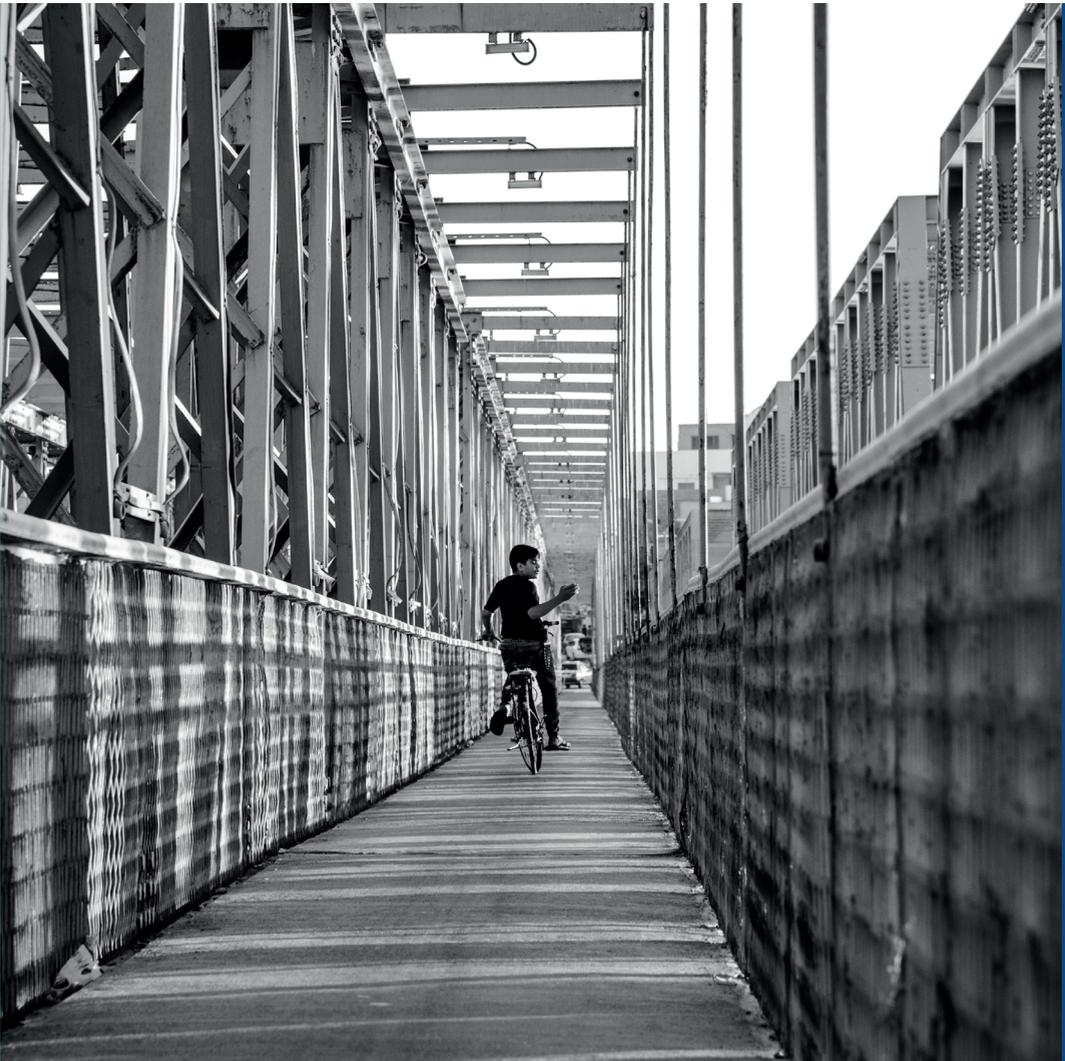




ASSESSING THE IRAQI CONSTITUTION'S IMPACT ON STATE AND SOCIETY



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Preface

In 2016, the International Institute for Democracy and Electoral Assistance (“International IDEA”) worked with leading experts in constitutional law to develop a new methodology to assess constitutions. The methodology consists of assessing a constitution’s “performance” and involves identifying a constitution’s objectives and trying to determine, based on different data sources, whether those objectives have been met. International IDEA has since implemented that methodology in a number of countries, and in all cases does so in collaboration with local experts and local partners.

This report, which seeks to assess the performance of Iraq’s 2005 Constitution, is part of that series. It builds on the experience that was developed in the production of previous reports, but also applies criteria and methodologies that are unique to Iraq’s specific circumstances. A team of experts and researchers carried out opinion polls, gathered social and economic data, interviewed leading members of the 2005 constitutional drafting committee, and subject amendment committees, etc. All of that data was applied to measure the Constitution’s performance against specific criteria, and was used to inform the report’s conclusions and recommendations.

