace, security and stability. These factors were lacking in the Iraqi context. Furthermore, all the countries, discussed in Chapter Two, enjoyed the support not just of the international community but also of their immediate neighbours that saw the political transitions in the three respective countries as beneficial for their own interests. Poland's European integration strengthened the democratic system in the country. The end of apartheid rule in South Africa was desired and hence welcomed when it was finally realised by the country's African neighbours. Croatia and Serbia, Bosnia and Herzegovina's immediate neighbours, realised that it was in their own strategic interests to bring ethnic discord in their neighbouring country to an end. In contrast, most neighbouring countries of Iraq were wary of US policies: they had to address public perceptions in their countries of yet another US-led military campaign in the region to expand US hegemonic ambitions and reactions of terrorist groups like Al-Qaida exploiting the US occupation to recruit followers and to use Iraq as a new operation ground (Mann, 2005: 126). Likewise, the perception that Iraq turned into a Shi'ite sectarian state, allied to Shi'ite Iran, contravened the geopolitical interests of Iraq's Sunni neighbours.

Saddam Hussein had established four different security forces: in addition to the *Jihaz al-Himaya al-Khass* (Special Intelligence Protection Apparatus) and the Baath Party mass organisations, which all acted as surveillance structures, there were the *Jihaz al-Mukhabarat al-'Amma* (General Intelligence Apparatus), *Al-Istikhbarat al-'Askariya* (Military Intelligence), *Mudiriyat al-Amn al-'Amma* (General Security Directorate), and *Maktab al-Amn al-Qawmi* (Bureau of National Security). Their aims were to protect President Saddam Hussein and his family as well as supporting the Baathist regime by gathering intelligence on domestic

and international threats. The members of these forces received wages that exceeded those of any other positions in Iraq's institutions including university professors and medical doctors. They enjoyed free government housing and bought government price-supported food (Shehabaldin, 1999; CIA, 2004). However, the US-led coalition ignored the entire security and intelligence apparatus and solely focused on Baath party members as part of its half-hazard De-Baathification process as discussed in Chapter Five. Most of the members of the different organs of Saddam's security and intelligence apparatus were sent back home without any regular source of income, thereby providing a breeding ground for criminal and terrorist activities around the remnants of these organs. Many of them later joined terrorist organisations, holding prominent positions in Al-Qaida and subsequently in ISIS.

7.3 Insufficient US Military Deployment in Iraq

Herring and Rangwala argue that the coalition military to control the security in Iraq after April 2003 consisted of less than 150,000 troops, while the sufficient number should have been over 460,000 troops, based on the calculation of one soldier for each 50 people as implemented during the NATO missions in Bosnia and Kosovo (Herring and Rangwala, 2006: 52). The highest number of troops was 160,000 in 2005 which was reduced to 133,000 in February 2006 (Herring and Rangwala, 2006: 199). Bremer also confirms that insufficient troops were sent to secure Iraq without any plausible explanation. In his book, *My Year in Iraq* (2006), he recalls how Jim Dobbins, a former diplomat and experienced analyst with the RAND Corporation visited him at his Pentagon office at the beginning of his role as the administrator of the CPA. Dobbins passed to him a draft paper by professional RAND staff about "the relationship between troop levels and stability during seven previous occupations" (Bremer, 2006, p. 10), including Germany, Japan, Somalia, the Balkans, and Afghanistan. Bremer pointed out that the most important point of the report was that "... to achieve stability in the initial years after military occupation there should be twenty occupying troops for every one thousand people in the country occupied" (Bremer, 2006: 10). The report noted that the population in Iraq at the time was nearly 25 million and that therefore the "population would require 500,000 troops on the ground to meet a standard of 20 troops per thousand residents. The number is more than three times the number of foreign troops now deployed to Iraq" (Bremer, 2006: 10). On the same day, Bremer sent a copy of the RAND draft report to the Secretary of Defense Donald Rumsfeld, but he "never heard back from him about the report" (Bremer, 2006: 9-10). Before

leaving for Iraq, Bremer explained that to President Bush and said, “I just saw a pretty persuasive draft RAND report arguing that to stabilize Iraq we’ll probably need an awful lot more troops than we now have”, to which the President replied, “I’ll mention it” (Bremer, 2006: 12).

The US authorities were expected to pay far greater attention to security matters in Iraq, as it was vital for the protection of the Iraqi people and the state against the enormous challenges and conflicts among competing emerging groups posing a significant threat. However, the US instead sent an inadequate number of troops and did not guard Iraqi border sufficiently to prevent a terrorist influx into the country. On top of all this, the US started reducing troops at the end of 2005 and continued reducing them in the following year, 2006, the worst year for Iraq’s security (Al-Askari, 2012).

Respondent 36, member of the board of trustees of the Iraqi Media Network, said that during a meeting with some Pentagon representatives after the end of the 2003 war:

“I told them that the US had won the war, but would lose the peace. I didn't receive any reply or attention from the Pentagon officials and it seemed that they knew what was going on and didn't want to talk about it” (Respondent 36).

According to Klein (2004), the reason for not sending enough troops was to perpetuate the conflict in Iraq and to justify extending the mission of the US military in Iraq and Middle East area for a long period of time:

“What a ‘free Iraq’ will look like: The United States will maintain its military and corporate presence through 14 enduring military bases and the largest US embassy in the world. It will hold on to authority over Iraq's armed forces, its security and economic policy and the design of its core infrastructure.... The US occupation authority has also found a sneaky way to maintain control over Iraq's armed forces. Bremer has issued an executive order stating that even after the interim Iraqi government has been established, the Iraqi army will answer to US commander Lt General Ricardo Sanchez. In order to pull this off, Washington is relying on a legalistic reading of a clause in UN Security Council resolution 1511, which puts US forces in charge of Iraq's security until ‘the completion of the political process’ in Iraq. Since the ‘political process’ in Iraq is never-ending, so it seems is US military control” (Klein, 2004).

While the motives behind US officials' decision not to ensure a sufficiently large military presence in Iraq to be in a position to ensure the country's security remain controversial, comparing the Iraqi case with similar scenarios in other context, most prominently the heavy military investment of the US in various military conflicts in former Yugoslavia, clearly illustrates that the military infrastructure supervised by the US was wholly inadequate to provide security during the occupation.

7.4 The Deterioration of Security and the Rise of Sectarian Violence

Research has offered different reasons behind the beginning of the post-Saddam civil conflict in Iraq with most of them pointing nonetheless at the erroneous decisions of the US-led coalition authorities. Dodge (2005) gives many reasons for the security conflict: (a) he mentions in particular the remnants of the Baathist regime was involved in the violence: "More influential in the upsurge of violence after regime-change was the legacy that the Ba'ath regime left behind: a militarised society with a high degree of private gun ownership, widespread military training, and experience of active duty"; (b) he further highlights the effect of the order to dissolve the army: "The decisions to dissolve the army and embark on root-and-branch de-Ba'athification in May 2003 contributed to the personal, face-to-face organisation of the insurgency by putting an estimated 750,000 people out of work" (Dodge, 2005: 15). O'Brien (2010) similarly blames the governor of Iraq by saying "Paul Bremer destroyed the security infrastructure Iraq already had" (O'Brien, 2010: 406). Authors similarly point out that the conflict began in Sunni areas of the country. According to Hashim, "the insurgency is largely a Sunni Arab affair...its epicentre is an area known as the Sunni triangle...which includes a heavy concentration of Sunni Arab tribes whose members served in the armed forces and security services of the former regime" (Hashim, 2006: 129).

Bremer describes similar processes and refers to alliances forged between Al-Qaida and former officials and security personnel of the Baathist regime: "Coalition intelligence had plausible reports that fanatical Wahhabi Muslims from Saudi Arabia had been infiltrating Iraq and linking up with former Ba'athists, often in mosques. These Wahhabi fundamentalists considered all Shi'ites to be 'apostates' and the non-Muslim coalition forces in Iraq to be a sacrilege...I knew from my background in counterterrorism that extremist Wahhabis had great influence in Al-Qaeda" (Bremer, 2006: 80). In another part of his book he acknowledges that "security remained a big problem. The insurgency in Baghdad and in the Sunni Triangle was

intensifying as the terrorists and insurgents saw Iraq moving to democracy” (Bremer, 2006: 378). Therefore, while Bremer was, based on his account, aware of the various forces undermining the security situation in Iraq, the US-led coalition was unable to prevent Al-Qaida operatives from entering the country and also filled the security forces with Shi’ite militias as a result of the militia merge order: “in 2004, and 2005, as the Iraqi Ministry of Interior became infiltrated by sectarian militia” (Bowen, 2009: 158). Consequently, the deteriorating security situation gained a significant sectarian dimension with Shi’ite militias in control of the state security apparatus and Sunni militants and Al-Qaida operatives joining forces with former Baathist military and intelligence personnel which has been recruited from Sunni areas of the country primarily.

Louis Fisher points out that the US should have learnt a lesson from its experience in Afghanistan. The campaign of war was dominated more by fear than facts, more by assertions of what might be, or could be, or used to be than by what actually existed. “The Bush administration failed to address predictable looting and violence. After Afghanistan, it should have been obvious that a military victory must be followed quickly by a secure environment and visible reconstruction efforts” (Fisher, 2003: 389). However, the policies implemented by the US-led coalition replicated the same problems which had occurred in Afghanistan previously.

Klein (2004) argues that the US played a role in the starting of the violence in Iraq. Using the example of the conflict between the US-led coalition and the Shi’ite militia run by Muqtada al-Sadr, she points how certain actions of the coalition triggered violent responses:

“Unfortunately, the Iraqi people recently saw another version of press freedom when Bremer ordered US troops to shut down a newspaper run by supporters of Muqtada al-Sadr. The militant Shia cleric has been preaching that Americans are behind the attacks on Iraqi civilians and condemning the interim constitution as a “terrorist law”. So far, al-Sadr has refrained from calling on his supporters to join the armed resistance, but many here are predicting that closing down the newspaper - a nonviolent means of resisting the occupation - was just the push he needed” (Klein, 2004).

The recruitment process for the security forces was also based on sectarian interests rather than aiming at the development of a security apparatus that would be inclusive and be a capable to contribute to a successful nation-state building process: “The main reason Iraqi security forces are extremely reluctant to fight is sometimes lack of training and equipment, but it is usually

lack of loyalty. Apart from seeking to serve their state and society, people join the Iraqi security services to earn money, to serve particular sections of society and, in some cases, to gain intelligence and weapons for the insurgency...the security forces have primarily become instruments of sectarian, not national, politics, because most of the recruitment has been done on a communal basis...on list of people and militia provided by political parties, tribal chiefs, provincial governors, and notables” (Herring and Rangwala, 2006: 198).

While both Sunnis and Shi'ites ran armed militias, that exerted their influence both within the government and on the street, the US undertook military operations against Al-Qaeda in Fallujah and then the al-Sadr militia, without completely disbanding them or at disarming them. As a consequence, both Sunni and Shi'ite radical militant groups gained more power on the street, which further encouraged sectarian violence. According to Dodge (2005) the “sectarian violence has the potential to be even more damaging to Iraq’s long-term stability...the organisation behind the sectarian attacks is much more likely to be a hybrid, with elements of the old regime acting in alliance with indigenous Islamic radicals and a small number of foreign fighters.... The coalition Provisional Authority (CPA)’s decision to launch an attack on the radical Shia Muqtada al Sadr opened a second front in the opposition to occupation” (Dodge, 2005: 13-14).

