



STATE-BUILDING UNDER FOREIGN
OCCUPATION: THE CASE OF IRAQ, 2003-2008

BY

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ABSTRACT

The aim of this study is to analyze the political system of Iraq (2003-2008) which emerged under foreign occupation. Power-sharing (consociational) model which emphasizes the role of the political elites is used as the most appropriate approach in order to study post-Saddam Iraq. The study identifies factors that are conducive to cooperative behavior of domestic elite. These factors are: nature of social cleavages, size of various ethnic groups and segmental isolation. Elite behavior is examined in terms of a grand coalition, segmental autonomy, proportional representation and mutual veto. The study shows that Iraq's political elites have been confrontational and non-cooperative which normally leads to political instability. However, during this period the country has achieved some kind of power sharing arrangement and moderate economic development. This has been possible due to external factors, such as the presence of United States and United Kingdom forces which has made unilateral decisions and passed laws that domestic political elites have not been able to agree upon. This has enabled the country to function rather smoothly in the post-Saddam Iraq. The study is based upon data collected through personal interviews with political elites, documents published by the United Nations, International Monetary Fund, books, local newspapers, journals, and magazines.

ملخص البحث

الهدف الرئيسي لهذه الدراسة هو دراسة و تحليل النظام السياسي في العراق في الفترة ما بين ٢٠٠٣-٢٠٠٨ الذي ظهر في أعقاب الغزو الامريكي للعراق. و تستخدم هذه الدراسة نظام تقاسم السلطة الذي يؤكد على دور النخب السياسية كأنسب وسيلة لدراسة النظام السياسي في العراق في حقبة ما بعد الاحتلال. و تحدد هذه الدراسة العوامل الضرورية للسلوك التعاوني بين النخب السياسية المحلية. و هذه العوامل هي: طبيعة الفوارق الإجتماعية و حجم مختلف المجموعات العرقية و عزلة المجموعات. و تقوم الدراسة بالنظر في سلوك النخب السياسية من خلال تحليل المتغيرات التالية: الإئتلاف الرئيسي و الحكم الذاتي الجزئي و التمثيل النسبي و حق النقض المتبادل. و تظهر هذه الدراسة أن علاقات النخبة السياسية العراقية ظلّ طابعها المواجهة و عدم التعاون. و هذا هو الأمر الذي يؤدي إلى عدم الإستقرار السياسي. و مع ذلك فقد حققت الدولة قدرا من الاستقرار السياسي حيث استقرت سياسيا و حققت نموا إقتصاديا معقولا. و قد تحقق ذلك نتيجة للعامل الخارجي ممثلا في الوجود العسكري الامريكي الذي إتخذ قرارات أحادية و أصدر قوانين إختلفت حولها النخب السياسية المحلية. و قد مكن ذلك الدولة من أداء وظائفها في حقبة ما بعد الاحتلال. و قد إعتمدت هذه الدراسة كثيرا على المقابلات الشخصية مع قيادات عراقية وعلى الوثائق الصادرة من الأمم المتحدة و المنظمات غير الحكومية و الصحف المحلية اليومية و الجرائد الأسبوعية و المجلات والكتب.

APPROVAL PAGE

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DECLARATION

I hereby declare that this thesis is the results of own investigation, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degree at IIUM or other institutions.

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**STATE-BUILDING UNDER FOREIGN OCCUPATION: THE CASE OF
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To the soul of my father and
To those innocent men, women, and children who lost their lives in Iraq
as a result of foreign occupation

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LIST OF ABBREVIATIONS

ADM	Assyrian Democratic Movement.
AMS	Association of Muslim Scholars.
CPA	Coalition Provisional Authority.
ICP	Iraqi Communist Party. Formed in 1934.
IGC	Iraqi Governing Council.
IIG	Interim Iraqi Government.
IIP	Iraqi Islamic Party. Sunni Arab Islamist Party
INA	Iraqi National Accord.
INC	Iraqi National Congress.
ITF	Iraqi Turkmen Front.
KDP	Kurdistan Democratic Party.
KIU	Kurdistan Islamic Union.
KRG	Kurdistan Regional Government. Executive authority in the Kurdistan region of Iraq.
OPEC	Organization of Petroleum Exporting Countries.
ORHA	Office of Reconstruction and Humanitarian Assistance.
PKK	Kurdistan Workers' Party
PUK	Patriotic Union of Kurdistan.
RCC	Revolution's Command Council (Ba'ath Party). Highest legislative and executive authority in Iraq before 2003.
TAL	Transitional Administrative Law. Interim constitution signed on 8 March 2004 by the IGC.
TNA	Transitional National Assembly.
UAR	United Arab Republic. Formed by the union of Syria and Egypt in 1958. Collapsed in 1961.
UIA	United Iraqi Alliance. Alliance of Shi'i parties, supported by Ayatollah Sistani, to contest the elections of January 2005.
WMD	Weapons of mass destruction.

