



The United States influence in Iraq's post-Saddam reconfiguration of power: The maintenance of instability besides structural changes¹

A influência dos Estados Unidos na reconfiguração de poder do Iraque pós-Saddam: A manutenção de instabilidade apesar das mudanças estruturais

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Rodrigo Augusto Duarte Amaral²

Abstract

In 2003, the United States of America started a reconfiguration process of Iraq's political-economic structure. After the overthrow of Saddam Hussein, the United Nation Security Council stated that an international coalition should act in Iraq as a Provisional Authority which was led by the USA, whose responsibility was to rebuilding Iraq (Resolution 1483). For 14 months, the USA formally governed and reformed Iraq's structure, declaring that its objective was to develop a "new Iraq". The 2005 constitution marked the consolidation of this new political regime, transforming Iraq in a federal and democratic country as aimed by the USA agenda. But how this new framework of statebuilding worked out for Iraq? Despite the effort, almost fifteen years after the USA formal occupation, Iraq remained politically unstable. The maintenance of insurgent groups against international interference, the rise of Islamic State, the resumption of Iraq Kurdistan interest for independence are some examples of today's political crisis in Iraq. This paper aims to present how USA executed the reformulation of Iraqi political structure since 2003: changing the political regime, prohibiting any Baath affiliation and action in Iraq's political theater, and articulating the rise of political parties that historically opposed Baath's government for almost 40 years.

Keyword: Reconfiguration of Power; Statebuilding; United States of America (USA); Iraq; Middle East.

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2 Mestre em Relações Internacionais pelo Programa de Pós Graduação em Relações Internacionais San Tiago Dantas (UNESP — UNICAMP — PUCSP). Atualmente é professor de Relações Internacionais da Universidade de Sorocaba (UNISO) e doutorando (pesquisador Bolsista — Capes) em Relações Internacionais no PPGR San Tiago Dantas (UNESP — UNICAMP — PUCSP). Membro do Grupo de Pesquisa — GECI PUC (Grupo de Estudos sobre Conflitos Internacionais). Foi professor substituto de Relações Internacionais na PUCSP (2018/2 e 2019/1).

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Resumo

Em 2003, os EUA iniciaram um processo de reconfiguração da estrutura político-econômica do Iraque. Depois de depor Saddam Hussein, o Conselho de Segurança da ONU declarou que uma coalizão internacional deveria atuar no Iraque como uma Autoridade Provisória, a qual foi liderada pelos EUA com a responsabilidade de reconstruir o Iraque (Resolução 1483). Por 14 meses, os EUA formalmente governaram e reformaram a estrutura iraquiana, declarando que seu principal objetivo era desenvolver um “novo Iraque”. A constituição de 2005 marcou a consolidação desse processo, transformando o Iraque em uma federação democrática conforme orientado pela agenda norte-americana. Mas como essa nova estrutura de reconstrução estatal funcionou para o Iraque? Apesar dos esforços, quinze anos após a ocupação formal, o Iraque permaneceu politicamente instável. A manutenção de grupos insurgentes contra a interferência internacional, a emergência do Estado Islâmico, a retomada do interesse por independência por parte do Curdistão Iraquiano são alguns exemplos dessa crise política contemporânea. Pretende-se então, apresentar como os EUA executaram a reformulação da estrutura política iraquiana desde 2003: mudando o regime político, proibindo qualquer afiliação e ação do Partido Baath na política, e articulando a ascensão de partidos políticos historicamente opostos ao governo Baath por quase quarenta anos.

Palavras-chave: Reconfiguração de Poder; *Statebuilding*; Estados Unidos da América (EUA); Iraque; Oriente Médio.

USA fragmentation of Iraq

It took less than two months for the USA-led international coalition³ to overthrow Saddam Hussein from power in Iraq. The Operation Iraq Freedom was a military success. By 12 April 12 the USA-led Coalition force took Iraq’s power. A week later, the United Nation Security Council (UNSC) recognized the USA-British plan for reconstructing Iraq’s political, economic and constitutional basis through Resolution 1483 that determined that USA and Great Britain were part of a coalition provisional authority (CPA) that should rebuild Iraq and “govern” for a short period of time that lasted until July 2004.

The idea of a “New Iraq” didn’t start when the USA set off the “war on terror” strategy and when G. W. Bush defined a new form of American security foreign policy. During the 1980’s, the two countries had a relatively friendly relationship, in the context of Iran-Iraq War. Then, the USA supported Iraqis against the Iranians,

3 This first military coalition was composed by: 2,000 Australians; 2,500 Polish; 1,300 Spanish; 46,000 British; and 250,000 Americans. Plus 44 countries, with less contribution.





fearful of what might happen after the Iranian revolution of 1979, granting U\$80 billion in loans to Iraq for defeating the Iranians (DENOUX, 2003).

Since the Gulf War (1991), the two countries moved away from each other, becoming real enemies since a joint USA-USSR statement condemned the Iraqi invasion to Kuwait, and the UNSC called for an immediate troop withdraw. This reinforced the American and British governments statements for Iraq withdrawal and the return of full sovereignty to Kuwait. The legitimacy of the coalition's goals increased when the UN sanctioned Iraq for not withdrawing from Kuwait. Then, an impressive international coalition intervened in the conflict, forcing Iraqi troops to retreat (DAWISHA, 2009).

After the Gulf War, Washington already had its eyes set on another objective: getting rid of Saddam. Clinton had inherited from the Bush administration not only a policy of sanctions-based containment, but also a secret "lethal finding", signed in October 1991, which authorized the CIA to create conditions inside Iraq to facilitate his elimination. To implement this plan the CIA had formed an operational team within its Directorate of Operations known as the Iraq Operations Group (RITTER, 2005).