We are proud to have produced this report in collaboration with Rewaq Baghdad, a leading and independent think tank in Iraq. Through our collaboration, International IDEA hopes that this report will contribute to the debate on Iraq’s 2005 Constitution and support discussions and policy recommendations on how the constitutional framework can be developed and improved. Iraq’s Constitution has been in force for close to 18 years. Constitutional reform is a crucial and natural means through which a country can develop its democracy and the ability to discuss and debate a constitution and possible improvements is in and of itself evidence of growing stability.

Iraq and the country's citizens have been through a lot over the past few decades. The country is currently striving towards democracy, peace and stability, and in this regard it is imperative that international, regional and national organisations work to support that effort and aspiration. International IDEA will continue to support the effort to strengthen Iraq's democratic institutions through any means that it can.

Roba Sharamo

Regional Director

Africa and West Asia Region

International IDEA

Over the past three and a half years, Rewaq Baghdad Center for Public Policy has worked tirelessly to establish a professional and scientific think tank in a country engulfed by ideological tensions and rocked by social and political divisions. Iraq's current situation has complicated our mission, particularly considering the doubts and fears.

Rewaq Baghdad has managed to distinguish itself through its prolific scientific research production. The Center produces 15 public policy papers, position papers, and forward-looking scientific studies per month, which translates to more than 180 research papers and studies per year. Dozens of studies and articles have appeared in eight volumes of the quarterly magazine, *Al-Rewaq*, which many specialists and experts consider one of the most important publications for Iraq's political elite.

In addition, among the many innovative and creative projects launched by our center are the "I Am Parliament" project, the "Iraq Barometer" project, and the "Evaluation of the Performance of the 2005 Iraqi Constitution" project (through which this report was produced). Rewaq Baghdad has also organized dozens of workshops, panel discussions, and trainings and is planning other projects over the coming period. Despite all the major accomplishments and successes Rewaq Baghdad has achieved over its three short years of life, its most significant success is its vision founded on two main pillars: first, investment in human capital, represented by its innovative staff and by following the principles of trust, task delegation, and achievement tracking; and second, building solid institutional work traditions, represented by identifying standard work-environment criteria and consolidating and emphasizing them within an atmosphere suitable for production.

The project to evaluate the performance of the 2005 Iraqi constitution was a big shift in the Center's work, given the major efforts that were made to prepare and organize the sessions that were held during the project's two phases, over the course of a full year. The project's importance is reflected in the partnership with International IDEA, one of the largest international institutions that has made a mandate to work on constitution building and elections. Many experts, researchers, politicians, and community actors also participated in writing this important document that is in your hands. We hope national institutions (mainly, the three branches of government) will take advantage of this report in their attempt to find real and practical solutions to Iraq's constitutional crisis. We hope that this document will be a live document that can be developed and amended to align with the demands of the time and the major social and political changes in Iraq today, 20 years after the turning point of 2003.

Abbas al-Anburi

Chairman

Rewaq Baghdad Center for Public Policy

I. Executive Summary

A. Description of the project

This report is the first of its kind in Iraq. It is the first report to assess the performance of the Constitution. The report seeks to achieve this by determining what the objectives of Iraq's 2005 Constitution (the "Constitution") were, how it performed when measured against those objectives, and how it performed when confronted with recent political, social, and economic crises. The report's aim is to guide decision makers and relevant authorities in their effort to develop a vision for constitutional reform.

The report builds on the methodology that was developed during similar assessments that were carried in other countries and by adapting that methodology to make it more relevant to the Iraqi context. The first step in that process involved developing a set of criteria against which the Constitution's performance could be measured.

Second, in order to carry out the evaluation, a significant data gathering exercise was carried out. One of this report's unique contributions is that the Constitution's performance was evaluated from different perspectives, and was not limited to the views of the constitutional experts. The report is based on the understanding that constitutions are not merely legal documents, but are also informed by political, social and historical realities. As a result, the report's authors collected a wide range of data, including but not limited to the following:

- i. A series of interviews was carried out with key informants who were heavily involved in Iraq's constitutional process, including leading members of the 2005 constitutional drafting committee and of subsequent constitution revision committees, as well as senior political figures who influenced the process and who are still involved in debates relating to the Constitution. The purpose was to determine what those individuals consider the Constitution's objectives to have

been and their views on how the Constitution has performed since 2005.

- ii. Two opinion polls were carried out. The first is a general opinion poll that had as its purpose to provide an overview of the general population's views on the 2005 Constitution, on state institutions and on the perspectives for constitutional reform (see Annex A). The second was a targeted survey of leading jurists, academics, and political figures on their views on the Constitution (see Annex B).
- iii. A number of workshops were carried out, specifically with members of Iraq's minority groups. The workshops were designed as a means to gather their views about the Constitution and how it has fared since 2005, and as a means to test assumptions about the Constitution's performance. One of the main issues that was discussed during the workshops was how the Constitution has impacted ethnic and religious minorities ("components") in Iraq.
- iv. Data was gathered on legal reforms, and social and economic conditions, and in particular on issues relating to the protection of basic rights, on economic opportunities, on standards of living and other crucial issues that impact every day life in Iraq. Data was gathered from official government sources, from international sources and from independent sources as well.
- v. The project team also carried out their own analysis of the Constitution, including its provisions and its preamble, the manner in which it has been applied as well as the consequences.