According to Respondent 18, the chaotic management of the country’s borders had a negative impact on Iraq’s security:

“The US is responsible for the security of Iraq because they are the occupiers, so they have the responsibility of maintaining Iraqi institutions and public security. However, US forces opened the State institutions to burning, looting and vandalism. The US reformed the security system in Iraq by using the same security men who worked for Saddam Hussein, Baathists and employees of the intelligence service, and filled this system with them. The US allowed the entry of terrorists and their tampering with the country. They also removed the restrictions on the import of goods which entered in Iraq, and still do, through different crossing border posts. The Iraqi ports suffer from the lack of oversight, poor quality control and corruption. The goods had a bad effect on the health of Iraq's citizens as they are either of bad quality or expired. Some of these goods are sent to finance the terrorists from some countries, such as Iran, Gulf countries, Syria, and Turkey. The borders are also used to smuggle weapons that were used by the terrorists. A security conflict will have a direct impact on the economy of any country

in the world, and it is evident that the US is responsible for the Iraqi security” (Respondent 18).

In addition, according to Respondent 20, the lack of oversight of the US-led coalition allowed the arming of various sectarian militias:

“The coalition opened the arms stores which belonged to the Iraqi defence and interior ministries and left them exposed to theft and looting. They turned a blind eye to people who possessed light weapons because they did not constitute a threat to American troops, but later on it weakened the society by inflicting damage” (Respondent 20).

Respondent 23, officer in the Iraqi army, similarly blames the US-led coalition for the deterioration of the security situation as occupying power in the country responsible for its security:

“The US restructured the Iraqi army and it is they who handed over light weapons to people at the start of the violence. The army does not have any heavy weapons, but just light arms and guns, while the militias have advanced weapons such as bombs, missiles, and rockets. The main source of these heavy arms is the former army camps, as well as sources across the borders. On the other hand, the neglect by the US of checking migration and responding to kidnappings, and assassinations, especially of doctors, specialists, and professional people, pushed Iraq almost a decade back in time as far as development is concerned; for example, the killing and displacement of most of the Iraqi medical specialists. One cannot find any specialist doctors in Iraq, except Kurdistan” (Respondent 23).

Respondent 17, a member of the Basra Governorate Council, refers to the lack of training of Iraqi security forces:

“The US pledged to train the Iraqi forces. However, the security services, even after several years, are still the most corrupt and suffer from multiplicity of authorities that make them difficult to control and manage” (Respondent 17).

Respondent 38, an officer in Baghdad Information Centre, mentions the decentralisation in the security system as the cause of the increase in sectarian conflict and the overall deterioration of security, providing the following example:

“If we want to inspect a security checkpoint somewhere, there are many authorities that would prevent us – even by force – from doing our job. These authorities include the Ministry of Defence, the Baghdad Operations Command and other forces. Being authorised or unauthorised depends entirely on the mood of the authorities responsible for the checkpoint” (Respondent 38).

Respondent 37, senior officer at General Transport of Iraqi State, similarly affirms:

“The overlapping jurisdictions, in the general state system, and especially in the security system, played a great role in reducing security. There must be a competent authority to issue orders and other services to apply these orders. I once went to supervise the transport branch in the city of Hilla in Babylon governorate, and a junior officer stopped me for a long time and kept asking me silly questions, and after calling several different authorities to seek permission, he allowed me to go through” (Respondent 37).

The overall security situation was relatively stable in the period between the end of the war in 2003 and mid-2004. However, the decision of the US-led coalition to dissolve the Iraqi army, along with other forces within security sector, led to the sudden unemployment of a huge number of former army and security personnel and opened the borders of Iraq completely as they were not policed anymore.

Iraq’s neighbouring countries formed or supported groups, organisations and militias which also played a significant role in destabilising the security of Iraq when they took over control of streets in many cities, in Baghdad and Basra in particular. Respondent 18 an advisor to the governor of Baghdad, explains the creation of these groups:

“These groups and militias committed many massacres, murders and robbery. For example, the *15th of Sha`ban* and *Tha`r Allah* movements whose are supported mainly by Iran, and the *Bakiyat Allah* movement and several other militias and groups supported by other neighbouring countries. The *Tha`r Allah* organisation, which began as a small group, built a mosque (*Tha`r Allah* mosque) and strived to attract and recruit a lot of Baathists and people from the dissolved army. They used the mosque as headquarters for their operations by creating a prison and torture rooms inside it. They conducted various operations including assassinations and detention of people who work against them or their interests, including women. The *Bakiyat Allah* organisation, which had a special court, recruited a large number of its militia from

within the government security services, and carried out serial killings, assassinations, kidnappings and threats by using police cars” (Respondent 18).

As border control collapsed with the dissolution of security services, organised criminals and terrorists, such as Al-Qaida operatives, could enter the country. Supporters of groups like Al-Qaida in neighbouring countries provided funding and logistical support to militias and terrorists to further undermine the security situation in Iraq. There was also a lack of an operative police to counter the emergent insurgents and to deliver intelligence to the US military. Ayad Allawi, a former Prime Minister of Iraq, confirms that Iraq was free from Al-Qaida before 2003, and holds failed US policies responsible for its emergence in Iraq. (Allawi, 2011). Bolton (2008) also argues that “The earliest signs that al Qaeda and other Jihadis were flocking to Iraq for Jihad against the West appeared in mid-2003” (Bolton, 2008: 188). The failure of security policies implemented by the US-led coalition in Iraq and the support for militias by interested parties in Iran, the Gulf countries and other neighbouring countries undermined Iraq’s security and destabilised the country.

When the violence started in 2004, the US-led coalition re-called police officers from the rank of major upwards. According to Respondent 39, senior officer in the Baghdad provincial council:

“The coalition gave us \$20, two pieces of uniform and a gun. When we started work, the people were happy with us as the violence, criminal activity, and thefts were widespread by then and the US did nothing to protect people. The police could not stop the violence because first, the police were busy dealing with minor incidents such as robbery, disturbances and other criminal offences but could not deal with terrorists and organised criminals who became widespread. Second, the armed gangs, militias and most criminal groups that were involved in the violence had high quality training and arms, and their planning exceeded the capacity and ability of the police. Third, they had control over the former arms stores and military camps with the support of the US. *Fourth*, experienced elements of the Baathist intelligence and special security service of Saddam’s regime, who did not believe in the regime-change, led the violence, in addition to experienced militias coming across the borders, including Al-Qaida” (Respondent 39).

Respondent 4, senior advisor to a government minister, believes that the US itself instigated the violence:

“The US, which stirred up sectarian suspicions and lack of trust among Iraqis when setting up the GC, divided the Sunni and Shia endowments. The Americans themselves asked people whether they were Sunni or Shi’a. There was no violence for more than one year after the end of the war, and this means that the subsequent violence was created” (Respondent 4).

Respondent 28, working in a senior position for the police in Baghdad, thought that the reasons behind the violence were:

“First, the availability of weapons to any person, for free from military camps or in streets at a very cheap price, without any accountability. This led to the creation of many militias and gangs. Second, there was no reconstruction or any foundation of nation-building after one year from the end of the war. Third, the Iraqi state was torn apart by sectarian violence, which had a terrible effect on the security of the country. Fourth, the lack of accountability and widespread corruption. Under the old regime, people were punished – fairly or unfairly– but a law was applied. But now the political parties consider their men as a red line that cannot be dealt with according to the law. In 2007 the government, while it started to control the violence, supported the tribes by giving them money and arms under the name of ‘supporting councils’ which led to accumulation of weapons with tribes and each tribe extended its influence for its own benefits and not for the state benefit” (Respondent 28).

Respondent 5, officer in the Baghdad Province Operations attributes the reduced security to the following reasons:

“First, the transfer of light weapons to the public, either by direct or indirect support from the US. Second, the overlap of work of the army and the police. Now both, often, work within the cities, thus causing conflicts in power and authority. Third, the absence of an emergency law that deals with the protection of people and preventing the terrorists from attacking people and buildings. There were just impulsive orders and no strategic plan and law in place” (Respondent 5).

According to Respondent 1, a police officer in Al-Musayab district in Babylon province, the main reasons were:

First, the absence of technology that could deal with the security conditions in order to control the violence. There were only hand-held weapon detectors, “sonars”, which are

very inefficient. *Second*, lack of co-operation and co-ordination between different security sectors and the absence of leaders with power and authority to operate each sector with a sense of responsibility toward other security sectors. For example, in our area, I am responsible for the security of the shrine that receives tens of thousands of tourists every day, in theory. The shrine area has five access points, and each point was given to different security forces: Facilities Protection Service (FPS), local police, federal police, private police and the Iraqi army, and each force works separately according to its authorities. On one occasion, the Iraqi army checkpoint withdrew without informing us because one checkpoint got a caravan, and so they also wanted one otherwise they would not come back. That access point is still open and has been insecure for a long time. Such cases don't happen only in our area, but everywhere and at any time. This is one of the main reasons behind the lack of security. The co-ordination between different sectors is the main key to establishing security in Iraq. This may provide a solution to the continuous killings and bombings in different areas of Iraq, unlike the Kurdistan area which has its own stable security” (Respondent 1).

As for Respondent 31, employed at the national Information Centre, the lack of the security was due to:

“*First*, the absence of a census and a profile archive of Iraqi citizens after 2003 are one of the problems in Iraq. During the old regime, I worked in the criminal archives department which documents information about the prisoners and detainees; each one had a private archive and was followed continuously until it was ensured that they would not repeat their crime. There was an absolute lack of archiving and follow-up after 2003; so, many of them returned to crime. *Second*, the lack of co-operation and co-ordination between the security sectors. *Third*, previously, the security department used to ask the regions for any changes that were happening in the area, e.g. a new landlord, tenant, etc. As a result, they had complete information about any address changes. After 2003, criminals and terrorists hid themselves by changing addresses and living among the population” (Respondent 31).

Respondent 29, officer at the Baghdad Transport Authority, similarly asserts that the problem was the release of terrorists, murderers and criminals, often within a day of the arrest, either through bribes or political party support:

“It was the weakness of the security system in Iraq. For example, Iraq faces a huge number of car-bomb killings that have destroyed the country. But since 2003 the imported cars were not registered correctly. A car would be registered under the name of the person who imports them and then go through agencies that give a license to drive only while it still remains registered with the transport authority under the name of the first buyer. This allows the terrorist to use the car for carrying a bomb without revealing any information about them. Sometimes, when the police need to know the owner of a car, they need to detain tens of persons who had owned the same car at a different place and through different agencies” (Respondent 29).

Respondent 21 similarly refers to the lacking oversight over the import of cars and its impact not such on the security situation but also on traffic, public health and the environment:

“First, the hard cash of the country was going into the importing of useless products and not helping in the development of the country. These cars should have gone to scrap or to the category of old used cars. Second, congesting and increasing the traffic on the streets without any development of the infrastructure of roads, such as building roads, bridges, tunnels. Third, the dire effect on the environment, including increase in chest illnesses and cases of cancer. Fourth, the use of cars as bombs that killed and injured thousands of Iraqis and reduced the security of the country” (Respondent 21).

Respondent 33, senior officer in the Federal Police in Baghdad province, focuses on various aspects of the security situation in Iraq:

“*First*, poor training of the security services, including the intelligence, thus enabling the terrorists to take the initiative and attack first. *Second*, the lack of co-operation between the government and the public to ensure targeting the terrorists, and protecting people from attacks by setting up a security TV channel to provide the necessary security information to the public. *Third*, there is a real danger to the future of Iraq as a result of a new generation growing up in pain, hatred and hostility – the victims of bombings, kidnappings, treachery, murders and children recruited by militias and Al-Qaida. They all need special attention and care in order to return to the embrace of the state, which is not yet available in the government programme” (Respondent 33).

Respondent 30 considers that the problem is the quality and efficiency rather than the number of the security personnel:

“The current security services are not professional and they have no experience as they were either recruited by paying bribes or through support from the political parties. Many of them will leave the security job if they find another civilian job” (Respondent 30).