Obviously not all Iraqis were against foreign activities in their country or in favor of Saddam Hussein's regime. There were some political parties and groups that worked in opposition to the Baath regime, at least since Iraq began to engender wars. Politically, some of these groups were repressed by Saddam, and left Iraq. They reorganized themselves mostly in London and Washington, working in a new political project for Iraq with full support of western powers.

The Iraq Operations Group initially limited its activities to simple propaganda-style efforts, such as funding anti-Saddam radio broadcasts, which were ostensibly supported by an Iraqi opposition organization known as the Iraqi National Congress (INC) — a collective group of Iraqi expatriates opposed to Saddam's regime who came together in 1991 under the leadership of a former Iraqi banker: Ahmed Chalabi. In 1992, the INC started to receive direct funding support from the Iraq Operations Group and, by 1993, opened offices inside Kurdish safe havens in northern Iraq, operating under the USA-UK air power protection. Until then, the INC didn't represent a serious threat to Saddam's regime. In October 1994, the Iraq Operations Group established a full-time clandestine operations station in Salahuddin — an INC-controlled town — to gradually strengthen their military capabilities as well as their Kurdish allies', moving away Saddam's forces from northern Iraq (RITTER, 2005).





All these informal plans for a “new Iraq” gained ground in 1998 with the USA-enacted Iraq Liberation Act, explicitly declaring that USA would subsidize the Baath regime opposition, emphasizing that Saddam represented a threat to the international order. That Act granted US\$5 million for assistance to the Iraqi opposition for activities such as training, information diffusion, opposition groups articulation, and information compiling to support the prosecution of Iraqi officials for war crimes and human rights violation (USA, 1998).

In its 5th section, the act established the organization of a democratic Iraqi opposition, which corresponded to those Iraqi opposition members who were already dialoguing with international powers. The purpose was to increase Iraqi oppositions groups, that would commit themselves to democratic values, respect for human rights, peaceful relations with Iraq’s neighbors, maintaining Iraq’s territorial integrity and cooperation (USA, 1998).

After the 1998 Act, it became clear the necessity to overthrow the Baath regime and rebuild the Iraqi state democratically. First, the Desert Fox operation, conducted by USA and UK forces, consisted on four days of bombing Iraqi targets in December 1998, on the grounds that Iraq had failed to comply with the UNSC orders after the Gulf War (1991). Then, in October 2002 — already in the context of the war on terror context and the ongoing invasion of Afghanistan — a law authorizing the use of armed force against Iraq, known as the Iraq Resolution, was approved (USA, 2002), leading to the invasion in the following year.

Besides turning Iraq into a democracy in the Middle East, the goal was to bring Iraq closer to the USA’s zone of influence. Even after the period of formal provisional authority (2003-2004), the USA has continued with Iraq reconstruction project. The immediate results indicate an Iraq whose political command has been fragmented, the most basic markets and productions have been embedded in international capital, and the mechanisms to combat violence have not subsequently prevented the insurgency (HERRING; RANGWALA, 2006). Our purpose isn’t to present the economic benefits of the Iraqi reconstruction process, but to discuss how the USA executed the reformulation of Iraqi political structure since 2003 at least in three aspects: changing the political regime, prohibiting any Baath affiliation and action in Iraq’s political theater, and articulating the rise of political parties that historically opposed Baath’s government for almost 40 years, and its consequences.





A brief critique on the liberal argumentation of CPA failures in Iraq.

Before analyzing how Iraq remained unstable despite the structural changes, it's important to understand the CPA role there. In this sense, two points can be highlighted: the general aspects that motivate interventionism according to liberal premises; and the practical aspects of the development of public reconstruction policies in Iraq, and the consequent critical interpretation of liberal literature itself, predominantly Western.

Actually, the selection of countries that should be submitted to intense political and economic reforms is mostly inspired by international powers foundations and think tanks assertions, whose analysis is taken into account by governments to estipulate political patterns of behavior and structures, such as: democratic regimes, respect to human rights, development of free economies. Countries under democratic and/or security crisis were classified as “Failed States”, and its logical policy response was called “statebuilding” (CALL, 2008). Thus, the supposed solution to the political, social and economic gap on these countries was to intervene and change their “outdated structures”.

However, there are specificities that characterize this new type of intervention. In opposition to interventions of the past, whose imperial characteristic of territorial and power expansion were explicit in the conflicts, contemporary ones are characterized by “short” -not permanent- period of occupation (PARIS, 2010); multilateral decision and leading (HARRIS, 2006); they don't explicitly assume power objectives, domination pretensions, or resources exploitation ambitions (PARIS, 2010); and are justified by humanitarian objectives (FOX, 2008).

Since 1945, international interventions have been legitimized by the international community on the grounds of humanitarian rationality (FASSIN, 2012). This became generally accepted as a just cause for occupations, a cause that wasn't publicly challenged (FASSIN, 2012). The debate over the international peace maintenance has been dominated by the moral responsibility of international powers over weak States through interventions. This model, proposed by Western states, prioritizes individual rights, promising the liberal framework of peace and security. (CHANDLER, 2004).

Nevertheless, Anglo-American occupation in Iraq reveals specificities (CHITALKAR, MALONE, 2013; DOBBINS *et al.*, 2009; HARRIS, 2006; NEWMAN; PARIS, RICHMOND, 2009; PARIS, 2004). The occupation of Iraq — involving elections,





constitutional processes, economic adjustment, and institutional strengthening — further challenged the legitimacy of the broader peacebuilding project (NEWMAN; PARIS; RICHMOND, 2009). It involved a peculiar case in which the UNSC recognized an occupying power that wasn't UN contingent itself. Despite formally defined as a multilateral occupation, the apparatus for reconstruction, humanitarian aid and political stabilization was linked by the USA government leadership (CHITALKAR; MALONE, 2013). Another specificity was the global “war on terror” context, in which the USA accused Iraq of developing Mass Destruction Weapons (WMDs), threatening international security (CHITALKAR; MALONE, 2013).