This work was carried out by a team of experts and researchers. These individuals worked with the support of the International Institute for Democracy and Electoral Assistance (International IDEA) and Rewaq Baghdad Center for Public Policy (Rewaq Baghdad) who worked in partnership to ensure this project's success. The team of experts was responsible for determining the report's content while the researchers were responsible for gathering data and materials and for assisting in the analysis. The team of experts and researchers included the following individuals:

- i. The expert team consisted of Adnan al-Omairi, Adnan Ajel Al-Marjane, Adnan Sabih Al-Rubaiee, Arwaa Al-Bayati, Firas Makkiya, and Musadaq Adil Talib Al-Sariwi;
- ii. The research team consisted of Ghazi Kadhim Al-Zubaidi, Ghufuran Jasim Jebur, Haidar Jamal Khalil, Hussein Lina Emad Mohsen, Mustafa Khaldoun Mahmood, and Zeena Jassam Mohammed;
- iii. Rewaq Baghdad's support team for the project was led by Abbas al-Anbori (Chairman) and by Kawther Mohammed (Coordinator) and Zahraa Abdelkareem (Coordinator); and
- iv. International IDEA's support team was led by Zaid Al-Ali (Senior Programme Manager) and Hanen Beji (Coordinator).

B. Analysis of data

The data that was carried out in support of the report offered some crucial insights about the Constitution, its objectives, and the way different groups of people view the Constitution in Iraq. Some of the main findings can be summarized as follows:

- i. There is near consensus among Iraq's political class that the Constitution's main objectives include preventing the return of dictatorship and totalitarianism, and organizing political life. That objective appears to have been largely achieved, although the performance of state institutions remains seriously deficient in many respects.
- ii. The general population has very limited knowledge about or trust in the Constitution. The results of the general survey indicate that 47% of respondents believe that the Constitution was drafted by foreigners, that 60% maintain that the Constitution does not guarantee social and economic rights, and that 68% believe that the constitution should be amended. This stands in sharp contrast with the results of the targeted survey, according to which 77% of respondents believe that the rights and freedoms that are enshrined in the Constitution are satisfactory or better.
- iii. There appears to be significant agreement between the Constitution's drafters and other involved actors on some

of the Constitution's most salient features, including but not limited to the parliamentary system and the relationship between religion and state. There are however significant disagreements between these individuals on the origin of some of the Constitution's key provisions, what the committee's intention was in including them, and how they should be interpreted. For example:

- a. There is a strong disagreement on how Articles 111 and 112 should be interpreted, in particular the term 'current fields'.
 - b. There is also disagreement on the process to be followed to elect a president and to form a government after parliamentary elections. Many respondents and interviewees were of the view that the Constitution is lacking in clarity on this issue.
 - c. The Constitution's drafters were generally unfamiliar with how independent agencies relate to each other, what it meant for these agencies to be independent, and the role that they can and should play in preventing a return to dictatorship.
- iv. There is significant support in favor of amending the Constitution.
- a. In the general survey, 68% of respondents stated that they were in favor of amending the text.
 - b. In the targeted survey, 51% stated that they were in favor.
 - c. The majority of constitutional drafters who were interviewed also favor constitutional reform, and stated that a new constitution is needed to address the 2005 Constitution's failures and the developments that occurred 17 years after it was drafted.
 - d. Notably, a minority of the interviewees stated that any constitutional reform effort would likely fail given that several attempts had already been organized since 2005 and that none of them had yielded any results.
- v. If a constitutional reform effort were launched, a number of serious contradictions would have to be addressed. On the

one hand, a strong majority of the general population appears to favor establishing a presidential system, most likely in response to the current system of government's failure to enact serious reform and combat corruption. On the other, constitutional drafters, politicians and others appear to favor maintaining a parliamentary system (albeit with some important adjustments) most likely out of concern that a presidential system might facilitate a return to dictatorship.

C. Assessment of the Constitution's performance

As noted above, this report's main purpose is to assess the Constitution's performance against a set of criteria and pursuant to the data that was gathered and that is summarized above. The assessment reveals a mixed picture. The Constitution can generally be described as having succeeded to achieve a number of its key objectives. However, its performance has been seriously deficient on a number of others, so much so that there is very strong support in favor of amending the text to make it more responsive to the general population's preferences and interests.