As it emerges from these statement, the security situation has been the main challenge that Iraq has faced since the invasion and has had the most serious impact on the overall failure of successful nation-state building in Iraq. The policies implemented by the US-led coalition contributed to the complete deterioration of the security situation from 2004 onwards. The cited interview excerpts from relevant stakeholders who have been centrally involved in the implementation of these policies or at least observed them confirm this. Some of the respondents suggest a deliberate strategy of the US-led coalition to undermine public order and security to encourage a failure of the nation-state building process. While such claims cannot be substantiated, they do certainly reveal how current senior employees in the public sector distrust the US and its strategic goals in Iraq and in the wider region. The interviewees that have been conducted for this research highlight other reasons for the security problems after the invasion. Wrong restructuring of the security system, lack of co-operation among various security sectors, corruption, decentralisation, poor training and equipment for the security forces are some among many reasons for the deterioration of security in Iraq.

Maintaining security, peace and public order is an essential foundation for any successful nation-state building process in a post-conflict scenario in particular. The example of Bosnia and Herzegovina illustrates how a strong military intervention followed by a significant military presence is crucial to remain peace and security after the collapse of the state and public order following a civil war. The involvement of the international community likewise contributed significantly to the restoration of public order in Bosnia and Herzegovina and to at least a successful state-building if not nation-building. Clearly, the possible lessons learnt from US, NATO and UN involvement in former Yugoslavia were not applied to the Iraqi context in which a situation was created allowing for the complete collapse of public order for the reasons outlined in detail by the various respondents.

7.5 Dissolving the Iraqi Army

In this section, the effect of the first order issued by the US-led coalition with regard to dissolving Iraq's army will be discussed, focusing on the aims of the US behind this order and its influence on the process of nation-building. The Coalition Provisional Authority (CPA) issued several pieces of legislation and orders after the end of the war, as mentioned earlier, which impacted directly on the building of the state. One of the most important orders issued by Bremer, at the beginning of occupation, was Order No. 2 on 23 May 2003, to disband the Iraqi army and most of Iraq's official security-related institutions.

The reason behind this order, according to the coalition, was to reform and to punish Saddam Hussein's armed forces. These forces "were to be removed and replaced with the yet-to-be-established security structures of the yet-to-be-formed successor regime" (Berdal and Ucko, 2009: 90-91). Another reason was that Iraq's army committed massacres against the Shi'ites and left behind mass graves when it suppressed the popular uprising, the *Intifada* of 1991, and also used poison gas on the Kurds in 1988 during the Iran-Iraq War. Bremer also described the Iraqi army as the tool of a cruel regime. The order included all of the Ministry of Defence, all related national security ministries and offices, and all military formations including the Republican Guard, Special Republican Guard, the Baath Party Militia, and the Fedayeen Saddam (Bremer, 2006: 53-57). In his book, Bremer mentions that there was an argument among Iraqi politicians about this decision; some of them refused to dissolve the whole army and wanted to keep some of it: "Some (Iraqi politicians) were encouraging us to reconstitute a smaller version of Saddam's army", but Masoud Barazani, the leader of one of the two main Kurds parties in Kurdistan region, pronounced that "we Kurds would have left Iraq, seceded. We've fought the Ba'athists' army from the beginning. For twelve years, we've enjoyed autonomy. If they returned, we'd fight again ... a civil war" (Bremer, 2006: 59). Bremer's account suggests that while Arab political leaders, whether Sunni or Shi'ite, were more pragmatic about the extent to which the Iraqi armed forces and security and intelligence apparatus should be dismantled, Kurdish political leaders insisted on the complete dissolution.

Based on the scholarly literature, and also interviews conducted for this research, several arguments about this decision have been presented. According to Klein (2004), the recruiting for the resistance has always been a specialty of the Presidential envoy to Iraq: Bremer's first act after being tapped by Bush was to fire 400,000 Iraqi soldiers, refuse to give them their rightful pensions, but allow them to hold on to their weapons - in case they needed them later.

These policies have fed the country's unemployment crisis, creating far too many desperate people (Klein, 2004). While David Rieff argued that “Bremer, however, took the opposite approach. On May 15, he announced the complete disbanding of the Iraqi Army, some 400.000 strong, and the lustration of 50.000 members of the Baath Party. As one U.S. official remarked to me privately, “That was the week we made 450.000 enemies on the ground in Iraq.” The decision -- which many sources say was made not by Bremer but in the White House -- was disastrous. In a country like Iraq, where the average family size is 6, firing 450,000 people amounts to leaving 2,700,000 people without incomes; in other words, more than 10 percent of Iraq’s 23 million people. The order produced such bad feeling on the streets of Baghdad that salaries are being reinstated for all soldiers. It is a slow and complicated process, however, and there have been demonstrations by fired military officers in Iraq over the course of the summer and into the fall” (Rieff, 2003: 10).

Respondent 32, senior military officer for Operations in the Baghdad province, confirms that by saying that the decision to dissolve the army had a severe impact on many other sectors as well: this decision increased the numbers of the unemployed among the military and their families. People with experience and competence in the army became unemployed and poverty pushed them to be used by terrorists (Respondent 32). In addition, a large number of unemployed people were exploited by some political parties and organised crime, using bribes for recruitment in government departments (Al-Dahliaki, 2010; Antoine, 2017). Therefore, the decision to dissolve the army constituted the most fatal mistake by the US-led coalition.

Respondent 20, a provincial governor and member of parliament, offers a different approach the US-led coalition could have adopted:

“The coalition should have only dismissed the high-ranking commanders of the Iraqi army who were involved in criminal matters” (Respondent 20).

His argument corresponds to the policy adopted by the US in the De-Nazification process. It is therefore clear that the policy of the US-led coalition in Iraq is neither compatible with case studies discussed earlier on how to maintain security and public order in a post-conflict scenario nor in line with the successful policy previously implemented by the US itself in Germany after World War II.

Respondent 23, senior army officer in one of the Southern provinces, deliberates that the order to dissolve the army was an adverse and unfair decision taken against the Iraqi state and army:

“The Iraqi army had done its job under the Iraqi state since 1921, and it never belonged to Saddam Hussein. There is no state without an army and no army without the state. It was a planned decision to destroy the Iraqi army and stop its armament because it was highly experienced and qualified, with pilots, sailors, engineers, and others. The Iraqi army had more experience than the US army” (Respondent 23).

Respondent 32, a senior army officer at Operations in Baghdad province, further confirms that Bremer committed a double mistake by dissolving the army: his decision undermined Iraq’s security and the army’s loyalty to the state:

“Dissolving the Iraqi army was one hundred percent wrong because it had been a national army since 1921 and its loyalty was for the Iraqi state and not for Saddam Hussein. If the US had not dissolved the army with all its capabilities, no security breakdown could have occurred” (Respondent 32).

With the decision to dissolve the Iraqi army, the US-led coalition managed to destroy one of the main foundations of the modern state of Iraq that came into being in 1921.

During the war, the US planes dropped leaflets calling on Iraqi soldiers and police to surrender. In response, many threw away their military uniforms, left their units and went home. More than 400,000 troops heeded the US’ call and complied. According to Respondent 39, senior army officer in the Baghdad province:

“The US cheated the Iraqi army twice: first, when they ignored the army for several months, and second when they dissolved the army after Bremer arrived in Iraq. The police had received least attention as part of the pre-2003 security system in terms of arming, training and salary, except the highly positioned and commanders, while other security forces such as the special security and intelligence received salaries which were more than ten times that of the police. During the Second Gulf War, America used the interface to log into the police communications system and directly called on all police sectors to lay down their arms and go back to their homes” (Respondent 39).

Respondent 37 believes that the US should not have dissolved the Iraqi army:

“The coalition could have asked the Iraqi army and police to return to camps and held to account people who had a criminal record during Saddam’s period. But America went

for the decision that created a conflict in too many sectors of the Iraqi state” (Respondent 37).

Similar to the De-Baathification order, the decision to dissolve the army also affected some cities that became centres of violence, such as the city of Mosul which had a large number of army officers. According to Hashim, “Mosul was home to tens of thousands of former military personnel. They had had a good relationship with General Petraeus, but their animosity at the treatment meted out by the CPA, including the dissolution of the Iraqi army, finally led to an explosion of fury” (Hashim, 2006: 126). Dissolving the army resulted in a heavy financial burden on the state treasury because in addition to paying salaries to the old army, new non-professional people with low or no experience were recruited and paid salaries many times the amount that was paid to the old army and more than those of civilian government employees. In addition, new departments and sectors were created and thousands of unnecessary employees were recruited, further stretching the already limited resources to maintain public institutions to ensure security, peace and public order.

According to the above information, dissolving the Iraqi army and the military decisions that followed had a negative effect on Iraq: (a) reduced security, (b) loss of military experience and qualifications, (c) increase in the number of unemployed, (d) unfair salary payments in different sectors for the same position, and (e) recruitment of thousands of unnecessary employees.

7.6 Militia Merger – Coalition Order 91

This section will examine the US-led coalition’s decision, Order No. 91 issued by Bremer on 7 June 2004, regarding the merger of the militia of exiled opposition parties and groups into the Iraqi army after disbanding it. The aim is to find out whether this decision helped to build a stable state or was an extension of the coalition’s orders that fomented divisions and conflicts. The militias’ merger was a decision made by the CPA that came after disbanding the Iraqi army. Order No. 91 effectively gave authority to the political parties to recruit their militias into the security system of the state.

Berdal and Ucko argue that the US had no plan towards the building of the security system in Iraq; “US defeated the security forces of the Saddam Hussain regime and pre-existing militias that opposed it and didn’t have a strategy, beyond sheer military power, to bring disgruntled former Ba’athists, nationalists and other Sunni insurgents into the fold” (Berdal and Ucko,

2009: 109). CPA's Order No. 91 to merge the militias into the army and security forces was also a major mistake by the US-led coalition and further weakened the security system in Iraq. Respondent 39, senior army officer for the Baghdad Council, confirms this:

“We know that most of the political parties came from abroad and had no militia. Only the Badr organisation, which is allied with SCIRI [Supreme Council for the Islamic Revolution in Iraq], has a militia in accordance with this law (Order No. 91) and recruited many of its people into the security system, as well as the Kurds. Other political parties, however, tried to create a militia in the security system to benefit from this law” (Respondent 39).

The reason behind this decision by the CPA to include party militias into the security system is not clear, in particular as it helped especially SCIRI, a political alliance of Shi'ite Islamic parties supported by Iran, to gain more power over other Shi'ite parties. Visser (2010) mentions this by asserting: “I argued, Washington was performing a great disservice to itself by perpetuating SCIRI's privileged status as the main Shiite interlocutor with the outside world. In particular, I tried to emphasize that there were a wide range of parties inside the UIA – such as Daawa, the Sadrists, and Fadila –that had historically been less inclined than SCIRI to cooperate with Tehran and that the failure of the U.S. to engage with such parties would inevitably push them into Iranian arms, the historical record of mutual antagonisms notwithstanding” (Visser, 2010: 46). Amitai Etzioni argues that the militia merger increased the sectarian and ethnic divisions in Iraq: “we need an approach based on reality, one that tailors the institutions of the state to fit the sociological reality on the ground rather than trying to force that reality into an imported and pre-cut outfit. Unfortunately, a major example of this highly unrealistic approach is the continuous attempt to convert the Iraqi militia (or Afghanistan's warlord armies) into unified national forces. This is highlighted by the folly of deliberately positioning Iraqi Shi'a militia as security units in Sunni areas and vice versa – ostensibly to build up their national identification and loyalty. The fact of the matter, though, is that the first and foremost loyalty of most Iraqis is to their ethno-religious community, not to their state” (Etzioni, 2007: 44).

The militia merger order caused many problems during its implementation. Respondent 28, senior officer at Baghdad police, argues that the merger of militias into the Iraqi armed forces and security systems was a disastrous decision, outlining its four negative consequences:

“First, it recruited inexperienced people with just a few weeks training. Second, they were expected to serve the interests of the party or the person who recruited them and allowed them to reach high positions and ranks. Third, a lot of the members of the militias were illiterate and had no qualifications, not even a primary school certificate. Fourth, their salary is mostly much higher than any other salary in the Iraqi government and is a heavy financial burden for the state of Iraq” (Respondent 28).