Clearly, there was concern over legitimizing Anglo-American actions toward the occupation of Iraq. After CPA's departure from its responsibility for administering Iraq, it can be seen different points of view, regarding the results of this reconstruction process in the country over fourteen months. CPA official statement said that after decades of dictatorship, the occupation's consequence was that the Iraqi people took control over their destiny, having all the necessary conditions for a free and prosperous future (CPA, 2004). However, such vision isn't a consensus. Some analysts consider that this process wasn't effective, on the contrary, it has been problematic in many aspects. Many of these researchers depart from a liberal perspective over which contemporary interventionism is justifiable if entangled by a humanitarian reason, or a purpose to help “failed states”. So, if these interventions didn't reach that purpose they should be considered failed missions.⁴

CPA identified four main actions for Iraq's reconstruction: creating the conditions for economic growth; establishing a secure and safe environment; enabling the transition to transparent and inclusive democratic governance; and restoring basic services to an acceptable standard. All of them refer to bad execution/ planning, or error in public policy, on Iraq's reconstruction (RATHMELL, 2005).⁵

Regarding economic aspects, much of the criticism over the USA occupation in Iraq concerns the high costs of maintaining it. The USA, its partners, international organizations and donors provided substantial amounts of funds to help rebuilding Iraq — the USA congress alone approved over U\$20 billion (USA, 2004b). As the CPA worked to maintain liquidity and to stabilize Iraq's currency, it lacked the necessary resources to rebuild Iraq's infrastructure and to provide essential services

4 In addition to these cited authors, there is a range of others not cited, mostly within this liberal premise that the purpose of the campaign in Iraq was indeed statebuilding. Some of these analysts even worked in CPA.

5 For a specific debate over the internal critics by liberal analysts involved in the statebuilding of Iraq see Amaral, 2017, chapter Four.





to Iraqis (DOBBINS *et al.*, 2005). The predominant perception was that this financial effort didn't bring tangible benefits to Iraq (BARAKAT; CHARD; JONES, 2005). Despite the complex institutional-bureaucratic structure developed for financial funds control and application, the efficiency of reconstruction expenditures wasn't prosperous (HENDERSON, 2005).

On the security sector reform, the implementation of security policies weren't enough to stabilize the social order in Iraq. The country was not the first case in which USA forces faced general degradation of public order at the beginning of a stabilization operation. Similarly, outbreaks of civil violence occurred immediately after USA interventions in Panama, Haiti, Bosnia and Kosovo. At the outset of the occupation, in May 2003, the USA Department of Justice determined that Iraqi police wasn't fit for keeping public order, thus designating a group of police officers and American counselors (most of them from private security companies) to train Iraqi police (PERITO, 2005). The Government Accountability Office's (GAO) final assessment was that the country's security situation had deteriorated since June 2003 because of the increase of insurgent attacks, impacting negatively on military operations and international civil organizations works in Iraq. (USA, 2004b).

On the governance restoration, two central issues can summarize the "failure" to establish governance in Iraq. First, the assumption behind prewar planning for governance was that Iraq's bureaucratic and administrative structures would remain intact despite the war, but law and order broke down and these structures ceased to exist, with no backup plan for such an eventuality. Second, the USA suffered from a lack of accurate information about the state of Iraqi society and infrastructure (WARD, 2005). However, this second argument is quite questionable, given all prior articulation to the invasion of the country, especially between USA and Iraqi opposition parties. Both USA and UK had the support of the Iraqi elite who opposed the Baath party government, to undertake the country's invasion and occupation.

As for the essential services, CPA planned to restructure sectors such as electricity, health service and education, the first being the one for which CPA's investment and dedication were more intense (USA, 2004b). The biggest amount of public investment for restoration was on electricity system. Despite relative improvements in the sector, the stipulated goals weren't achieved and, in some Iraqi regions energy levels worsened throughout the occupation period, except in the Northern region. Furthermore, a hostile environment affected the cost of rebuilding the energy sector, and several contractors reported numerous delays due





to difficulties in obtaining employees and security issues (USA, 2004b). Regarding the country's public health system, CPA faced a pharmaceuticals and medical supplies shortage at clinics and hospitals. The Ministry of Health reported that Iraqis received only 70-75% of pre-war basic service in Baghdad, only 80% in the Southern, and even the Kurdish region received only 90% of it. This meant that CPA wasn't able to reach Baath government public health standards. On education, CPA acted with three policy priorities: school infrastructure repairing, capacity-building of ministry employees and curriculum reforming (new books). Despite initial progress in education, investing \$ 62 million in schools, the CPA developed little education infrastructure, few teaching materials were distributed and it also had problems paying education civil servants, the public sector that employed the most Iraqis. (DOBBINS *et al.*, 2009).

Much of the literature on USA intervention in Iraq, agrees that the occupation was problematic, "failed", and even "bankrupt". These political analysts claim that the USA went to Iraq with a maximalist reform agenda — grounded in a model of democracy that would serve as a beacon for the entire region — and a minimalist application of money and labor. In particular, it deployed only enough troops to overthrow the old regime, but not enough to prevent the emergence of violent resistance or to fight and defeat the resulting insurgency (DOBBINS *et al.*, 2009). However, this can only be argued if we accept the USA government's documents and speeches assumptions justifying that campaign.