CHAPTER ONE

IRAQ: INTRODUCTION

(O mankind! we created you from a single (pair) of a male and a female, and made you into nations and Tribes, that ye may know Each other (Not that ye may despise (each other). Verily the Most honoured of you In the sight of Allah is (He who is) the Most righteous of you. And Allah has full knowledge and is well acquainted with all things).
(Al-Quran 49: 13)

On March 20, 2003, the United States launched Operation Iraqi Freedom to remove the regime of Saddam Hussein from power. By mid-April, major fighting was essentially over, and on May 1, the United States declared an end to major combat operations. With that declaration, the United States faced with a very serious challenge of ensuring stability in the post-conflict period and encouraging a peaceful political transition to a new and democratic Iraqi government. Despite the continuing power of insurgency and the sectarian violence, Iraq in fact has experienced a deepening constitutional process since its occupation. The election of January 2005, the negotiation of the constitution in the summer of that year, the referendum of October 2005, which ratified the constitution and the second general election in mid December 2005, all is a sign of functioning of political and constitutional development. However, there are many issues that have been repeatedly analyzed by those wishing to determine or predict the identity of the future of Iraqi state, such as competing models of federalism, the relationship between Islam and state, the way of distributing oil revenue and the status of Kerkuk. The new constitution was written with the hope that for the diverse groups in Iraq to run their mutual relations in such a way that the dialogue between fighting parties shifts from a battle field into a political

settlement. However, such political settlement, in spite of the huge presence of US forces, has been extremely slow. Domestic political elites have shown very little concern to develop the nature of consensus while dealing with the issues of crucial importance for Iraq and its citizens. Therefore, in spite of the fact that the US and its allies behave authoritatively violating all premises of democracy, their presence in the country is now becoming essential for the country's further political development and democratic consolidation.

1.1 PROBLEM STATEMENT

It is more than five years since Iraq 's invasion and occupation by the United States and its allies, and the country is still facing a very long and highly uncertain process of occupation and state-building. However, despite all the problems, Iraq has made some progress, but critical issues have to be solved in order to make Iraq a functioning state that can bring order and stability. Furthermore, the effectiveness of the political system that emerged in the post-Saddam era has to be questioned, in terms of the US influence in bringing stability and economic development and in promoting accommodation between the three major groups (Sunnis, Kurds, Shites and other groups).

Therefore, the purpose of this study is to analyze and examine state-building efforts in post- Saddam Iraq. It attempts to answer the following questions:

1. What type of political system was introduced in the post- Saddam Iraq?
2. What has been the role of Iraqi domestic political elites in forming a new political system?
3. What has been the role of the US in promoting the power-sharing principle in Iraq and what was the Iraqi elites' response to that?

4. What was the outcome of power sharing mechanism in terms of political stability?

1.2 PROBLEM JUSTIFICATION

It is hard to over-estimate what is at stake in Iraq. Iraq is worthy of study because the removal of Saddam Hussein has proved to be the beginning of a long and highly uncertain process of occupation and state-building. In Iraq today, the United States is presiding over a country about which it has a limited understanding.¹ The United States is attempting to rebuild Iraqi state institutions and reform their interaction with society. Building a democratic, stable and sustainable Iraq is one of the most important issues for Iraqis and for the world community at large, because a weak or failed Iraq will have major consequences regionally and internationally. A huge amount of administrative capacity was lost to the widespread looting and disorder that followed occupation. However, the primary aim of the new Iraqi government is to bring peace and to stop the war. Although the Iraqi politicians participated in the negotiation process in the post-Saddam era, the political system was more imposed than a reflection of the will of Iraqis themselves. It will be instructive to see how domestic elites are able to adjust to and implement a system that was imposed on them from outside and as often alleged, against their own will and interests. Hence, it is important to see the trend of interaction and compatibility between international actors (US) and domestic politicians. Moreover, in the immediate aftermath of occupation, the United States has introduced a power-sharing system. Some suggest that it

¹ Toby Dodge, *Inventing Iraq: The Failure of Nation Building and a History Denied*, New York, Columbia University Press, 2003, p. x.

provides a good example of Consociationalism.² Others believe that it is a kind of federal system. Therefore, it is necessary to clarify what type of political system is functioning in a post-Saddam era, in order to put an end to the loose interpretation surrounding it. Finally few studies examining the nature of political system in the post-Saddam era has been conducted, therefore, this study aims to fill this vacuum.