The full assessment of the Constitution's performance is included in Section IV below. In summary, the assessment found as follows:

- i. **The Constitution's objectives:** The Constitution includes a long list of explicit objectives (including for example "building a nation of laws" and "strengthening national unity") and a number of implicit objectives (including preventing the country from relapsing into dictatorship, and ensuring balance between the country's ethnosectarian components). The assessment's conclusion is that the political system was barely able to satisfy the Constitution's explicit objectives, but it succeeded completely in achieving its implicit objectives. However, despite that relative success, in the long run, the Constitution has contributed to creating a state that consistently ranks high on the scale of failed, fragile, and corrupt states.
- ii. **The adoption of legislation and establishment of institutions required by the Constitution:** The political system's success

or failure can also be measured by determining whether the laws and institutions that are provided for in the Constitution were actually adopted or established. In conclusion, the political system has completed the requirements for establishing the state as outlined in most of the Constitution's sections to a very satisfactory degree. The legislation and institutions that were provided for have mostly come into being. However, legislation and institutions relating to the federal system have largely not been adopted. What this means is that the Constitution appears to have failed completely to formulate a vision that is acceptable to all of Iraq's components. This is a fatal flaw in the system, which will persist until a formula that is more realistic and that is fairer is adopted.

- iii. **Political stability:** The Constitution also had as one of its objectives to encourage political stability in the country. The Constitution appears to have impacted political stability on a number of levels. First, it established the contours of the political system at the national level, which has proven surprisingly resilient despite a number of strong challenges (including but not limited to a major terrorist attack in 2014 that led to a loss of huge amounts of territory). Second, it established a federal system that had as its purpose to establish stability between Baghdad and the Kurdistan Regional Government. As noted above, the contours of that federal system have not yet been finally agreed. In addition, there have been many important challenges to the system, including security, political and financial challenges, all of which have made it more difficult to resolve the relationship between the two sides.
- iv. **Establishing a legitimate government:** The Constitution also had as an objective to allow for the establishment of a legitimate government, which is to say a political and social environment in which the government of the day is recognized as legitimate and its decisions are respected and applied in practice. The assessment found that, despite an imperfect constitutional drafting process that was subject to foreign influence, the Constitution was very successful in establishing a legitimate government according to democratic criteria. However, and as noted above, there remains serious question about the federal system of

government, which remains a major source of controversy in Iraq.

- v. **Peaceful transfer of power:** One of the Constitution's most important objectives is to normalize the peaceful transfer of power. The Constitution appears to have satisfied that objective. Electoral legitimacy now appears to be an accepted principle in Iraq. This is a marked departure from the deep legacy of "revolutionary legitimacy" that legalized the military coups that took place after 1958. At the same time, it would be wrong to overlook the fact that the government formation process following each round of elections that have taken place since 2005 is growing increasingly difficult and prolonged and that the lifespan of successive governments is decreasing with time. In addition, governorate council elections have not been held since 2013, which is a major failing. As a result, against this measure, the Constitution appears to have performed well at the federal level, although there is good reason to be concerned about the future particularly given the failure to organize local elections since 2013.
- vi. **Popular oversight over state authorities:** For the purposes of this assessment, popular oversight includes oversight that is exercised by the population through public opinion, free expression, association and civil society. The Constitution affords significant civil and political rights including free expression and association, which are generally protected although not always uniformly. However, there is not constitutional or legal right to access information. In addition, as a matter of practice, state institutions in Iraq still adopt a closed approach to information, which is not in conformity with modern and democratic practice. Despite these challenges, civil society has been able to exercise increasing amounts of oversight including through the activities of think tanks. However, it is unclear at best that state institutions have responded positively to the popular oversight that has been exercised. In summary, the Constitution's performance on the issue of popular oversight is at best mixed.

vii. Satisfying citizens' needs and providing public services:

The assessment's results on this issue is overwhelmingly negative. The assessment starts with an acknowledgement that the 2005 Constitution includes a broad range of basic rights including civil and political rights as well as social and economic rights. However, the general opinion survey indicates that most Iraqis feel that the Constitution does not guarantee their rights to housing, education and work. In addition, a survey of publicly available data on how standards of living have evolved since 2005 paints an overwhelmingly negative picture that strongly suggests that the Constitution has broadly failed to satisfy this important objective.

viii. Participation in political and civic life: Here the picture is also mixed. The Constitution clearly provides for various mechanisms through which citizens participate in political life, including through general elections, the political system, local government, the exercise of political and civil rights and other means. The question here is whether these arrangements and the manner in which they have been implemented encourage and allow for political participation to thrive. On the issue of elections, Iraqis are able to participate in elections and still do so in significant numbers, but recent rounds of elections clearly indicate that Iraqis are losing confidence in their ability to affect outcomes. The results of the general opinion survey and of the targeted survey also provide strong evidence of the levels of frustration that Iraqis feel towards the existing political system and the levels of freedom that they are formally afforded. The Constitution has certainly translated into significant improvements in basic rights in Iraq, even though the state has severely repressed the general population on more than one occasion, most notably during the 2019 uprising. The consequences in practice are that opportunities for political participation appear to be narrowing and that increasing numbers of Iraqis are losing confidence in their ability to affect political outcomes.