Scholars must abandon the concept of state failure and other liberal premises by putting a renewed effort into the elaboration of categories of analysis that broaden the conception of the statebuilding process impact beyond the documented objectives (CALL, 2008). That's why we highlight other important political measures that resulted in structural changes which altered Iraq's behavior in the international arena.

The (imposed) new political regime in Iraq and the prohibition of Baath political organization

According to the UNSC Resolution 1483, the occupation domain was granted to the CPA, headed by government representatives from the USA and Great Britain, mainly diplomats. Separately, military activities were under the CJTF-7 command, a military joint that operated to combat insurgent groups, training and





restructuring Iraq's regular forces. For this reason, during the fourteen months of formal occupation, it can be identified two sets of reconstruction practices: a military on one side, and a political administrative on the other side (AMARAL, 2017). The provisional constitution in effect during the administration (Transitional Law) divided the transition period into two phases — the interim government phase (since June 30, 2004) and the government transition phase (since the elections in 2005). To support governance and security issues related to the implementation of the Transitional Law, the USA provided about U\$ 1.7 billion in April 2004, divided in: U\$ 244 million for Iraqi police and security forces; US\$ 378 million for the rule of law and democracy building, including interim and transitional governments; and U\$ 1 billion for operating expenses of USA in CPA agencies. As a result, the Iraqi and multinational security forces of the CJTF-7 would remain responsible for security after the Iraq transfer of power (USA, 2004a).

Regarding Iraq's "political reconstruction" during CPA's administration, it was defined CPA's actions through 100 Implementing Orders and Acts. The Coalition declared overall goal was to make an organized transition from foreign management to an Iraqi local government. To that end, it involved the participation of Iraqis in CPA policies through the Iraq Government Council (IGC), as regulated by CPA Regulation 6. The body was responsible for monitoring, evaluating, advising and approving the measures established by the entity during the occupation. Later, an Iraqi interim government composed by Iraqi politicians, but selected by the CPA and the IGC, would be set up in June 2004, as stated by Regulations 9 and 10. The main goal was to establish democratic elections, empowering an autonomous government, as it happened in 2005 (CPA, 2004).

To this end, the first fundamental measure was to "debaathficate" Iraq political structures. To change Iraq's political structure, as said in the 1998 Act, it was necessary not only remove Baath political party from power, but also to eradicate its existence.

Following Saddam's overthrow, the political structures (public sector and state) Iraqi civil society debaathification was defined by Orders Number 1, 4 and 5, Memoranda number 1 and 7, such as IGC Resolutions 21, 52, 54, 58, 94, all relating to 2003, and 37, relating to 2004. In CPA's view, managing Iraq in peace depended on removing anything related to the old administration, which were openly opposed to the international coalition and opposition parties. Therefore, they prohibited the existence of the Baath Party and organize a system of punishment and judgment for any individual involved with the previous regime, that should be prosecuted





by a judicial organization called: Debaathification Commission. Meanwhile they also transformed Baath's Party properties and assets into public goods.

The punishment of those involved with the Baath Regime was related to a justice reform carried out by the CPA. The Order No. 7 of the CPA recognized the criminal law as a tool to crack down on internationally recognized Saddam's Regime human rights violations. Regarding that, CPA suspended certain legal provisions inherited from the old Baath Regime and brought international human rights law principles (such as the prohibition of torture or a tighter system for the death penalty) into account. The occupation was mainly justified on the basis of the human rights atrocities undertaken by the Baath regime. However, it is important to note that there was a relevant reservation in the document. The order stated that these laws couldn't be applied to CPA personnel, neither to any other international entity official under CPA supervision working in Iraq, exempting them from responsibility.

Following Order No. 13, CPA established a Central Iraqi Criminal Court (CICC) located in Baghdad. In a way, the CICC consolidated the new Iraqi judicial system promoted by the occupying powers, operating initially in accordance with the requirements and procedures of the Investigation Courts under the Iraqi Criminal Procedure Law of 1971, also modified later by the CPA. In practice, the CICC was a body composed of Iraqi judges, but responding to the general administrator orders, the CPA. In addition to the CICC, CPA established a committee to review the functioning of the new judicial system, with the purpose to ensure the highest standards of this system, according to Order No. 15. This committee worked to improve the CICC through reforms in July 2003 and April 2004.

Lastly, the governance of Iraq's territory was reorganized until the establishment of Order No. 71 that defined the power of local governments. Overall, Iraq's executive responsibilities during the occupation were in CPA's hands. However, this responsibility was progressively distributed to districts and municipal administration, but requiring them to be accountable to the CPA.

The rise of a new political elite in Iraq

The rise of anti-Saddam parties formed the basis of Iraqi politicians currently in power. Those who supported the idea of deposing Saddam Hussein in the 1990's were the same who emerged after his overthrow. In December 2002, an





Iraqi Opposition Conference held in London echoed the Anglo-American desire to overthrow Saddam. Watered by the “war on terror”, an Iraq invasion and its restructuring agenda was taking shape. The conference, which was attended by most prominent forces, groups and figures of the Iraqi opposition worked under the motto: “In search of Iraq’s liberation and the achievement of democracy”, reaffirming the principles of previous correlate events, especially the Salah Al-din Conference of 1992⁶. This happened in accordance with Washington’s political discourse in August 2002, which established then an Iraqi Opposition Council composed of senior USA officials and representatives of six Iraqi opposition groups: the two main Kurdish parties, the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK); the Supreme Council for the Islamic Revolution in Iraq; the Iraqi National Agreement; the INC; and the Constitutional Monarchy Movement (TALMON, 2013)⁷.