1.3 LITERATURE REVIEW

Most of the works that have been published on the post-Saddam political system deal with the role of US in the process of state building efforts and peace implementation in post-Saddam politics. However, the contribution of the domestic political elites in this transitional period of democratic consolidation has been, to a large extent, neglected by scholars in general and those in political science, in particular. Yet, there exists a considerable scholarly literature examining the functioning of the political system in the post-Saddam era. These can be divided into three categories:

- 1) Works dealing with the role of the US;
- 2) Studies dealing with the country's constitutional arrangements and the nature of the political system, its advantages and disadvantages;
- 3) Literature dealing with applicability of different forms of power-sharing arrangements such as federalism, consociational and integrative approaches.

² See John McGarry, Liberal Consociation and Conflict Management, in *Iraq: Preventing a New Generation of Conflict*, edited by Markus E. Boullion, David M. Malone and Ben Rowsweell, (Viva Books, Lynne Rienner publisher, 2007).

1.3.1 The Role of the US

Works related to the role of the US in establishing and making the Iraqi political system functions properly are quite numerous. Liam Anderson and Gareth Stanfield survey a broader field, the overall future of Iraq and what is most more likely to become of its “democracy dilemma,” that is the magnitude of the task confronting the United States of America in post-Saddam Iraq.³ They clearly conclude that a managed partition by the US and therefore independence for the Kurds is the least worse option: “on balance, an independent Kurdistan resolves more problems than it creates.”⁴ However, they are pessimistic about the ability of the United States to achieve its stated goal of democratizing Iraq while preserving its territorial integrity as a state,⁵ for several reasons. In the first place, they note that “at the most fundamental level, democracy requires the existence of an implicit consensus on the legitimacy of the underlying order. It is questionable whether the Kurds have ever fully accepted the legitimacy of an Iraqi state that includes them within its borders. Second, any form of democracy requires trust, which has been pitifully absent in Iraq.”⁶

Iraq “was an artificial British creation,”⁷ which has only been able to be held together by the glue of authoritarianism.⁸ The minimum requirement for the successful reintegration of the Kurds into the state of Iraq is, therefore, a post-Saddam political order characterized by pluralism, cultural tolerance, and a high degree of regional autonomy, precisely the sort of government that Iraq has never enjoyed. Moreover, the fact that Iraqi Kurdistan (in effect) has been independent since 1991 and operating

³ Liam Anderson & and Gareth Stanfield, *The Future of Iraq: Dictatorship, Democracy, or Division?*, New York & UK, Palgrave Macmillan, 2004, p. 191.

⁴ Ibid, p. 217.

⁵ *The future of Iraq: Dictatorship, Democracy or Division?*, p. 224.

⁶ Ibid, p. 10.

⁷ Ibid, p. 186.

⁸ Ibid, p. 198.

separately from Baghdad has, in fact, created structural problems that would make it painful for Kurdistan to return to its pre-1991 position.⁹ This split in the administration arrangement of the Iraqi state is arguably the most significant event in the country's modern history. Furthermore, democracy in Iraq would most likely result as it did, in majority Shi'a rule, which would not only overturn Sunni rule of Iraq since the creation of the state in the 1920s, but be a reversal of the historic Sunni victory during Islam's first century. As the current insurgency demonstrates, the Sunnis will not easily submit to Shi'a rule. After weighing this myriad of obstacles to a unified and democratic Iraq, Anderson and Stanfield conclude that the least worst outcome would be a managed partition in which the Kurds secede while the remaining Arab-populated units stay together.¹⁰

Leslie Gelb and Peter Galbraith agree with Anderson and Stanfield and argue further that Iraq has "three distinct and sectarian communities, " Sunni, Shia, and Kurd.¹¹ These communities, it is claimed, are largely geographically homogeneous and mutually hostile. They have been locked in an artificial, Sunni-dominated state for eighty-five years. This analysis leads its promoters to view the post-Saddam politics as tragic but that tragedy is largely unavoidable. This approach asserts that Iraqi politics has always been and will continue to be animated by deeply held communal antipathies. From this perspective, there can only be one policy option for the United States: the situation will be stabilized by dividing the country into three smaller, ethnically purer and more manageable units. There is a possibility that this could be done through a form of drastic decentralization, as proposed by U.S. senators Joseph

⁹ Ibid, p. 114.

¹⁰ Ibid, p. 216.