Therefore, the US-led coalition re-militarised the state by creating several institutions within the new military and security sectors. The merging of Shi’ite and Kurdish militias into the Iraqi army and police was followed by a merger of Sunni militias as well. All these systems and sectors were useless due to the lack of experience, co-operation and co-ordination. Respondent 37 confirms that the militia merger order affected the security sector negatively, but explains that it less effect on the Department of Transport and its institution compared to institutions affiliated to the Departments of the Interior and Defence:

“They gave them exclusive jobs on the street rather than making them major decision-makers as they had no experience. The persons who possessed higher positions were more qualified and experienced, like the infiltrator. All this caused a considerable distribution in the work of the security departments. People who work in security departments should have more qualifications in comparison to other government departments as they are expected to maintain trust and confidentiality. In addition, they should have knowledge of various subjects such as psychology and sociology, as well as the practical experience to be able to succeed in their security job. This could not be achieved through the militia merger people” (Respondent 37).

According to Respondent 31, the militia merger order by Paul Bremer further confounded the security system in Iraq:

“I know a person who has lived all his life as a carpenter, and after the war he joined one of the political parties and put his name on the militia merger list and became a colonel in the police force within few days, which would normally require 14 years of service for academically qualified people. Now, he is working as a director in the emergency department and is responsible for 15 police centres without knowing anything about police work. On the other hand, policemen who have real experience and are qualified have been sitting in their homes with no job because of the US’ unfair

decision. There are thousands of examples like this of people who are currently working in the security system” (Respondent 31).

Respondent 32 agrees with this assessment:

“The replacement of the old army by inexperienced people, and the incorrect handling of Iraqi army equipment by the US authorities had a disastrous effect on the security of Iraq” (Respondent 32).

Finally, Respondent 23, officer in the army in one of the southern provinces, mentions the power that the US-led coalition gave to the political parties, through this decision, over the building a unified nation-state:

“The US allowed the political parties to have their own militias within the state when they issued the militia merger law and instigated sectarianism within the security system. For example, the ports of the state are controlled by militias and gangs that get support from some political parties in order to use the income to support the party and its militia” (Respondent 23).

It has been shown that the complete dissolution of the Iraqi army and the former security and intelligence apparatus led to a complete collapse of public order and opened the country’s borders for foreign militants, terrorists and organised crime. In order to re-militarise Iraq, the US-led coalition encouraged the creation of party-based ethnic or sectarian militias with the aim to integrate them into the security apparatus of the new Iraqi state. However, not only allowed this decision to include incompetent and inexperienced staff to be responsible for public order and security – who were as a consequence often not able to respond to the insurgent violence, it also further cemented sectarian divisions, reified by the political structures of the new Iraqi state, as members of these militias were primarily loyal to their political party or group representing a particular ethno-sectarian community and not committed to the security and defence of the Iraqi nation-state as a whole. Hence, the re-militarisation of Iraq and the re-establishment of the police, security and intelligence apparatus undermined successful state-building as involved actors were not really committed to the state-building process but pursued partisan interests as outlined above.

7.7 Saddam`s Trial

This section will examine the effect of Saddam`s trial on Iraq`s security and the divisions caused by the US-led coalition authority. Saddam Hussein was put on trial for the killing of 148 people, mostly from the Shi`ite population in the town of Dujail in 1982 (Dodge, 2005: 16). Other similar trials on genocide and other atrocities committed by authoritarian regimes in the past included a much broader charge. In Nuremberg, senior Nazis were accused of murdering more than six million Jews and other minorities. In Cambodia over two million citizens were annihilated in Pol Pot`s extermination camps. In Rwanda, 800,000 Tutsis were killed by machete-wielding Hutus (Newton and Scharf, 2008: 216).

Similarly, Saddam Hussain had been accused of genocide with respect to the mass murder, such as the Al-Anfal Campaign when he used chemical weapons against Kurds in 1988, the campaign against the southern Marsh Arabs, the invasion of Kuwait in 1990, the execution of members of the Baath party who objected to his seizing power of the party and becoming President in 1979, the execution of Iraqi traders in 1992, the cutting off of nose, ear, tongue and hands as a punishment for various reasons, and many other infamous criminal acts which led to the death of hundreds of thousands of people. However, the Dujail trial involved at the most a few hundred victims, and his execution at the end of the trial ensured that he would never be convicted for those far more significant crimes (Dodge, 2005: 16, Newton and Scharf, 2008: 216-217). Therefore, the question that arises is – why only this case when there were other criminal acts, under the international law, that were committed by Saddam?

Arnold (2012) argues that Saddam`s trial lacked “a jury of Saddam`s peers to decide his fate made the trial unfair. Human Rights Watch, an organization that had been a constant Saddam critic, sharply criticized the trial”. The video of Saddam`s execution “appeared on the internet. It showed Shiite prison guards mocking Saddam as he prayed in the moments before his death” (Arnold, 2012: 135). The trial bears a striking resemblance to the show trials Iraqis saw when Saddam Hussain was in power. The trial occurred in a context when most Iraqis were more focused on the escalating sectarian violence and the growing fear that Iraq was on the brink of civil war (Okeke-Ibezim, 2006: 91). Focussing just on Saddam`s role in a massacre of a Shi`ite village reduced the scope of his charge from a tyrant responsible to major atrocities against broad segments of Iraqi society (Newton and Scharf, 2008: 1-219) to one particular incident and gave the trial a sectarian flavour: Saddam could be presented as the victim of a sectarian Shi`ite government taking revenge on a former ruler of Iraq who is a Sunni (Siddig, 2007).

This perception further stirred the sectarian conflict between Sunnis and Shi'ites at a time of heightened tension not only inside Iraq but also in most of the Sunni dominated countries and stirred up hostility against Iraq's new government in the wider region.

The Dujail case was a very small and limited case which was unknown to most Iraqis and the world. Furthermore, it gave the impression that Saddam, a Sunni, acted against Shi'ites who had planned his assassination. The US-led coalition should have included many other criminal cases against Saddam Hussein which had been documented and openly acknowledged and condemned by the international community, such as the use of chemical weapons and mass killings against his own people, the invasion of Kuwait in 1991, etc.

In Germany, the format of the punishment of Nazi war criminals was agreed during World War II, in 1942, and the United Nations War Crimes Commission started collecting and evaluating evidence about a list of Nazis responsible for perpetrating war crimes. The Nazi leaders' trials in Nuremberg, headed by the US, were seen as trials of justice over crimes against humanity and, not of the victors over those defeated in war (Spitz, 2005: 23-26). In Iraq, however, the US refrained from any involvement in Saddam's trial, which appeared as a trial by Shi'ite victors and a vengeful act over the defeated Sunnis, supposedly represented by Saddam. This further contributed to deepening the conflict and divisions between the Sunnis and Shi'ites in Iraq and the wider region.

Rizgar Amin, the chief judge who presided over Saddam's trial, also played a role in this particular perception of the trial. Rizgar, who was replaced after several months of the trial, hailed from the Kurdish Islamic movement and believed that the Muslim leader should face no trial, under any circumstances, based on an Islamic idea that Muslims must obey a Muslim leader even if he is unjust. For Rizgar, it was impossible to put a Muslim leader to trial as it has never happened before in Islamic history. This attitude by Rizgar empowered Saddam's position during the initial trial proceedings. The day chosen for the execution of Saddam was also increased tensions in Iraqi society and across the wider Muslim world because it was carried out on one of the important days of the Islamic calendar, Eid al Adha, a major Muslim holiday to celebrate the conclusion of the annual pilgrimage to Mecca (Kelly, 2008: 1-3; Respondents 8, 10).

Based on the data collected in this section, from the interviewees and the literature, it is evident how the trial, its proceedings and timings further fuelled sectarian tensions and violence in Iraq:

First: selecting a particular atrocity and disregarding all the others gave the trial an unintended sectarian dimension. It divided the Iraqi people and was presented as the case of a Shi'ite sectarian government taking revenge at the former Sunni dictator of the country rather than Iraqi society holding its former dictator to account for his various atrocities against all segments of Iraqi society. *Second:* the trial provided Saddam with a public platform and encouraged him to send messages during the trial to his supporters to intensify the violence in Iraq. The trial proceedings were indeed followed by a rapid increase in sectarian violence. The trial was public and lasted for around two years (Dodge, 2005: 16), hence extending its impact on stirring sectarian tensions.

The case which was selected to try Saddam, the selected judge, the manner of the trial and the day of his execution all encouraged violence in Iraq. Thus, Saddam's trial can be added to the chain of US policies that undermined the security of Iraq and contributed to the failure of Iraq's nation-building rather than establishing stability. As other examples discussed in Chapter Three illustrate, effective justice is crucial in democratic nation-state building after the end of an authoritarian regime or civil discord or war. The Truth and Reconciliation Commission in South Africa intended to reveal atrocities of all involved actors during the apartheid regime but was meant to be inclusive and based on the notion of forgiveness rather than revenge, emphasising restorative over retributive justice. While the South African model has been adopted in many other post-authoritarian and post-conflict settings, it was certainly not appropriate in the Iraqi context given the severity of Saddam's atrocities which included the use of chemical weapons and the systematic extermination of opponents – real or perceived – to his regime. The Nuremberg model of retributive justice was more appropriate in his case.

However, as discussed above this model was not implemented entirely by the US-led coalition; charges were reduced to a single incident, the trials provided a problematic platform for Saddam and allowed him to appear as a victim and was increasingly perceived as the act of vengeance of a Shi'ite sectarian government. An opportunity to forge a sense of national unity by trying Saddam for his atrocities against all Iraqi people, whether Shi'ites, Kurds, Sunni Arab tribes or members of his party was thereby undone. Perhaps the approach taken in dealing with war crimes committed in former Yugoslavia would have been more successful. Rather than the new government, the international community in form of an international tribunal is in charge of delivering justice ensuring impartiality and transparency.

7.8 The Impact of Reduced Security on Iraq`s Nation-Building

Nouri al-Maliki, the former Iraqi Prime Minister, said during his interview with Al-Sumerian TV that most of the government's resources flow into resolving the security issue (Al-Maliki, 2011a). Security would allow the state to deliver services to the public, develop the economy and promote investment, while the loss of it would make it impossible to provide that (Al-Maliki, 2009). The US-led coalition did not support the rebuilding of Iraqi security sectors (Allawi, 2011). Moreover, the US which, as occupying power, was directly responsible for the Iraqi security sector until the end of 2009 (Al-Askari, 2012; Al-Polani, 2011) refused to provide proper training for the Iraqi security forces out of fear that properly equipped and trained they might pose a threat to the American forces stationed on the ground (Al-Askari, 2012). This was confirmed by the US Inspector General's report: "a transition team assessment report delivered to the Secretary of Defense on 23 June 2004 – five days before Iraq assumed full sovereignty – showed that just six of the present Iraqi Police Service members had completed a police academy programme. The report concluded that if this number did not at least triple by the end of the year, the newly sovereign Iraq would be at high risk. The Iraqi security forces were also poorly equipped. Despite the new IRRF 2 appropriations for security, contracting delays caused serious shortages in weapons, vehicles, body armour, and communications equipment" (Bowen, 2009: 135). Therefore, this weakness in the Iraqi security sector had a negative impact on the state which had to counter a rising terrorist insurgency on a day-to-day basis.