In March 2003, two documents: the Final Declaration of the Meeting of the Coordinating and Monitoring Committee of the Iraqi Opposition and the First Declaration of the Iraqi Leadership Council, set out what would be a group of Iraqis designated to support CPA administration. The first was made to take up the Iraqi Opposition Conference (2002) demands in order to prepare for the liberation of Iraq. It should resolve its political, administrative and security gap, and ensure the best possible representation for the Iraqi people in the international arena and with friendly states — in this case the coalition powers — who wish to cooperate with them. The meeting emphasized the cooperation with the broadest possible forces of Iraqi people to achieve the goal of changing and preparing for the transitional period, which would begin immediately after the collapse of Saddam’s “tyrannical” regime. (TALMON, 2013). The second document established the Iraqi Leadership Council (ILC) members, composed by part of the Iraqi Opposition. The ILC would represent the active opposition forces in Iraq, and sought to enjoy the trust and support of the majority of the Iraqi people of all ethnicities. It acknowledged the support of the international leadership for regime change in Iraq, endorsing the interests of coalition powers, and had in his text the aim of bringing the Iraqi people to embrace this new project of power managed by foreign powers (TALMON, 2013)⁸.

6 First official meeting of the Iraqi opposition to the Baath Regime.

7 For more information consult the documents 576 and 577 (TALMON, 2013).

8 For more information consult the documents 578 and 579 (TALMON, 2013).





In that context, Iraqi Opposition Conference participant's demands were fulfilled in part. With the Saddam's overthrow, they became the Council of Iraqi political parties — without the Baath Party — endorsing the American transition project through CPA. The executive, legislative and judicial exercise of CPA in the hands of foreigners testifies that the reconstruction process didn't go as initially envisaged by the members of the Iraqi Opposition. In spite of that, a political transition did in fact occur, and CPA foresaw the transition briefing for an interim Iraqi government, prompting Council of Iraqi political parties members to support the government provisionally led by the USA leadership. In July 2003, the ILC declared its full support for the creation of a governmental council, the IGC, also composed largely by former Iraqi Opposition, finally entering in the occupied Iraqi political system (TALMON, 2013)⁹.

Those who participated in the meetings in 2002, as well as the IGC members and its multiple committees of 2003, were mostly the same individuals that also became representatives of the Interim Government of Iraq (2004). This proves that the political elite opposed to Saddam Hussein were the same who become Iraqi political agents after the transition of power. Some examples of former Iraqi Opposition members were: Ayad Allawi, chosen as Iraqi Prime Minister after the dismantling of the CPA and also participated in meetings prior to the USA invasion; Iraqi President (2004-2005) Shaykh Ghazi M. Ajilal-Yawar; the former Interim Government vice president, Ebrahimal-Jafari (al-Jaafari) also elected as Prime minister in 2005.

Some Iraqi Opposition members stepped up to the IGC's country politics, such as Ahmed al-Chalabi, INC's leader, expelled from Iraq in 1996, who returned to Baghdad after Saddam's overthrow. Jalal Hisam al-Din al-Talabani, from KDP, who would later become the first non-Arab president of Iraq; Abdul Aziz al-Hakim, the Supreme Council for the Islamic Revolution chief leader in Iraq, the most important Shiite opposition group; Ayatollah Mohammed Bahr al-Ulloum, a Shiite who was exiled in London in 1992 as a political activist from the Baath party. All of them were also members of the IGC Presidential Board.¹⁰ It is also possible to highlight members of the Iraqi opposition who received important functions in public bodies. Hajim M. Al-Hasani a moderate Sunni would be chosen Minister of Industry and Minerals in 2004. Likewise, Adil Abdul Mahdi member of the Shiite

⁹ For more information consult the document 581 (TALMON, 2013).

¹⁰ Only Dr. Adnan al-Pachachi, Mr. Massoud Mustafa al-Barzani and Dr. Mohsen Abdel Hamid, were Presidential Board members and had no direct link to the Iraqi Opposition prior to the occupation.





Supreme Council for Islamic Revolution in Iraq, would be chosen as Minister of Finance in 2004. Ezzedine Salim, a member of the Iraqi Dawa Movement from 1980 to 2004, became an IGC member. Hoshyar Mahmud Mohammed Zebari, a KDP member became Iraq's Foreign Minister from 2004 to 2014. Finally, Younadim Yousif Kanna an Assyrian Christian from northern Iraq, became member of the IGC — the only Christian one.

This exercise of identifying the members of the Iraqi institutions that supported CPA's occupation is important because it reveals a fundamental element. To legitimize the action of the international powers in Iraq, CPA needed the Iraqi society support, finding local allies and carrying out their political-economic power project in Iraq. It was planned and executed in cooperation with them, as the IGC worked together with the CPA during the occupation. After the formal occupation, some of these Iraqis remained in power, following an Anglo-American agenda, initially with the Interim Government of Iraq and later with members of former ruling elite in power.

Therefore, the links between the USA, the UK and Iraqi elite members, originally as Iraqi Opposition and later as IGC, demonstrate the political maneuver well articulated by the powers and the old opposition elite. The movement consisted in support political elite in Iraq that could represent West powers interests. (AMARAL, 2017).

Legal determinants for the CPA power transition to the Interim Government in Iraq

To shape Iraq as an ally, the CPA not only supported the establishment of a political elite partner, but also set legal parameters for a new political structure.

In order to pave the way for the transfer of power in Iraq after CPA's leaving, the Coalition helped the IGC to develop the Law of Administration for the State of Iraq for the Transitional Period, also known as Fundamental Law, in March 2004. On June 8, 2004, UNSC Resolution 1546 provided international support to move forward with this process, stating that by 30 June CPA would cease to exist and Iraq would reaffirm its full sovereignty (USA, 2004b). In addition to this Fundamental Law, the CPA's Order No. 100 determined the conditions to facilitate an orderly transfer of full governing authority to the Iraqi Interim Government on 30 June 2004. Despite this transfer of power, it is possible to identify some elements in these legal determinations that consolidate the USA and British "permanence" in





Iraq, either directly, with the maintenance of the military presence in the country, or indirectly, with benefits and economic and commercial privileges, through the maintenance of a liberal economic market system, built over the 14 months of CPA in power. This was established mainly in the final period of CPA's presence as the country's highest authority.