D. Recommendations for the future

Pursuant to the assessment exercise, the report also includes a discussion about how the Constitution can be reformed pursuant to the data gathering and assessment exercise that was carried out. Recommendations are made in relation to the system of government, to the federal structure, to the judiciary, and to the overall framework for the protection of basic rights. In summary, the report offers the following recommendations:

System of government

The report recognises that the issue of system of government is complex and carries important risks. As noted above, there is strong popular support in favor of adopting a presidential system as a means to resolve the state's failure to enact reform. At the same time, many respondents and interviewees in the data gathering exercise have clear concerns that a new presidential system could facilitate the return to dictatorship. The report does not propose to resolve this tension, and instead sets out three possible scenarios (maintaining the current system with some improvements, adopting a presidential system with sufficient checks, and adopting a mixed or semi-presidential system). For each scenario, the report set out some of the possible amendments that could be made to bring the particular scenario to life while maintaining Iraq as a democratic country.

Structure of government

The report recognises that the current structure of government is not satisfactory to anyone. As noted above, since 2005, the laws and institutions that should have been adopted or implemented to bring life to the federal system have not come into existence. There appears to be a strong disagreement between political groups in Baghdad and Erbil as to how the federal system should function and how it should evolve, and that the absence of a common understanding has contributed to significant political crises since 2005. The report therefore recognises the need for a new agreement in which all parties achieve at least part of their main interests and enter into important compromises. This would include, for example:

- i. On the one hand, reasserting federal control over certain sovereign areas, including by amending Article 115 (to clearly establish supremacy of federal law on issues of shared jurisdiction), Article 112 (to increase the federal government's role in the management of oil and gas resources), Article 56 (to clearly establish how the Federation Council should be composed and to remove the matter from the Council of Representatives' control), Article 122(3) (to allow for governors to be directly elected by residents of governorates), and to amend the system of decentralisation outside of the federal regions to reassert some form of federal oversight.
- ii. On the other hand, establishing a fair and transparent revenue sharing mechanism (which should include the establishment of a commission that is composed in a manner that is reassuring to all parties), agreeing on a specific set of principles to be applied when deciding how revenue should be allocated, and agreeing on a dispute resolution mechanism on the allocation of revenue (either by reconsidering the Federal Supreme Court's composition along consensual lines and in a manner that puts an end to questions about its legitimacy, or by agreeing on a separate dispute resolution mechanism that is fit for purpose).

The judiciary

The judiciary's ability to serve the people's interests is undermined through a number of constitutional arrangements and practices. A number of recommendations can be made in that respect:

- i. Political involvement in the judiciary's composition has undermined its independence and impacted its capacity to serve in the population's interests. As a result, the Council of Representatives' role in the appointment of judges should be either fully eliminated or circumscribed.
- ii. Very significant effort should be made to increase civilian oversight on the judiciary (in part by encouraging a more robust civil society) and to improve judicial training to build on judges' ability to respond to modern challenges.
- iii. A new provision should be included that explicitly provides that the Higher Judicial Council should be the sole authority responsive for the Federal Supreme Court's composition.

- iv. Article 92(2) should be amended so that the Court's members consist solely of judges and legal scholars, while ensuring that the legal scholars are selected according to objective criteria, and without the executive's interference in their nomination. A revised version of Article 92(2) should indicate that Islamic law experts should be invited to participate on issues relating to Islamic Sharia. That measure should serve to protect the Court from partisan quotas.
- v. Article 92(2) should be amended so as to allow the Council of Representatives to adopt a new Federal Supreme Court Law by an absolute majority of its members rather than a two-thirds majority, which would facilitate the adoption of a law without subjecting it completely to the will of a temporary political majority in parliament.

Basic rights

- i. A number of changes should be made to improve the Constitution's bill of rights. In particular, the Constitution should impose on the state the obligation to invest in rehabilitative justice, and should also clearly provide that individuals who are wrongly convicted or protected may seek compensation from the courts.
- ii. Article 45(2) on the advancement of tribal customs has had an overwhelmingly negative impact and should be eliminated.
- iii. Amend Articles 3 and 4 and others to grant all components of Iraqi society the same level of recognition by the Constitution.
- iv. Expand Article 46 to include greater detail on the types of conditions that must be satisfied in order for a limitation of rights to be justifiable under the Constitution, including by including a direct reference to the principle of proportionality.
- v. Reconsider the constitutional and legal status of social and economic rights, and provide that they should be directly protected and implemented by all state institutions, including by the courts.