¹¹ See Leslie H. Gelb, "*Divide Iraq into Three States*," International Herald Tribune, 26 November 2004. Peter W. Galbraith, *How to Get Out of Iraq*, New York Review of Books, 13 May 2004. Both Galbraith and Gelb have professional experience in the Balkans and may be influenced by their understanding of the violent breakup of Yugoslavia in the mid-1990s.

R. Biden and Leslie Gelb. But this position argued consistently for its complete division into separate states.¹² However, the Gelb and Galbraith argument of simply dividing Iraq into three ethnically purer states misses the main characteristic of post-Saddam politics, which is the lack of institutional and coercive state capacity in Iraq. The radical decentralization of political power runs the distinct danger of devolving the violent struggle for supremacy. As Toby Dodge argued, this could localize the conflict among Shia groups and between the two main Kurdish political parties, Kurdistan Democratic Party and Patriotic Union of Kurdistan (KDP_PUK).¹³

What Iraq desperately needs is one coherent and functioning state, not three. Its governing institutions, bureaucratic, military, and political, must be rebuilt from the ground up across the territorial extent of the country.¹⁴ Moreover, to make inroads Dodge argued that, the United States, the United Nations and the European Union need to present the Iraqi government with specific demands for good governance and reduction of the scope for corruption, patronage, and abuse in return for further aid and assistance.¹⁵ Therefore, the growth of stable state institutions, with a meaningful presence in people's lives, forms the framework within which the longer-term goal of successful state building, the reconstruction of an Iraqi nation, can be achieved.¹⁶ Yahia Said agrees with Dodge and is very critical of U.S. policy in Iraq. He argues that the U.S. led coalition came to Iraq with a superficial groupist, preimordialists, atavistic reading of the country, one which downplayed the crosscutting ties that bound Iraqis together. The coalition provided an advantage to sectarian and

¹² Joseph Biden and Leslie Gelb, "Unity Through Autonomy in Iraq," *New York Times*, 1 May 2006.

¹³ Toby Dodge, "State Collapse and the Rise of Identity Politics", in *Iraq: Preventing a New Generation of Conflict*, edited by Markus E. Boullion, David M. Malone and Ben Rowsweell, (India: Viva Books, Lynne Rienner Publisher, 2007), p. 23.

¹⁴ Ibid, p. 34.

¹⁵ Ibid, p. 35.

¹⁶ Ibid.

ethnocentric leaders, and the descent into civil war began. These leaders then negotiated a sectarian and unfair constitution, which has further polarized matters.¹⁷ Said accordingly, stresses the commonalities that Iraqis share and argue for nation building. He calls for a strong, centralized, and ethnically impartial Iraqi state. The Center for Arab Unity Studies (based in Beirut, Lebanon) had already organized a major Seminar about the Occupation of Iraq and its repercussions on the Arab, Regional and International Scenes during 8-11 March 2004. Before, during and after that seminar, eight books (in Arabic)¹⁸ were published by the Center on the same subject since the occupation of Baghdad.¹⁹ In addition, about twenty-five issues of its monthly journal concentrated a big deal on the same subject.

The Center regards the occupation of Iraq as apart of an American plan to redraw the map of the region with only the American objectives in view.²⁰ Therefore, what happens in Iraq influences, and will continue to influence, not only Iraq, but also the entire Arab region; indeed it will even have critical consequences and repercussions for the regional and international scenes. Whereas the Center is convinced that the occupation of Iraq will give rise to Arab, regional, and international turbulence and instability that will influence, positively or negatively, for a long term of time, the future of the Arab nation, therefore, the Center feels strongly, that it is obliged, as a matter of priority, to devote to the subject the energy and efforts it deserves.

¹⁷ Yahia Said, "*Federal Choices Needed*," *Al-Ahram Weekly*, March 2006, Weekly. Ahram. org. eg/print/2006/784/sc6. htm

¹⁸ See for example, Khair El-Din Haseeb, *Mustaqbal Al-Iraq (Al-Ihtilal, Al-Muqawama, Al-Tahrer, Wal Dimogratiya)*, Beirut, Lebanon: The Centre of Arab Unity Studies, 2004; *Ihtilal Al-Iraq wa Tadaeyatuhu Arabain wa Iqlimain wa Dawlain*, Beirut, Lebanon: The Centre of Arab Unity Studies, 2004. *Ihtilal Al-Iraq: Al-Ahdaf, Al-nataej, al-mustaqbal*; The Centre of Arab Unity, 2004. Kair El-Din Haseeb, *Al-Iraq mina al-Ihtilal ila al-tahrer*, The Centre of Arab Unity, 2006.

¹⁹ <www.caus.org>.

²⁰ Ibid.