Respondent 18, senior advisor to a governor in the South of Iraq, makes the following observation on the malfunctioning of both the judiciary and the security services in responding to the worsening security situation:

"The judiciary and the security system encouraged the growth of criminals and terrorists in Iraq because of the high level of corruption in these institutions. There have been many cases where terrorists and criminals had been arrested with all the evidence. However, they were released – while in detention with the police or when the cases reached the court – either through bribes or by threats. This caused distrust among the Iraqi people and led to a lack of cooperation with the security services. In fact, there are many cases when people who provided information to the security services were killed or threatened by the terrorists. The instances of the release of terrorists and criminals, as well as corruption, were started by the US and by the officials who were recruited by the political parties that were supported by the US. For example, the Directorate of

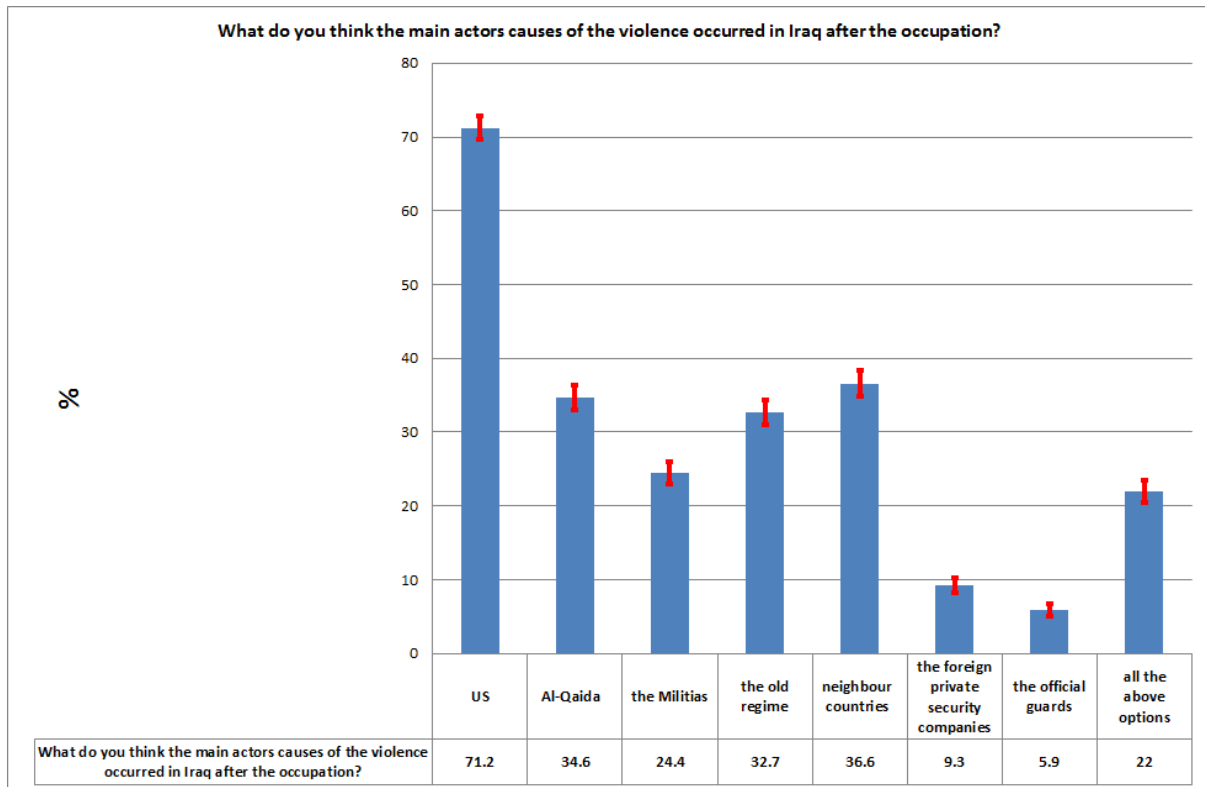
Internal Affairs is a unit with supervisory responsibility to control, monitor and account for the functioning of the police services. However, the corruption in the directorate is greater than in other departments, and has become the chief source of corruption in the ministry. They arrest the honourable and support the corrupt, including punishing the officers who do not pay the required bribes” (Respondent 18).

The following table presents the results of a survey about what the participants of the survey believe to be the main actors that caused violence and the reduction of security in Iraq:

Table 37 Who do you think are the main actors that caused the violence which occurred in Iraq after the occupation?

| | Number | Population | Percentage | LL 95% CI | UL 95% CI |
|------------------------------------|--------|------------|------------|-----------|-----------|
| US | 2190 | 3075 | 71.2 | 69.6 | 72.8 |
| Al-Qaida | 1065 | 3075 | 34.6 | 33 | 36.3 |
| Militias | 750 | 3075 | 24.4 | 22.9 | 25.9 |
| Old regime | 1005 | 3075 | 32.7 | 31 | 34.4 |
| neighbouring countries | 1125 | 3075 | 36.6 | 34.9 | 38.3 |
| Foreign private security companies | 285 | 3075 | 9.3 | 8.3 | 10.3 |
| Official guards | 180 | 3075 | 5.9 | 5.1 | 6.7 |
| All the above options | 675 | 3075 | 22 | 20.5 | 23.4 |

Figure 16 Who do you think are the main actors that caused the violence which occurred in Iraq after the occupation?



The respondents’ views on the main actors that caused violence in Iraq after the occupation are given in Table 37 and Figure 16. The questionnaire provided an option of eight answers of which more than one could be selected. The respondents identified the US major culprit for the rise of violence (71.2%). The second level of actors chosen by respondents includes neighbouring countries (36.6%), Al-Qaida (34.6%), the old regime (32.7%) and militias (24.4%). These results mirror also the responses given during the individual in-depth interviews with relevant stakeholders in the public who similarly bestow primary responsibility for the worsening situation to the US and the coalition authorities in Iraq.

The second survey question was – “Do you think that the government is able to protect and provide security for you and for your family”?

Table 38 Do you think that the government is able to protect and provide security for you and for your family?

| | Number | Population | Percentage | LL 95% CI | UL 95% CI |
|--------------|--------|------------|------------|-----------|-----------|
| Yes | 729 | 2916 | 25 | 23.5 | 26.6 |
| No | 1863 | 2916 | 63.9 | 62.1 | 65.6 |
| I don't know | 324 | 2916 | 11.1 | 10 | 12.3 |

Figure 17 Do you think that the government is able to protect and provide security for you and for your family?

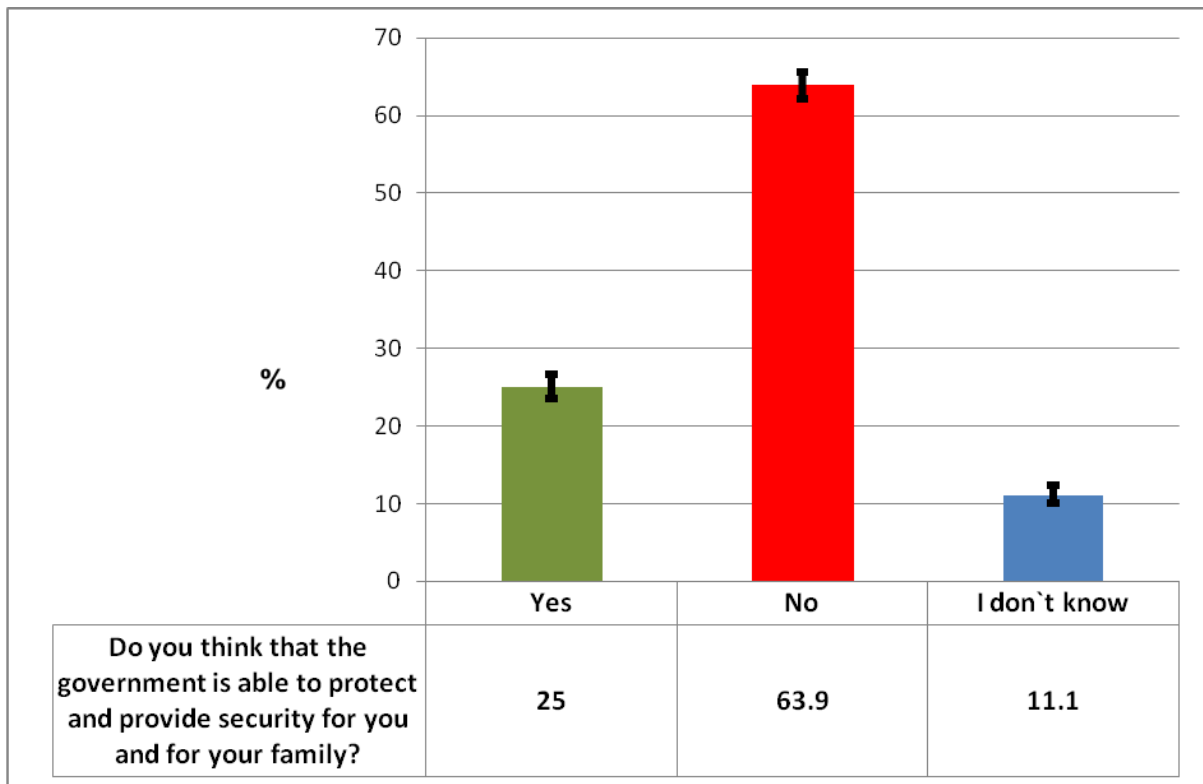


Table 38 and Figure 17 show the respondents' views on the ability of the security services to provide protection for society. It can be seen that most respondents (63.9%) do not believe that the security services can provide protection, compared to (25%) Therefore, the results demonstrate that most of the people do not believe in the ability of the government to provide security to the country. This means the people believe that they are living in an insecure

situation and the government is unable to fulfil its in making them feel secure in light of the terrorist insurgency.

7.9 Conclusion

In general, the US-led coalition failed in its responsibility as the occupying power to provide security in Iraq. In addition to not sending enough troops to maintain control and secure the borders, which caused major conflicts in Iraq, coalition authorities undermined the state by creating several bodies and institutions within new military and security sectors, such as the armed forces, federal police, local police, FPS security, intelligence systems, tribal supporting councils, different security services and Baghdad security operations. Shi'ite and Kurdish militias were merged into the Iraqi army and police, followed by a merger with Sunni militias. All these security organs proved to be ineffective due to the lack of experience, lack of co-operation and co-ordination between various sectors and the widespread possession of arms by the people in the country. Arms despots which belonged to the Iraqi defence and interior ministries were left open to theft and looting after the end of the war. Furthermore, Iraqis who possessed light weapons were not prosecuted because they did not constitute a threat to American troops. This had serious repercussions later on, damaging and weakening security.

The approach adopted by the US-led coalition to ensuring security in Iraq stands in marked contrast to the experience in Bosnia and Herzegovina which similar to Iraq emerged out of an experience of ethno-sectarian discord and conflict. However, in the case of Bosnia and Herzegovina the military presence of the international community was significantly higher and therefore in a much better position to ensure security than the insufficient military resources that were put in place in Iraq. In the case of Bosnia and Herzegovina, a plan was established from the very beginning to pacify relations between the different ethno-sectarian communities and to establish a national army that overcomes ethno-sectarian differences. In Iraq, in contrast, ethno-sectarian tensions were further enshrined in the political system and in the security apparatus by using militias based on ethnic background and sectarian allegiance to re-build the country's security apparatus.

The US restructured the security system in Iraq and relied mainly on the old regime's system when the violence started. The US kept silent regarding organised killings, kidnappings and assassinations of Iraqis, especially scientists, doctors, professors and other highly qualified and

experienced people. There was relatively little violence during the first year after the war, but the decisions and policies taken by the US created conditions conducive to violence. The absence of punishment for terrorists and criminals by the US and Iraqi politicians encouraged the violence. Corruption and bribes in the recruitment for the security services allowed unreliable people to hold important positions and undermined the state.

The US had responsibility for what happened in Iraq after the war as the occupying power with overall control of Iraq. Accordingly, it should have closed all borders, maintained security and prevented terrorist suspects entering Iraq. Iraq's borders were left open to terrorist organisations such as Al-Qaida and to drug smuggling, and there was no police to take action, and no procedure established or authority identified to gather information and intelligence and to initiate prosecution. Thus, the security system in Iraq failed. It caused massive destruction in all state sectors and prevented the country from developing. The lack of an effective national security system, and of the capacity to provide oversight of the security sector, meant the absence of one of the cornerstones of state-building, thus leaving Iraq a failed state.