II. Data, views and opinions on the Constitution

A. Methodology

1. Categories of data that were collected

The project used a number of data collection mechanisms to ensure that the knowledge that was developed reflected a range of different perspectives. One of the project's imperatives was to ensure that the evaluation process was not solely based on the views of individual groups (including, for example, constitutional experts). For each category of data that was collected, a specific tool was used. The tools differed based on a number of criteria including (as appropriate) the sample size (the general public, experts and other influential actors, politicians, minorities, legal experts and the chronology). For example:

- **General opinion poll:** A general opinion poll was carried out to obtain an overview of the general population's views on the 2005 Constitution. The poll was designed to cover several tiers of society. The views of 1,500 respondents were collected through direct field interviews. Respondents represented each governorate's population, and were selected randomly. The survey included males and females aged 18 years and above. The questionnaire form was distributed in all Iraqi governorates through field teams. 17 questions were put to the respondents to measure their level of satisfaction with the Constitution, their level of trust and their views on whether it should be amended. The available data was analyzed and cross-referenced so as to ensure that it is representative of the public's views.
- **Targeted poll:** This second poll targeted specialists who were selected on the basis of their education levels and professional status. Respondents were based in ten Iraqi governorates (Baghdad, Najaf, Basrah, Anbar, Kurdistan Region governorates, Babel, Dhi Qar and Mosul), and were selected

based on the population weight and social diversity. The sample is comprised of 100 persons selected through directed sampling. The questionnaire form was prepared in line with the report's objectives. It consisted of 27 questions that had as their purpose to probe the views of specialists on the Constitution, including on the form of government, rights and freedoms under the Constitution, the powers of the judiciary. The results of the targeted poll are contrasted with the results of the general poll throughout this report.

- **Interviews:** 24 interviews were carried out with members of the constitutional drafting committee, members of the different constitutional amendment committees that have been composed since the Constitution entered into force and with influential politicians. The purpose was to determine what this group of individuals considered to be the Constitution's objectives and how those objectives might have changed over time. The interviews also focused on how respondents assess the Constitution's performance and its connection with the current political crises. Responses were disaggregated and compared with the other results to try to identify what the Constitution's true objective might be, and to obtain the perspective of involved actors on how the Constitution has performed since 2005.
- **The chronology:** A chronology of "constitutional events" was developed to capture the key events that have influenced the 2005 Constitution's drafting and implementation. The purpose is to ensure that the evaluation process took into consideration all of the major events that influenced the Constitution. The chronology casts the net very widely, and focuses on political, legal as well as security developments, all of which have had a major impact on the Constitution. The chronology spans from 2003 to 2022.
- **Workshops:** Two roundtable discussions were organized and were attended by representatives from various Iraqi groups (including but not limited to minorities, youth and women). Participants presented and discussed their views about the Constitution and in particular the provisions on rights and freedoms. The workshops had as their purpose to determine whether specific groups that are typically not consulted about the Constitution consider that it represents their interests.

- **Legal analysis:** In addition to the above, significant legal analysis was carried out on specific constitutional questions by members of the expert group. Research and analysis was carried out in relation to specific constitutional questions including the Federation Council, natural resources, the judiciary's performance and existing legislation that is not in conformity with the Constitution. The analysis had as its purpose to incorporate the perspective of legal specialists regarding contentious issues. Comparative analysis also helps identify areas where the Constitution adopts a unique approach, and to determine whether a different approach might yield improvements to governance and to standards of living.

2. The criteria that were selected

One of the first exercises that was carried out by the project partners and the expert group was to determine what criteria should be used to assess the Constitution's performance. The criteria were developed through a number of means, including the following:

- i. Criteria that were used in evaluation exercises in other countries were used as a starting point.
- ii. A modified set of criteria was prepared by one of the experts that worked on this report (for more on the project team, see below at page 47).
- iii. The project team debated the new set of criteria to develop a common vision on the list and how they should be formulated.
- iv. Finally, a number of additional changes were made pursuant to the results of the interviews and the polling data that was collected (see below).

In keeping with the methodology and understanding that was developed in earlier exercises of this kind that were implemented in other countries, the selected criteria were separated into two categories: (i) criteria that are "internal" to Iraq's specific situation, meaning criteria that were selected pursuant to the specific circumstances that Iraq has been living through since 2003; and (ii) criteria that are "external", meaning criteria that are more universal in nature and that can be applied to most if not all stable

and emerging democratic environments. The final outcome of that exercise is the following set of criteria.

- i. Internal criteria
 1. The constitution's objectives
 2. The adoption of legislation and establishment of institutions required by the Constitution
 3. Political stability
- ii. External Criteria
 1. Has the constitution succeeded in establishing a legitimate government?
 2. Peaceful transfer of power
 3. Popular oversight over state authorities
 4. Satisfying citizens' needs and providing public services
 5. Participation in political and civil life

B. The data

1. General opinion poll

A general opinion poll was carried out to gain some perspective on how the general population views the Constitution and to what extent there is support for constitutional reform. The poll sought to determine:

- How much knowledge people have of the 2005 Constitution.
- How much effort was made by state institutions to educate citizens about constitutional issues.
- How much public trust there is in the Constitution.
- What the public thinks about specific aspects of the Constitution (including the system of government, federalism, etc.).

A summary of the poll's main findings is set out below. The full opinion poll results and discussion are set out in Annex A below. In addition, the findings are discussed at various points in this report, including in the evaluation section and in the discussion on possible amendments.