In November 2003, Paul Bremer (CPA's commander) and Secretary Rumsfeld were already discussing a strategy for Iraq's political transition. Basically, Bremer noted the need for a transitional constitution or "basic Law" that should be drafted by the IGC, planning direct elections to fill the legislative and/or executive bodies created by this transitional constitution at the mid-year of 2004. On the basis of this transitional constitution, the new Iraqi government would have the responsibility of drafting a permanent constitution. In his letter to Rumsfeld, Bremer acknowledges that initially the elaboration of the permanent constitution of Iraq had been devised during the work of the CPA in the country. However, since this was not feasible, the best alternative was to prepare a transitional constitution to support the later elaboration of a permanent one (TALMON, 2013)¹¹.

Such a proposal took shape on March 8, 2004, when the IGC, after unanimous approval by its councilors, approved the drafting of the Law of Administration of the Iraq State transitional period, known as Transitional Administration Law (TAL) (TALMON, 2013).¹² Basically, the TAL contained 62 articles that guaranteed the fundamental rights of all Iraqis — freedom of expression, peaceful assembly, religion and a fair and public hearing by an impartial tribunal —, and described the structure and authority of the Iraqi Transitional Government, Legislative, Executive and Judiciary. Without going into the details, it's important to highlight some elements present in the normative set.

Firstly, according to TAL's Article 59, the multinational force would continue to operate in Iraq in accordance with the provisions of UNSC Resolution 1511. It guaranteed the USA military permanence in the country, having operational control of military and security actions on its territory against militias and insurgents. The purpose was to maintain the Multinational force operating until Iraq reached its public order even after the formal CPA's departure, as described in CPA's Revision of Order No. 17.

Secondly, provides for the distribution of power to groups that were renegades during the Baath rule, such as the Kurds, Turkmen, and other minorities. Plenty

11 For more information consult the document 231 (TALMON, 2013).

12 For more information consult the documents 436 and 509 (TALMON, 2013).





of these groups were American's and British's allies, as we had already seen, part of the Iraqi Opposition. Therefore, this could work for the powers as a strategy to maintain Iraq as a zone of influence in Middle East. Also, as part of this "distribution of power", it can be highlighted the attempt to reach agreements with some of the local militias, such as the Kurdish Peshmerga, the Badr Brigade, the Supreme Council for Islamic Revolution militia in Iraq, a Shi'ite Islamic fundamentalist group that has ties to Iran; and Mahdi Army, a follower of Muqtadaal-Sadr, the radical Shi'ite leader. According to the GAO, CPA officials stated that a dialogue was being established with political and militia leaders to encourage their members to play a role in security by joining the Iraqi Armed Forces and the Iraqi Civil Defense Corps (USA, 2004b). For example, CPA negotiated with Kurdish leaders on the transition of Peshmerga members to national security structures, such as civil servants with jobs and pensions. In May 2004, Institutional Order No.91 regulated the existence and activity of some militias and armed forces in Iraq, in addition to the Iraqi officer.

With the establishment of the Transitional Law, President Bush made a statement praising its consolidation: "This law provides a framework for continued cooperation among Iraq, members of the international Coalition, and the United Nations as the Iraqi people make progress towards democracy" (BUSH, 2004. *apud* TALMON, 2013)¹³. It exemplifies how the Transitional Law served to maintain an alliance with the USA and its power project for the region, stating the USA's interest in maintaining a close relationship between states.

More incisively to that argumentation, in its last Institutional Order, the CPA made last revisions to the laws, regulations, orders, memoranda, instructions and directives issued by itself in order to facilitate a transfer of full authority to the Iraqi interim government on 30 June 2004. In its section 3, Order No. 100 determines the revisions of specific provisions of the CPA Orders between 2003 and 2004, highlighting those that must be amended, terminated or changed. It should be noted that the document lists some kind of change for 35% of those Orders (TALMON, 2013)¹⁴.

In addition to the proposals officially stated in the documents, highlighting the objectives of economic reconstruction, political stability and security of the country, the CPA administration period in Iraq largely served to prepare the ground for maintaining the influence of the international powers in Iraq. The CPA was able to consolidate the Anglo-American power project for the country in the sense

¹³ For more information consult the document 558 (TALMON, 2013).

¹⁴ For more information consult the document 124 (TALMON, 2013).





that there was a transition of power from the previous political elites (Baath party) to the allied political elites (formerly Iraqi Opposition), which came to represent local government, re-establishing a good bilateral relationship between USA/Iraq and Great Britain/Iraq.

The statebuilding of a political unstable State

Even after the CPA mandate ended, USA kept its presence in Iraq. Militarily by maintaining the multinational force commanded by the USA, until 2011, to consolidate Iraq's security and defense structure rebuilt. And also holding the economic ties still linked to Iraqi reconstruction.

In 2004 the USA disbursed US\$ 2.2 billion in funds for Iraqi civil projects, equivalent to US\$28 per civilian (HERRING; RANGWALA, 2006). Since July 2004, nearly a quarter of the US\$ 18.4 billion destined by fiscal year 2004, has been realigned from electricity and water projects to projects for safety, economic development and immediate impacts. As of March 2005, the USA and international donors committed US\$ 60 billion to Iraq's security, governance and reconstruction efforts, of which the USA provided about US\$ 24 billion. (USA, 2005). In 2006, GAO stated that most of these efforts for Iraq's reconstruction and financial relief since 2003 were being conducted through contracts awarded by the Department of Defense (DOD), Department of State and the USA Agency for International Development (USAID), accounting 98% of the financial obligations to the Iraq Relief and Reconstruction Fund.