Chapter Eight: Conclusion

The aim of the thesis was to explain the reason for the failure of the post-Saddam Iraqi state after the 2nd Gulf War and the US occupation in 2003. The main argument of the thesis is that the policies implemented by the US-led coalition from 2003 onwards not only failed to facilitate the successful transition of Iraq from an authoritarian to a democratic state but ultimately undermined a potential successful transition to a stable democracy. The research is based on the results of an extensive national survey, a significant number of individual in-depth interviews with relevant stakeholders across the public sector in Iraq and archival documents and adds thereby new data and insights from the wider Iraqi public and – most importantly – from influential stakeholders in Iraqi society to relevant academic studies. Using this additional and comprehensive data, the thesis has also extensively discussed the way that the US-led coalition built the new Iraq and changed the hierarchal structure of the state after the 2003 war and occupation. It has focussed in particular on US civil administrator Paul Bremer's directives issued under the rule of the occupation authority, the Coalition Provisional Authority (CPA). Furthermore, the thesis contributes to current research on post-Saddam Iraq by fully engaging with current theories and case studies in nation-state building processes and applying these theories and experiences to the Iraqi case in order to identify the reasons for the failure of nation-state building in Iraq after 2003. Establishing first the factors that lead to successful nation-state building and using the examples of particularly successful case studies, the thesis has investigated to what extent these factors and their underlying policies have been implemented in post-2003 Iraq. By comparing and contrasting the policies implemented by the US-led coalition, the thesis has examined how successful the nation-state building process has been in Iraq. The thesis thereby has considered particular areas crucial in terms of building stability and peace in a post-authoritarian and post-conflict scenario.

As discussed in Chapter Two, nation-state building is based on specific principles including security, political and economic stability, infrastructure development, the formation of state institutions and services, among others. It requires rebuilding bonds, trust and confidence, and enabling engagement between the state and its citizens, and between different sectors of the state institutions. A vital principle is that this process should be based on the people's culture rather than being imposed from outside. In addition, there has to be a clear strategic plan for building the state, as was the case when the Iraqi state was established by the British in 1921.

The US, however, failed in Iraq to follow the precepts for nation-state building established in academic literature or international institutions, as well as the successful examples of nation-state building in Germany and Japan after World War II.

How nation-states are successfully rebuilt after the collapse of an authoritarian regime or the end of civil discord or war was further exemplified by investigating in detail three case studies: Poland, South Africa and Bosnia and Herzegovina. All three states underwent significant transitions in the late 1980s and early to mid-1990s coming out of authoritarianism or civil war. Despite the shortcomings in the processes of nation-state building in all three countries, they have been rather successful in achieving a transition to democracy. Their success was built on a commitment of relevant political actors to a democratic reconstruction of the country, the pursuit of a politics of national unity, functioning models of power-sharing governance, functioning models of post-conflict justice and reconciliation and an active involvement of the international community and its serious commitment to peace, security and stability of these countries. The following chapters of the thesis have tested to what extent these factors played a role in the nation-state building process in Iraq post-2003.

Chapter Four has illustrated that the primary motivation of the US to topple Saddam's regime and to occupy Iraq was the expansion of its hegemonic power both in the Middle East and globally after the end of the Cold War. As the rationale for the US occupation were determined by geopolitical factors first and foremost, the US-led coalition authorities did not invest sufficient political and economic capital into Iraq to rebuild its infrastructure, reconstruct state institutions, ensure security and public safety and facilitate economic development. As a consequence of the war and the half-hearted effort of the US to rebuild Iraq, public services collapsed and the security situation deteriorated turning Iraq into a failed state.

The nature of the political system established in Iraq post-2003 is further discussed in Chapter Five. The CPA's decision to create the Governing Council (GC) on an ethno-sectarian basis deepened sectarian divisions and caused a major conflict between Sunnis and Shi'ites while benefiting the Kurds. Sectarian strife, which is the main conflict that has plagued Iraq since 2003, was caused by this decision. The creation of the GC laid the basis for the ethno-sectarian quota political system which has continued since then with disastrous consequences for the Iraqi state. The exclusion and marginalisation of the old Baathist political was perceived by Arab Sunnis as disguised anti-Sunni sectarian politics and as an effort to deliberately exclude them from power. The special status given to the Kurdistan Region and the political sway

Kurdish political authorities and actors hold in current Iraq also furthered the territorial fragmentation of the Iraqi state. Hence, rather than fostering a discourse of national unity a political system was established that reified, and indeed amplified, ethnic and sectarian discord undermining the stability and territorial integrity of the Iraqi state.

Part of successful transitions from post-authoritarian and post-conflict scenarios to stable democracies is the Constitutional process leading to laying new legal foundations for the new nation-state, as the experiences of Poland, South African and to some extent also Bosnia and Herzegovina illustrate. Chapter Six has investigated the new Iraqi Constitution and the process of its formulation and implementation. The new Iraqi Constitution could not serve as a stable constitutional and legal foundation for the new nation-state: it was composed and implemented in a haste without proper consultation of relevant stakeholders. Furthermore, the text of the Constitution is replete with ambiguities contributing further to legal uncertainties. The CPA's policy also included reconstructing the judicial system and creating independent institutions and commissions that lacked proper regulations for their roles and also lacked co-ordination with other state institutions. This led to further weakness of the state and government.

Chapter Seven has shown that the US-led coalition failed to provide security in Iraq, while this should have been its main responsibility as the occupying power. It undermined the state by creating several bodies and institutions within new military and security sectors. In addition, Shi'ite and Kurdish militias were merged into the Iraqi army and police, followed by a merger with Sunni militias. The US also failed to send sufficient troops to maintain control and secure the borders. Opening the borders meant free movement into Iraq for terrorists, as well as importing goods without paying any taxes or customs which negatively impacted upon Iraqi industries and economy. There was relatively little violence during the first year after the war, but the decisions taken by the US created conditions conducive to violence. The US also relied mainly on members of the old regime's security system when the violence started. Corruption and bribes in the recruitment for the security services also allowed unqualified people to hold important positions and to undermine the nascent state apparatus. The failure of the security system caused massive destruction in all state sectors and prevented the country from developing. This meant the absence of one of the cornerstones of state-building: public safety and security in order to allow political institutions to develop and the economy to recover.

The thesis set out to investigate a number of research questions, the first of which was to examine the policies that lead to successful nation-state building in post-conflict or post-

authoritarian scenarios. Academic literature and theories – discussed in Chapter Two - as well as the examples of Poland, South Africa and Bosnia and Herzegovina – examined in Chapter Three - suggest that the process of nation-state building is an integrative process consisting of various factors that need to be in place for nation-state building to be successful. The omission of any factor will affect and jeopardise the success of nation-state building. However, in any process of nation-state building, as the fairly positive experiences of Poland, South Africa and Bosnia and Herzegovina have shown, it is necessary to the particular historical, social, political, economic and cultural context of that country and to adapt processes of nation-state building to this particular context. Nation-state building policies need to be contextualised and cannot be imposed based on experiences of other countries which are taken as paradigmatic and applied to diverse national contexts. Only then can political stability, public security and economic reconstruction fully function.

Academic research, including the work of Koller (2009), has emphasised the centrality of –re- building a political process that is inclusive, transparent, based on clear constitutional and legal principles and underpinned by the will and commitment of the involved political actors to ensure stability and to facilitate successful nation-state building. The new political elite, emerging in the process of re-building the nation-state after the end of authoritarian rule or civil conflict and discord, needs to be willing not only to share power among themselves but implement the rule of law and democratic participation in order to counter a further sense of political exclusion triggered by a perception that the new political elite is detached from the realities on the ground. Furthermore, economic stability and progress are vital for successful nation-state building in order to ensure that sufficient employment opportunities are created to further stabilise the country and to prevent instability as a result of young people in particular being drawn into crime, violence and terrorism.

The three countries discussed as case studies and reference points have been almost fully integrated in the process of state-building (despite some obstacles, they have, in general, overcome internal conflicts and divisions and engaged in a democratic process that attempts to be inclusionary). Despite challenges within these countries such as recent attempts in Poland to undermine the independence of the judiciary, corruption and persistent poverty in South Africa or the ethno-sectarian segregation of Bosnian society, overall all three countries managed to overcome or deal with internal conflicts in a peaceful manner, using democratic principles and decision-making processes, working within the institutional parameters of the state and not questioning its overall institutional and territorial integrity. All three countries

succeeded in building stable countries providing political stability, public security, economic development and the infrastructure to run the state. Poland managed to overcome a communist dictatorship and prevented a division in the country between the old and the new order by implementing a constitution that ensured national unity. South Africa has succeeded in overcoming apartheid and integrating the former and current political regimes in the process of nation-state building, both constitutionally and institutionally. Bosnia and Herzegovina, in spite of its history of a fierce and bloody ethno-sectarian conflict and severe religious and national differences, has established a political framework that allows the different religious and ethnic communities of the country to co-exist peacefully within a framework of a state that functions democratically, includes an independent judiciary and provides infrastructural services for the welfare of society.

The second research question posed at the start of the thesis examines to what extent the aforementioned policies of successful nation-state building were implemented by the US-led coalition after 2003. The third research question investigates how the realities of nation-state building in Iraq compare to the policies leading to successful nation-state building in other contexts. As examples of reasonably successful nation-state building, Poland, South Africa and Bosnia and Herzegovina illustrate two important factors leading to stability and success: united international support as well as support of neighbouring countries (to ensure regional stability). In all three case studies, it was observed how the nation-state was built through an extensive discussion of the Constitution, institutional building, the passing of laws, the extension of state authority, and the successful implementation of checks and balance to delimit the power of new political elites. These factors were, however, missing in the Iraqi situation where the US-led coalition, with its decision to invade Iraq, pursued a highly controversial policy polarising the international community in supporters and opponents. In addition, the US' pro-Israeli stance and its history of neo-colonial interventions in the region – which were often quite explicitly justified by the necessity to ensure access to the region's oil reserves – has antagonised the population in most countries in the Middle East and the wider Muslim world against US policies in the region and its underlying motives and goals. Finally, establishing a political process based on ethno-sectarian divisions concentrated political power on Shi'a political actors and granted significant autonomy and influence to Kurdish actors, thereby marginalising Iraq's Sunni population which has been posed against the political order in Iraq and received moral and political support from Iraq's Sunni neighbours as well as a consequence. These developments and a number of other decisions, discussed in this study,

caused the outbreak of violence and political conflicts which ultimately have led to the failure of nation-state building in Iraq.

Ultimately, the thesis posed the question of how successful the process of nation-state building has been in Iraq post-2003. As the thesis illustrates, Iraq cannot be considered an example of successful nation-state after authoritarianism and conflict. While the old authoritarian regime and its ideological sources and state apparatus was successfully dismantled in the wake of the US-led invasion of the country, a new nation-state – stable, secure and prosperous – was not created. Ethno-sectarian conflict dominates the political landscape of Iraq, undermining its security, stability and territorial integrity; political decision-makers are not held sufficiently accountable with corruption endemic in the various branches of the state and its institutions; the Constitutional basis of the new state is too weak and contradictory undermining the implementation of the rule of law and the creation of an independent functioning judiciary.