Public awareness of the Constitution

- The survey revealed that nearly half of respondents (47.5%) have no direct knowledge about the Constitution. Only 38.7% have reviewed parts of the Constitution, while only 13.8% have reviewed the Constitution in its entirety.

Institutions' efforts to educate the public about Constitution-related issues

- Of those respondents who had never read the Constitution, the largest group (42%) stated that the reason was because they were "not interested"; 35.8% said that they could not find persons to educate them about the Constitution; and 21.9% responded that they did not have enough time.
- The largest percentage of respondents (62.4%) did not take part in any online/in-person seminar or discussion about the Constitution, while 28.4% responded that they had participated in limited numbers of conversations about the Constitution and 9.2% said they attended many discussions about the Constitution.
- The governorates with the highest percentages of non-participation in such discussions were Kirkuk, Dhi Qar and Wasit, followed by the other governorates at varying levels. Babel and Basrah recorded the highest levels of attendance at such discussions about the Constitution.

Public trust in the Constitution

Public trust was measured against three specific indicators, including whether the Constitution was drafted by Iraqis without any foreign influence, the extent to which rights and freedoms are protected by the Constitution, and political participation

- 47.9% of respondents stated that the Constitution was drafted by foreigners, while only 19.3% believe that it was drafted by Iraqis.
- 60% of respondents stated that the Constitution failed to guarantee rights and freedoms or that it only guaranteed them to a limited extent. 33.7% believed the Constitution guaranteed these rights to some extent or to a great extent. On basic rights such as education, health and housing, 62.3%

of respondents believe that the Constitution did not guarantee them or guaranteed them a little. 27% held that it guaranteed them somehow or to a great extent.

- A majority of respondents (55.6%) stated that the Constitution failed to guarantee their rights for political participation or guaranteed them to a limited extent only. 35.8% stated that their political rights were guaranteed.

Preferences as to political system

- Preference as to the political system is associated with the demand for the Constitution to be amended. 62.4% of respondents prefer a presidential system, while only 21.6% supported maintaining the current (parliamentary) system. 16.0% support a mixed (parliamentary-presidential) system.

Opinions on terminology ("Components" and "Regions")

- 42.5% of respondents expressed a preference for replacing the term "components" with the word "people" in the Constitution. 23.5% of respondents stated that it should be maintained.
- The percentage of those who prefer to maintain the term "components" were higher in Kirkuk, Duhok, Sulaymaniyah and Erbil's Governorates, while the percentages of those who support replacing "components" with "people" were higher in Diyala, Naja and Karbala.

2. Targeted survey results

This second survey aimed to measure the opinion of leading academics (including experts in constitutional law), opinion leaders and authors who are involved in discussions about the Constitution. 100 individuals were surveyed in Baghdad, Najaf, Basrah, Anbar, Kurdistan Region, Babel, Dhi Qar and Mosul. The questionnaire included 27 questions about the Constitution, how it might be amended, the state's identity, parliamentary representation, allocation of responsibilities, rights and freedoms, etc. A summary of the survey's main results is set out below.

- **State identity.** A large percentage of respondents (36%) were in favor of the Constitution's current formulation on the relationship between religion and State ("Islam is the official religion of the State, and is a foundational source of

legislation”). 35% of were in favor of maintaining the reference to Islam but consider that it should be amended to reflect Iraq’s diversity. Only 10% of respondents were in favor of eliminating it altogether.

- 52% of respondents stated that Article 3 (according to which “Iraq is a country of nationalities, religions, and sects”) is reflective of Iraq’s social reality, while 30% stated that it promotes ethnic division and should be amended or deleted.
- Regarding the use of the term “components”, opinions ranged between those who stated that it guarantees group rights and does not have a negative impact (38%), and others who stated that it perpetuates sectarianism and threatens national identity, and must therefore be replaced by the word “the people” (62%).
- **Parliament.** Article 61(5) is one of the Constitution’s essential pillars. It provides the Council of Representatives with overwhelming control of all major appointments and (combined with other elements of the constitutional and political system) has led to a divvying up of positions between major political parties. The above table shows approximately 56% of respondents view this arrangement negatively, and that approximately only a third view it positively.
- Respondents were divided on the president of the republic’s accountability. This provision received significant attention on more than one occasion in recent years after the president was involved in political disputes. Questions emerged as to whether and how he could be removed. At the time, some political forces favored removing the president but were unable to do so, which raised questions as to whether the provision should be amended. Respondents were divided on this issue, but generally only 30% were of the view that the provision should be reconsidered in its entirety, which suggests that the current arrangement enjoys some support.
- Opinions were divided about Article 61, which is concerned with the accountability, interpellation and use of a vote of no-confidence against the Prime Minister. 26% of respondents said the current arrangement was insufficient, while 15% stated that it impacted the cabinet’s stability. Meanwhile, 59% stated that the current arrangement is balanced and allows for sufficient opportunities to exercise supervision over the executive.”