In 2008, a bilateral agreement ratified by both representative governments, known as the Strategic Framework Agreement (SFA), reinforced political, economic, cultural and security ties between USA and Iraq. According to the USA government, this agreement was designed to help the Iraqi people take their stand and strengthen Iraqi sovereignty, while protecting USA interests in the Middle East (USA, 2008). Also at the end of 2008 the Security Agreement stated security and defense cooperation guidelines between the countries, referring to what would be the latest military guidelines on the presence of USA forces in Iraq. It was determined that the USA would withdraw all of its troops from Iraq by the end of 2011 (USA, 2008), as it actually happened. The signing of the SFA and the Security Agreement in January 2009 consolidated a milestone in the relationship between them, since it would change the process of US assistance in direct reconstruction





of Iraq, to build Iraq's capacity to effectively rebuild and self-govern (USA, 2018). This should change the relationship between the countries from dependency to a bilateral balanced relationship.

Nevertheless, all this investment in Iraq never stabilized its political structures, nor did it turn the relationship between USA and Iraq into a balanced one. There are plenty facts that show why Iraq's fragmentation remains despite the reconfiguration process of its political-economic structure. Despite the effort, fifteen years after the USA formal occupation, Iraq remained politically unstable. The presence of insurgent groups against international interference, the rise of Islamic State, the resumption of Iraq Kurdistan interest for independence are some examples of posterior political crisis in Iraq.

During the presence of USA officials in Iraq, it's estimated that insurgent forces have grown by 5,000 insurgents from 2003 to mid-year 2004. With the CPA's exit, but the maintenance of USA military's in the country, was estimated that there were between 12,000 and 16,000 insurgents in the country, thus an increasing rate of civil resistance (CORDESMAN, 2004). At least nineteen groups may be identified, dividing them in three categories (HASHIM, 2005):

Table 1 – Insurgent Groups during the Occupation by Category

Secular Nationalist/ Tribal Groups	Insurgent Organizations that incorporate nationalist and religious elements	Groups defined largely by their religious tendencies
<i>General Command of the Armed Forces, Resistance and Liberation in Iraq</i>	<i>Higher Command of the Mujahideen in Iraq</i>	<i>Jaish Ansar al-Sunnah</i>
<i>Popular Resistance for the Liberation of Iraq</i>	<i>Munazzamatal-Rayah al-Aswad (Black Banner Organization)</i>	<i>Mujahideen Al Ta'ifa al-Mansoura (Victorious Sect)</i>
<i>Iraqi Resistance and Liberation Command</i>	<i>Unification for the Liberation of Iraq</i>	<i>Jihad Brigades/Cells</i>
<i>Revolutionary Armed Forces of Iraq Al-Anbar</i>	<i>National Front for the Liberation of Iraq</i>	<i>Mujahideen Battalions of the Iraqi Salafi Group</i>
<i>Nasserists</i>		<i>Armed Islamic Movement of Al Qaeda Organization, Fallujah Branch.</i>
<i>Harakat Ra's Al Afa (Snake Head Movement)</i>		<i>Jaish Muhammad</i>
<i>Al Awdah (The Return)</i>		<i>Islamic Army of Iraq</i>
<i>General Secretariat for the Liberation of Democratic Iraq</i>		

Prepared by this author from the work of Ahmad Hashim (2005).





The Iraqi insurgency wasn't a united movement led by a leadership with a single ideological vision. Instead, it involved former regime loyalists, Iraqis resentful of foreign occupation, foreign and domestic Islamic extremists, and elements of organized crime to sustain them economically. Even after an Iraqi government election in 2005, these insurgent groups maintained their resistance.

Between 2008 and 2013, Iraq had 36,000 civilian deaths from violence. This data demonstrate a great reduction in the actions of the insurgent groups in the Iraqi territory, while in 2006 and 2007 the number of deaths was 55,000 (IRAQ BODY COUNT, 2019). However, this wasn't a result of improving the Iraqi defense and security structure. And the rise of *Islamic State (ISIS)* (2013) showed its weaknesses. *ISIS* represented the largest enemy of post-occupation Iraq, taking in its apex in 2015 almost 30,000 combatants (almost half of them in Iraqi territory) and taking for itself a great amount of Iraq's territory, mainly in the country's west and north.

The rise of the *ISIS* in Iraq came from the group formed by Abu Musab Al Zarqawi, which worked in northern Iraq in early 2000's. During the 2000's Zarqawi's group thrive in six provinces with heavy Sunni populations: Anbar, Nineweh, Salah-al-Din, Diyala, northern Babil, and Baghdad. As the Shia Arab majority in Iraq began to assume control of the state, concomitantly with the USA-led CPA implementing de-Baathification and Iraq's Army dissolution, many Sunni found themselves unemployed and disenfranchised from the government they once controlled. These conditions fed the rise of the diffuse Sunni insurgency and later, *ISIS*. (JONES *et al.*, 2017).

ISIS control peaked in fall 2014 at an estimated 6.3 million people, or 19% of the population. Most of this territory (58,372 km²) was in the provinces of Anbar, Ninawa, Kirkuk, and Salah ad Din. By winter 2016–2017, the Iraqi security forces—aided by Sunni, Shi'a, and Kurdish militia, Iran, the USA, and other allied forces—took back territory from an overstretched *ISIS* in Mosul, Sinjar, Bayji, Tikrit, Ramadi, and other cities. *ISIS* territorial control declined to 1.1 million people (an 83% drop) and 15,682 km² (a 73% decrease) (JONES *et al.*, 2017). An important theme on the context of the war against the *ISIS*, was the resumption of international troops in Iraq in 2015. It was the resumption of international military action in the country just four years after the withdrawal of the last troops (2011), representing the fourth time that Americans intervened in Iraq, in a space of 25 years, but it was the first time that this international intervention came with Iraqi's government consensus.