The research questions focus on the nature of the US-led coalition's plans for nation-state building and a democratic system in post-Saddam Iraq after the war and occupation in 2003 and examine the main obstacles to this process and its consequences that led to an unsuccessful attempt of nation-state building in Iraq and ultimately to a failed state. Contrary to the US-led coalition's declared aims of re-building Iraq as a free democratic state, this thesis has argued that Iraq has become a failed state because foundational elements that are necessary for the nation-building process to succeed, were clearly absent in the US-led coalition's plans and policies implemented post-2003. What prospects are there at the moment for Iraq's future? Given the central role the international community has played in pacifying and stabilising transitional countries like Bosnia and Herzegovina, it will come down to a joint effort of international actors realising that further instability in the region, caused by Iraq being a failed state, is not in their interests:

- The rise of ISIS has most markedly show how the collapse of security and weak and inefficient security forces not only allow such a group to take ground in Iraq but also affect the security situation globally. The international effort to fight ISIS as a response illustrates that international cooperation – even among political actors on different sides of the geopolitical divide – lead to success and is the only path to further stabilising Iraq.
- The prospect of Kurdish independence further threatens to undermine the territorial integrity of Iraq. Yet, an independent Kurdish state might not be in the strategic interests

of Iraq's neighbouring countries given the strong Kurdish minorities in Turkey, Iran and Syria. As such, the reality of Kurdish independence might trigger a stronger intervention of the international community to reform the current ethno-sectarian system in Iraq to prevent the eventual break-up of the country which would have catastrophic consequences for both the region and globally.

Ultimately, Iraqi political actors themselves need to foster a new ideological discourse that overcomes the ethno-sectarian divisions of the country. The cases of Poland and South Africa have illustrated that re-inventing nationhood that reflects new democratic principles and is inclusive is key to a successful transition to democracy. However, as the case the of Bosnia and Herzegovina illustrates, successful state-building, in terms of a public security, functioning state institutions delivering public services and a reliable and legitimate system of governance that instils confidence of the population is crucial to ensure that a state does not fail. Once these conditions are met in Iraq, Iraqi political actors are in a position to re-think what a democratic and pluralistic Iraq that recognises and respects the ethnic and religious diversity of the country should look like.

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Appendix 1: In-Depth Interviews

| No | Interviewee's Alias | Age (Y) | Gender | Occupation | Meeting Date | Location |
|----|---------------------|----------|--------|---|------------------|---------------------|
| 1 | Respondent 1 | 36 | Male | Police officer in Babylon province | 17 March 2011 | Al-Musayyib |
| 2 | Respondent 2 | late 50s | Male | Former government minister | 04 October 2011 | Baghdad, Green Zone |
| 3 | Respondent 3 | 51 | Male | Specialist in general surgery | 07 March 2011 | Basra |
| 4 | Respondent 4 | 32 | Female | Office of advisors | 30 August 2010 | Baghdad, MOC |
| 5 | Respondent 5 | 42 | Male | Baghdad Province Operations | 28 June 2010 | Baghdad |
| 6 | Respondent 6 | 83 | Male | Former government minister | 18 November 2010 | Baghdad |
| 7 | Respondent 7 | 58 | Male | Senior position in Iraqi Telecommunications and Post Company | 08 April 2010 | Baghdad, |
| 8 | Respondent 8 | 69 | Male | Government advisor | 12 November 2010 | Baghdad |
| 9 | Respondent 9 | 42 | Male | director of government agency | 24 March 2011 | Nasiriya |
| 10 | Respondent 10 | | | PhD in Electrical Engineering; Supervisor in different universities | 20 February 2011 | London |
| 11 | Respondent 11 | 58 | Male | senior position in provincial health department | 23 March 2011 | Al-Nasiriya |
| 12 | Respondent 12 | 38 | Male | senior position in Office of the Inspector General | 01 March 2011 | Wasit |
| 13 | Respondent 13 | 42 | Male | senior position in government ministry | 14 October 2010 | Baghdad, MOC |

| | | | | | | |
|----|---------------|----|--------|---|-----------------|-------------|
| 14 | Respondent 14 | 46 | Male | Legal Department in the Institution of Political Prisoners | 17 June 2010 | Baghdad |
| 15 | Respondent 15 | 58 | Male | Iraqi ambassador | 18 March 2010 | Baghdad |
| 16 | Respondent 16 | 38 | Female | advisor to government ministry | 26 April 2010 | Baghdad |
| 17 | Respondent 17 | 56 | Male | Member of the Basra Governorate Council | 26 March 2011 | Basra |
| 18 | Respondent 18 | 52 | Male | Advisor to the Governor of Basra | 27 March 2011 | Basra |
| 19 | Respondent 19 | 61 | Male | senior position in Southern Oil Company | 09 April 2011 | Basra |
| 20 | Respondent 20 | 59 | Male | provincial governor; member of parliament | 11 April 2011 | Basra |
| 21 | Respondent 21 | 62 | Male | university dean | 31 March 2011 | Basra |
| 22 | Respondent 22 | 63 | Male | Former provincial governor | 12 April 2011 | Basra |
| 23 | Respondent 23 | 57 | Male | Iraqi Army, served in South provinces | 04 March 2011 | Basra |
| 24 | Respondent 24 | 56 | Male | Planning Sector in the Governorate of Basra, Department of the Ministry of Municipalities | 05 April 2011 | Basra |
| 25 | Respondent 25 | 58 | Male | senior position in Customs in the Southern Region | 06 April 2011 | Basra |
| 26 | Respondent 26 | 59 | Male | university dean | 29 March 2011 | Basra |
| 27 | Respondent 27 | 60 | Male | university dean | 22 March 2011 | Al-Nasiriya |
| 28 | Respondent 28 | 46 | Male | Police Baghdad | 20 April 2010 | Baghdad |
| 29 | Respondent 29 | 58 | Male | Baghdad Province Transport | 20 October 2010 | Baghdad |

| | | | | | | |
|----|---------------|----|------|---|------------------|---------------------|
| 30 | Respondent 30 | 62 | Male | Political prisoner during Saddam's regime | 02 June 2010 | Baghdad |
| 31 | Respondent 31 | 43 | Male | Information Centre | 12 May 2010 | Baghdad |
| 32 | Respondent 32 | 57 | Male | Operations in Baghdad province | 05 July 2010 | Baghdad |
| 33 | Respondent 33 | 47 | Male | Fifth Brigade of the Federal Police in Baghdad province, Saydia County, Baghdad province. | 24 August 2010 | Baghdad |
| 34 | Respondent 34 | 60 | Male | Formerly with senior position in the National Investment Authority | 29 May 2010 | Baghdad, Green Zone |
| 35 | Respondent 35 | 61 | Male | university president | 03 April 2011 | Basra |
| 36 | Respondent 36 | 62 | Male | Member of the Board of Trustees in the Iraqi Media Network | 23 November 2010 | Istanbul |
| 37 | Respondent 37 | 64 | Male | Iraqi Public Transport | 21 July 2010 | Baghdad |
| 38 | Respondent 38 | 29 | Male | Affairs Officer in the Information Centre, Baghdad | 13 May 2010 | Baghdad |
| 39 | Respondent 39 | 42 | Male | Officer in Baghdad provincial council | 12 July 2010 | Baghdad |
| 40 | Respondent 40 | 61 | Male | general manager of an industrial company which is part of the Ministry of Industry | 10 March 2011 | Basra |
| 41 | Respondent 41 | 51 | Male | senior advisor at Ministry of Construction | 03 November 2010 | Baghdad |

Appendix 2: Interview Questions

These were tailored according to the circumstances of the person I interviewed, his/her role in the preparation of the regime--change, the position he/she took after that, the difficulties heshe encountered, and if there were disappointments and disillusion. Depending on the person`s answers, further questions were asked.

The US and Iraqi opposition plans pre- and post- 2003:

- the actual Iraqi opposition in the field before the downfall of Saddam
- Had the opposition in exile clear idea about the situation in Iraq and the difficulties the Iraqis endure by the Iraqi people during Saddam`s rule? In addition, did those opposition groups have a plan as what is to be done if Saddam is removed?
- Was there any co-operation or joint plans between Iraqi opposition in exile and the population inside the country?
- What was the stand of Iraqi opposition groups regarding the lawlessness and looting which prevailed in the country on the wake of occupation?
- Why did the opposition factions not try to secure the borders of Iraq immediately after the downfall of Saddam regime with the help of the allied forces?
- Why did the high commissioner of the allied forces (Bremer) choose only 25 people to oversee the governing of the country, and why were they chosen on sectarian and ethnic basis?
- What was the reason for dual basis for allocating members of the temporary Iraqi ruling council; one on racial grounds involving Kurds and Turks, the other base on sectarian ground (Sunni and Shi'a) pertaining to the (80%) of the Arab population of Iraq, while the Kurds and Turks make the majority of Sunni in Iraq? Why were they not included in the Sunni contingent of the quota?
- What was the reason for replacing General Garner by Bremer?
- Why did the Sunni groups not support the first election?

- Were the Sunnis serious in joining the political process, and did they believe in it, and what was their intention?
- Why did the US decide to transfer power of governing to Iraqis when they were very well aware that the general circumstances were not opportune for a transfer of power?
- What is the reason behind the importing considerable number of old used cars which constituted a hazard on the roads and were also used by terrorist groups?
- Why was it agreed to dissolve the armed forces (army, police, and security apparatus)?
- Were there militias before the invasion?

Security and violence (including Saddam trial):

- Why was Saddam tried initially for a crime that was not his most atrocious crime; while trying him on other crimes?
- What was the reason for Saddam`s trial taking a long time?
- Why were documents (written and visual) only released at the beginning of 2010, showing the atrocities which Saddam regime committed, and not earlier?
- What was the fate Saddam`s oppressive forces, *fidaee* Saddam, the secret agencies, security department, and intelligence institution; and why they were not identified and/or brought to trial?
- Did the pattern violence and crimes after 2003 point to the perpetrators or perpetrating groups; for example: the Saddam`s security apparatus, Al-Qaida, militias, etc.?
- What was the fate of terrorists, or suspected terrorists, captured by the occupation force?
- What was the reason for the repeated pardons for criminals or alleged criminals, without trial?
- Why were Iraqi academics and experts targeted in the violence, which followed the occupation; and who were behind these attacks?
- Was there any intelligence system in Iraq post-war; who might they be; and if any what was their role in the events which occurred and are occurring?
- Are their plans to combat violence and terrorism?
- Why is there so much contradiction among the important statistical figures given by different authorities?

- Did the government draw and/or implement anti-terrorism plans and measures to protect the citizens from the activities of terrorists and other criminals?

Iraq as sovereign nation-state:

- Why is there no law regulating the work of political parties and the sources of their finances and their expenditure?
- Why do the parties not have political programmes or if so, why do their existing programmes revolve around sectarian, racial, and divisive slogans?
- Why has the government not yet undertaken a population census?
- Why the state did not fully implement the laws of corporation up to now?
- What is the position of the provinces in the governance of the state, how independent are they, and do they receive their fair share from the central budget?
- How was the constitution written, and who wrote it, and can it be amended or modified?
- Why there is no definite delineation between the different authorities, the three principle components of the state; i.e. the executive, legislative and judiciary?
- What was the reason for having three individuals holding key executive positions in the state: the presidential council, which was thus made of the President and his deputies; the Prime Minister has two deputies, and the speaker of parliament has two deputies?
- Is there any procedure to sort out differences among these aforementioned authorities?
- What are the problems with policies agreed by different parties; would this policy meet the goal of building a modern state?
- What was the reason for not changing long established bureaucracy in the governing offices in spite of an agreement among different parties that is not in the interest of the state institutions and citizens?
- What is the role of the heads of the different political groups in the function of the parliament and the other government departments?
- What is the reason for the legislative underperformance of parliament?
- What is meant by the political consensus; and what are its effects on the sound building of the state?
- Is there any law regulating the salary of state officials?
- What are the laws regulating the standards of the state employee according to their responsibility, qualification and experience?
- Is there any tribunal which deals with the constitutional matters?

- Why are regulations and laws issued from the days of Saddam and Bremer`s days still valid?