1.3.2 On Power Sharing

John McGarry is one of the rare scholars who has tried to apply the theory of consociational democracy to the Iraqi political system in the post-Saddam era.²¹ He discusses the impact of the theoretical debate on democratization in Iraq. He points to the general position that democratization requires more than merely free and fair elections and as such, the primary task for outsiders is to work with Iraq's democratically elected politicians and to support the internally negotiated constitution, while recommending and offering advice on constructive changes within the process for constitutional amendments, in order to create sustainable democratic development. McGarry discusses two dominant approaches which have been offered for stopping Iraq's conflict and consolidating a democratic system there.

The first approach is represented by the Integrationists who see post-Saddam Iraq as based on sectarian and ethnocentrism, usually seen as of recent origin, rather than rooted in age-old hatreds. They also stress the commonalities that Iraqis share; therefore, they call for a strong, centralised and ethnically impartial Iraqi state.²² McGarry argued in favour of the second approach which focuses on the accommodation of Iraq's different communities is Consociationalism, simply because Iraq's new constitution is consistent with Consociationalism.²³ Therefore, he argued that the outsiders should work with Iraq's democratically elected politicians and support the internally negotiated constitution, while recommending and offering advice on constructive changes within the process for constitutional amendments, in order to create sustainable democratic development.²⁴ Apart from that he further

²¹ John McGarry, Liberal Consociation and Conflict Management, in *Iraq: Preventing a New Generation of Conflict*, edited by Markus E. Boullion, David M. Malone and Ben Rowsweell.

²² Ibid, p. 169.

²³ Ibid, p. 170.

²⁴ Ibid, p. 184.

suggests that the international community should assist in building the “capacity” of regional (and governorate) government, and not just the capacity of the federal government, as integrationists recommend.²⁵

Noah Feldman, a legal scholar and expert on constitutional law at New York University, served as Senior Constitutional Advisor to the Coalition Provisional Authority (CPA) in Baghdad in 2003. From his high-level advisory position and through his public commentary since leaving Baghdad, Feldman has exerted a significant sway in the debate over Iraq’s future. Most important among his public recommendations is his book *What We Owe Iraq*, in which he explores the ethical dilemmas of the occupation as well as his experience with the CPA and what he believes is the best way forward for the United States in Iraq.²⁶ With regard to leaving behind a lasting democracy, Feldman casts the problem as a need to convince Iraq’s Sunnis, specifically the insurgency, that it is in their best interests to lay down their arms and join the Shi’a and Kurds in a power-sharing arrangement. For him, this task is not simply a propaganda campaign; rather, it is necessary because it reflects reality. Because he asserts that “no power association in the country could reasonably believe that it alone would be able to govern the country and dominate everybody else.”²⁷ He believes that “democracy, then, was not merely the best political arrangement that could work in contemporary Iraq. Once it was realized that no single player could create an effective tyranny, democracy was also the only option other than chaos.”

Following Saddam Hussein’s ouster, he says, the Sunnis believed that they may still have had a chance of sabotaging the effort to establish constitutional

²⁵ Ibid.

²⁶ Noah Fieldman, *What We Owe Iraq: War and the Ethics of Nation Buidling*, Princeton, NJ, Princeton University Press, 2004.

²⁷ Ibid, p. 47.

democracy, and that they may still have been able to regain some semblance of their formerly dominant position in the old regime. In the formal terms favored by the game theorists who model democratization, some nontrivial number of Sunnis seemed to believe that the summed costs and benefits to them of subverting the emergence of a democratic government in Iraq outweighed the costs and benefits of entering into a democratic state in which they feared becoming permanent losers.²⁸ In saying this, Feldman does not mean that the Sunnis believed they had any realistic hope of reasserting the kind of dominance they enjoyed with Saddam in power. Rather, he claims that they feared that their weak demographic situation in relation to the Shi'as' and Kurds, who had suffered greatly under the Sunni Ba'athist regime, would spell disaster for them in a democratic government.

Therefore, both in order to avoid retribution and in order to retain as much of their former privileges as possible, they chose to fight the formation of a democratic system. The strategies of the Sunni insurgent groups, as Feldman describes, varied, but they shared two goals: to stall the establishment of constitutional democracy as long as possible, and to signal their willingness to resist oppression. The most prevalent strategy to achieve the first goal, according to Feldman, was the following: by killing Iraqi police and disrupting the possibilities of transition, the insurgents might be able to delay the emergence of a state with the power to enforce the laws. They could delay that process long enough for the United States to run out of patience and decide it was too costly to remain as an occupier. This scenario would also result in eventual American withdrawal, opening the door for the Sunnis to

²⁸ Ibid, p. 43.