By early 2017, *ISIS* controlled 45,377 km² of Iraq and Syria territory, but with international support combined with local resistance, by mid-year, the Iraqi Prime Minister went to Mosul to announce the victory over *ISIS*. It was estimated that the removal of the explosives from Mosul and the repair of the city in the next five years would require U\$50 billion (USA, 2018). Therefore the statebuilding project that characterized most of international presence in Iraq as consequence of the USA-led invasion in 2003 remained, as a new international coalition works for rebuilding some of the most important Iraqi cities (as Mosul, Tikrit and Fallujah).

Besides the enormous crisis caused by the *ISIS* since 2013, another factor of instability was the resumption of Iraq Kurdistan interest for independence. Actually, this theme isn't new to Iraqi political reality. At least since the 1960s, when Mustafa Barzani (father of Massoud Barzani, KDP leader) led the Kurdish insurgency in Iraq, the independent Kurdistan movement exists, alternating moments of conflict and peace with Arabs in Iraq. It was only in 1992 that Iraqi Kurdistan became a region with relative autonomy when, after the Gulf War, the Baath government completely removed its military from the region, allowing the region to function autonomously.

On September 2017, the Kurdish region of Iraq held a referendum over independence. The results indicated that 93% voted for the “yes”, representing a strong symbolic value, even if it wasn't binding. The referendum also reopened an old debate on the borders between Kurdish regional government and the rest of Iraq. Iraqi Kurds have claimed an enlarged territorial area that would cover a part of the city of Mosul and the entire Kirkuk, both unofficially controlled by the Kurds since the fight against *ISIS*. Both cities have high population density and are relevant to Iraqi economic development. Mosul (5th largest Iraqi city) was reconquered in July 2017 with the active Peshmerga's participation against *ISIS*, “securing” the city since then. While Kirkuk concentrate the second largest Iraqi oil reserve behind Basra in the south of the country. In addition to the Kurdish provinces that make up the Kurdistan Regional Government (Erbil, Dahuk, Sulaymaniyah and Halabja), they also included the annexation of other provinces cities such as Khanagin, Jalawla, Mandali and Diyala.

The referendum not only represented another issue over Iraq's political crises, but also had an impact over the election process — the great symbol of democracy and popular participation — that was expected in September 2017. In Iraq the fifth election happened in May 2018 following the postponement caused by *ISIS* conflict consequences and the popular referendum for the independence





of Iraqi Kurdistan. The election was also delayed as Iraq's largest Sunni coalition, *Muttahidoon (United for Reform)*, called for a further six months delay to allow displaced voters to return to their homes. Almost 6 million people were displaced since *ISIS*'s rise in 2014 and some 2.6 million remained displaced at the beginning of 2018 (UN, 2018).

At the elections, over half of Iraqi voters did not vote. Only 44.52% citizens attended the polling stations, a historically low turnout. The elections decided the Council of Representatives members with the victory of Sadr Sairoon Alience, a Shiite political coalition led by Muqtada al-Sadr and composed by its own party and six other legends, who won 54 of Parliament's 329 seats. After the counting, some groups advocated for the elections cancellation, alleging falsification in votes counting and lack of popular presence in the election due to the instability of several regions post-*ISIS*. Therefore, the Iraq's Federal Supreme Court decided to review the votes from areas where results were contested. This recounting process, as said by the Commission spokesman Laith Hamza, was taken by all managers of polling stations and offices where there have been complaints, with the presence of representatives of the UN, political blocs, as well as representatives of the candidates¹⁵. This scenario shows the distrust and political instability still present in the country, evident in the most important mechanism of democracy, the general elections.

Conclusions

After Hussein's deposition, Iraq shows difficult in emerging as a regional power, as it were by the 1970's. The main "goal" of the statebuilding process was to make Iraq become a USA influenced country, but the consequences also demonstrate its inability to sustain a firm political state. Despite the effort and all changes in various political and economic structural aspects, almost fifteen years after the USA formal occupation, Iraq remained politically unstable. Actually, the USA-led reconstruction process fragmented Iraqi political structure. The maintenance of insurgent groups against international interference, the rise of Islamic State, the resumption of Iraqi Kurdistan interest for independence and the recent troubled election process in 2018, exemplify today's political crisis in Iraq.

¹⁵ See: <https://www.al-monitor.com/pulse/originals/2018/06/iraq-election-parliament.html>. Access 13/02/2019.





Even after the passage of USA power to the Iraqis in 2004, the Americans remained influencing the country. Militarily, the multinational force remained until 2011 in Iraq territory. The process of economic liberalization, since 2003 (which we do not explore in this paper) caused a great boom of international companies in the Iraqi market (AMARAL, 2017). Also, the international aid mechanisms through reconstruction funds remained in the country. In general, Iraq is a global country still with very difficult to politically reestablish itself.

Besides many structural changes, Iraq never reached the democratic and public order status expected by the CPA in 2003. On the contrary, it has presented over the past years: a political segregation with the ban on Baathism; a lack of public security and defense structure unable to contain insurgent enemies a priori smaller than the official Iraqi defense forces; a country with separatist regions still interested in independence (like Iraqi Kurdistan), that could weaken country's military and economic capacity; an finally a fragile democracy, in which one election after another popular turnout rates have been falling sharply.

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