Iraq's reconstruction:

- Is there any planning for the reconstruction of the country and rehabilitation of existing facilities?
- Why there were practically no constructions or plans for the south and most parts of the West of the country although these areas are relatively safe, while there are much reconstructions and projects including all aspect of life in the North (Kurdistan)?
- Why did the law regulating investment in projects in the country only by parliament recently; and why are there no plans and attracting investors and investments?
- Why is the state still depended almost entirely on the oil resources and no attempt have been made to develop other sources of income?
- What have projects materialised in reality, which were supposed to have been handled by the CPA, Iraqi government and donors?
- Is there any co-operation and harmonisation in the planning and execution of projects handled by the US, and those handled by the Iraqi state?

Transparency and corruption:

- What are the reasons behind the widespread corruption, which engulfed all the facilities of the state?
- Why were high-ranking officials not held to accountable for the corruption in their department and the corruption, which they took part in it even when there is a definite evidence of their involvement?
- What are the functions of the committee that oversees the integrity of government departments and their employees? Is it true that their decision is subject to sanction by the ministry concerned?
- What is the role of the United Nation in all of these matters (projects, fight of corruption, and the organisation of the different government institutions), knowing that Iraq is still under Security Council, article seventh?
- What is the role of the countries neighbouring Iraq in the process of ensuring its security and reconstruction?

- Are Iraqi official of any kind in touch or prepared to be in touch with the ordinary citizen of the country?

The relationship between Kurdistan and central government:

- What is the exact relation of the predominantly Kurdish area with the central government in Baghdad?
- How do we reconcile the fact, that the Kurdish area has its own army, security, representatives in the Iraqi embassies and in the United Nations; they have the power to negotiate and sign treaties with other countries, and draw commercial contracts and sign almost any sort of accord with foreign countries without going back to the central government?
- Why is the Kurdish area almost completely independent and heavily represented in the federal government in Baghdad in the absence of local government for the remaining part of Iraq?
- What is the reason behind allocating (17.5%) of the total treasury of the country to the Kurdistan Region while its population is only (12.5%) of the total population of Iraq?
- Why would the national expenses (airports, seaports, national army, oil refineries, and production, salaries of officials in the key position of the state including the Members of parliament, etc.) are paid from funds allocated for what remains of Iraq?
- Why did the Kurds enjoy special protection and complete autonomy without any influence of the centre, after the liberation of Kuwait, while the south of the country was denied the same protection?

Communication:

- Was there any telecommunication law in Iraq before 2003?
- How do evaluate the landline telephone service before and after 2003?
- Is there a report that gives details of the telecommunications infrastructure, including mobile/cellular systems, before 2003 and since 2003?
- Since 2003, what policies have been issued and what laws have been passed or proposed by the Ministry of Communication?
- Has a telecommunication law been set-up (when), if not when is this likely to happen?

- How much funding has been allocated each year since 2003 by the Government and by donors, and how much of that has been actually spent each year in developing the infrastructure?
- Has the goal of universal access been achieved; and if not when would this be likely achieved?
- Why the WLL has failed in Iraq?
- What progress has been made in implementing the WiMax solution?
- Are there any conditions specific to the mobile companies' shares through the first and second mobile licenses in Iraq?
- Why was the mobile license bidder replaced by the Amman auction?
- Why has the mobile service worsened after the Amman auction?
- Why did CMC/MOC not take any measures against the mobile companies as a result of their monopoly and poor services?
- Why there is no law regulating the media?

Appendix 3: Survey Questions

What do you think are the reasons for the US to occupy Iraq?

What is the impact of theft and looting that occurred during and after the American occupation of Iraq (directly) on the process of construction?

Do you think that these loots occurred as part of US plan?

Do you think that these loots helped to further corruption in Iraq?

Are you in favour of the law disbanding the Iraqi military?

Does the disbanding law hurt the Iraqi state?

Are you in favour of the De-Baathification law?

Was the De-Baathification law applied correctly?

Do you think that the Iraqi opposition coming from abroad, which provided most members of the Governing Council, understood the reality of Iraq?

Do you think that there were in control to the entry of persons and goods into Iraq after the end of the war?

Did you support Saddam trial?

If the answer in (k) is (Yes), are you in favour of you to stand trial?

Do you think that there were important cases should be tried instead of Saddam's Dujail case?

Do you think that the quality of the case that Saddam trial was one of the main causes of rising sectarian tensions?

Do you think that Saddam had used the trial to send messages to his supporters?

Do you think that there is a deliberate procrastination in the trial of Saddam in order to increase the violence in the Iraqi street?

Do you feel justice, if you have a case in Iraqi courts?

Do you feel justice, if you bring a case to Iraqi police stations?

Do you have confidence in the security services?

Do you think that increased numbers of checkpoints and concrete barriers in Iraqi streets have contributed to the provision of security?

Do you think that increased numbers of security forces in the manner adopted by the government provides security in Iraq?

Do you think that the government is able to protect and provide security for you?

Do you think that the government's effort achieve state security?

Do you think that the manual sonars which used in the various inspection checkpoints have contributed in providing security in Iraq?

If the answer is (No) for one the previous question about justice (or last two questions), what is the reason behind that?

If the answer is (no) out of fear of danger what is the reason?

What do you think is best for the future of Iraq?

What do you think of the political quota system which applies in Iraq?

Do you support the replacement of the parliamentary electoral system which used in Iraq to a presidential election system?

Are you convinced of the electoral system which is used in Iraq?

Do you think that Iraq has changed from individual dictatorship to multiple dictatorships by political parties?

Do you think that there are real programmes to serve the citizens and the advancement of the country by the political parties during the elections?

Do you think that you can get on all your rights, as a citizen, without joining or getting support from political parties?

Did you vote in previous elections held in Iraq?

Have you participated in the referendum on the Iraqi constitution?

If the answer (yes) in the previous question, were you familiar with the constitution before you voted on it?

Do you think that you influence on the government or parliament after the elections?

How do you evaluate the political reality of Iraq?

Are you convinced that freedom is available to people after 2003?

How do you evaluate the work of governments after 2003?

According to your opinion, has the quality of life for Iraqi people improved after 2003?

What do you think about the possibility of obtaining a government job?

Do you participate in demonstrations against the government and official institutions in Iraq?

What do you think are the reasons for the widespread administrative and financial corruption in Iraq?

When your visit any Iraqi Ministry, do you think there is coordination in the work of different sections within that ministry?

When you bring your case to different departments in several ministries, do you think there is c-ordination between these ministries?

In your opinion, what is the criterion in the granting privileges for staff of various government departments?

How would you evaluate the selection procedure of the staff of various government departments for official travel outside Iraq?

If you have a problem, to whom you should go to complain?

According to your knowledge, are there rules for the conduct of the passage of vehicles and traffic lights in the streets?

Does the traffic police charge vehicles drivers for not having a driver's license?

Is there a law to hold drivers accountable who could cause accidents?

Is there a check of the vehicles periodically or annually to ensure the safety of vehicles?

Do you think that the goal of government is to provide public services and work for you?

Do you think that the economy of Iraq has improved after 2003?

If you answered yes, do you think that this development has been caused by the good economic planning of the Iraqi government or because of the.....?

Do you think that there is a real reconstruction of Iraq post-2003?

Do you think drinking water is available, in the whole of Iraq, enough to meet the need of Iraqis?

Do you think that electricity service has improved after 2003?

What do you think about the money paid to operate civil generators to cover the shortfall in the provision of the national electricity?

Is the drainage network in the whole of Iraq working properly?

Do the Baghdad Municipality and the municipalities in the provinces provide proper services?

Do you think that the expansion of streets is commensurate with the population increase and the number of cars imported?

How do you evaluate the streets paving services in Iraq?

How do you evaluate the internet service?

How you evaluate the land line service?

How do you evaluate the mobile service?

How do you evaluate the wireless service?

If you were unable to work, will the government provide you with state financial aid and living support?

Do you think that the food ration is important for providing sufficient food for Iraqis?

If you do not have housing, will the state provide you with housing assistance?

Do the government hospitals and health departments provide you with the doctors' prescriptions treatment for free?

If you were not able to pay for medical treatment, would the government provide you with necessary assistance in government hospitals?

If you want to start a business, does the government provide you with state aid, advice and encouragement?

If you have limited income or low income, will the government provide you with housing convenient instalments?

If you were not able to complete your studies for financial reasons, will the government provide you with financial assistance?

Appendix 4: Survey Sample

Brunel University

Department of Sociology and Communications

Iraq Reconstruction research

Please tick the following that describes you: Employed Student Unemployed

If employed, are you: Working in a private company Working in a Government institution
 working in independent institution Self-employed

Are you: describe your age: 16-25 26-35 36-45

Male Female 46-55 56-65 66 and over

What do you think the reason (s) the US invasion Iraq (please tick all match):

liberation and re-build US. strategic reasons the fight against terrorism to occupy Iraq
For the partition of Iraq others

What do you think was the effect of looting on the plans of the reconstruction of the state no effect slight effect significant effect devastating effect

Who is responsible for the violence that occurred after the war (please tick all match):

US Al-Qaida Militia Old regime neighbour countries private security others

What is best for the future of Iraq: Iraq unity division federal con-federal

How do you assess the Iraqi political condition: Excellent Good average acceptable bad
very bad

Do you agree with the quota system: yes No

Are you satisfied with the freedom available to the people at the present yes No

Did you/will you vote in the election: yes No

If yes, why you voted (please tick all match):

I vote for the best candidate to prevent the return of Baathists for sectarian and ethnic reason this is the only aspect of democracy that is available to me I vote in order to decrease the chances of other faction from having a place in the parliament I do not know

Do you feel that whom you vote is really help the country yes No

How do you assess the government work:

excellent good average acceptable bad very bad

Do you think that the Iraqi economy after 2003 is (please tick all match):

developed did not develop went backwards

Do you think you can practice your duties and enjoy your privileges as a citizen without been affiliated with a political party or a group yes No

Do you think that Iraq has moved from a unified dictatorship into multiple dictatorships represented by the political parties and centres of powers yes No

How it is possible to get a government job, (please tick all match):

competence application priority preferred bribery mutual benefit

If you want to start self-employment is the state offering you and kind of advice and assistance yes No

If you are not able to work does the state provide you a financial assistance yes No

If yes, how do you evaluate the assistance excellent good fair Low very Low

If you do not have housing does the state offer you any help yes No

If you do not have possibility of medical treatment does the state provide you with the necessary treatment yes No,

If yes, how do you evaluate the assistance excellent good fair Low very Low

If your case cannot treated in Iraq, would the state help of treatment abroad yes No

If you cannot complete your studies in school or university, for financial reason, will the state provide you with assistance yes No

If yes, how do you evaluate the assistance excellent good fair Low very Low

Do you think the government is seeking to serve you yes No

Is the State able to protect you and gave you the safety yes No

If yes, how do you evaluate the assistance excellent good fair Low very Low

If you feels threatened, Can you call the police to provide protection to you immediately
 yes No

What is behind the widespread relents corruption (please tick all match):

- old regime US political parties government institution independent institution members of parliament lack of control lack of accountability
- project to demolish the state regional player's lack of appropriate deterrent

Yes No

The quality of service has improved

Regarding

Yes No

Government services
which are needed by
the people (electricity

Become widely available services across Iraq

Yes No

, water supply,
draining system, etc)

The Governments policy has been fair and transparent

Yes No

The Contracts awarded for reconstruction has benefited the
Government and the people Iraq

What are your experiences with each of each of the following?

WLL

Mobile/Cellular Telephones

Land Line Telephones

Excellent

Excellent

Excellent

Good

Good

Good

Acceptable

Acceptable

Acceptable

Bad

Bad

Bad

Very bad

Very bad

Very bad

acceptable bad very bad

If you have problems, to whom do you complain to: Gov. MP independent institution
media there is no one I do not know

Additional comments:

About You (Optional):

Name

Address:

City: E-Mail:

THANK YOU VERY MUCH FOR YOUR PARTICIPATION!