- **The executive.** Regarding Article 76(1), 48% of respondents were of the view that the largest bloc is the largest bloc as announced by the Commission, 20% were of the view that additional wording should be included to explain the provision, while only 9% stated that the existing provision should be maintained and 10% were of the view that the largest bloc is whichever will have been formed in the Council of Representatives. The different preferences expressed reflect the current political confusion surrounding the article and its resulting societal consequences
- **Relationship between Baghdad, the KRG and Governorates.** 47% of respondents were in favor of maintaining the constitutional text about the formation of regions, while a much lower percentage (21%) were in favor of abolishing the federal system and establishing Iraq as a unitary state. 18% of respondents stated that they were in favor of maintaining the Kurdistan Region as the only federal region. This means that the majority supports the Constitution with regard to the formation of regions, while those who fear the negative impact of such formation were divided between those who support maintaining the Kurdistan Region only and those who fully opposed the formation of any regions.
- **Constitutional amendment.** The largest percentage of respondents (51%) supported the request to change the amendment mechanism stated in the Constitution to make it more resilient. 31% of respondents supported maintaining the mechanism.

3. Interviews with constitutional drafters and other involved actors

In addition to all of the above, 24 interviews were carried out with individuals who participated in efforts to draft or amend the Constitution, or who have some influence on public discourse on the Constitution. One of the purposes of that exercise was to identify the Constitution's implicit and explicit objectives, and to determine how viable those objectives were in practice. These interviews were carried out to gather information about the constitutional drafters' intent and of the circumstances and pressures that the drafters were subjected to during that process. Interviews were carried out with three categories of individual:

- i. Constitution drafters.
- ii. Members of constitution amendment committees.
- iii. Members of leading political groups.

The following table contains the names of interviewees and their political affiliation and the positions that they occupied.

Name	Description
Humam Hamoudi	Former deputy speaker of Iraqi Council of Representatives and head of the 2005 Constitution Drafting Committee. Chairman of the Islamic Supreme Council of Iraq.
Yonadam Kanna	Former Christian MP and member of the 2005 Constitution Drafting Committee. Head of the Rafidain Party.
Ali Al-Dabbagh	Member of the 2005 Constitution Drafting Committee. Independent politician.
Sarkawt Shamsulddin	Former MP. Next Generation Party member.
Mohammed Shia' Al Sudani	Prime Minister (2022-). Member of parliament. Member of the Constitutional Amendment Committee. Former member of the Islamic Dawa Party and current member of the Al-Furatain Party.
Ahmad Al-Fatlawi	Member of a Constitutional Amendment Committee. Member of the National Wisdom Movement.
Adnan Al-Janabi	Former MP and member of the Constitution Drafting Committee. Iraqiya Alliance.
Muhammad Annouz	Member of Parliament. Independent politician.
Ali Al-Adeeb	Former MP and minister and member of the 2005 Constitution Drafting Committee. Member of the Islamic Dawa Party.
Akram Al-Hakim	Former MP and minister and member of the 2005 Constitution Drafting Committee
Sa'eb Khidir	Former MP and the rapporteur of the 2019 constitutional amendment Committee
Ayad al-Samarrai	Former MP and member of the 2005 Constitution Drafting Committee. General Secretary of the Iraqi Islamic Party.
Haidar Hamoudi	Member of the 2009 constitutional amendment committee. Full time professor of constitutional law in the United States.
Wael Abdellatif	Former MP and member of the 2005 Constitution Drafting Committee

Aboud al-Essawi	Member of the 2005 Constitution Drafting Committee
Sarwa Abdel Wahed	Goran Party Member.
Mundher al-Fadhel	Member of the 2005 Constitution Drafting Committee
Abbas al-Bayati	Member of the 2005 Constitution Drafting Committee
Jalal al-Din al-Saghir	Member of the 2005 Constitution Drafting Committee
Laith Kubba	Formerly leading member of the Dawa Party.
Dhia al-Assadi	Leading member of the Sadrist Movement.
Haider al-Abadi	Former prime minister. Leading member of the Dawa Party.
Nassar al-Rubaie	Member of the 2005 Constitution Drafting Committee. Member of the Sadrist Movement.

The interviewees include members of prominent political parties, minorities and independent politicians, as well as a small number of more technical-oriented individuals.

The Constitution's objectives

The first question that was put to all of the interviewees was "What objectives was the Constitution designed to achieve?"

Based on the answers that were given by the interviewees, there appears to be a degree of consensus on this issue. It appears that for most of the interviewees, the Constitution was drafted to prevent a return to totalitarianism and dictatorship. This was the most common answer given, albeit not all interviewees expressed that idea in the same way. The second most popular rationale that was offered was to establish a democracy, which can also be understood as a means to prevent the return to dictatorship. Some interviewees (albeit a much smaller number) also stated that the Constitution's objective was to regulate political life, meaning that it was intended to provide the population with the means to participate in decision making. The fact that this third objective was so clearly less important than the first two, is reflected in the text of the Constitution, which itself is reflected in the Constitution's performance (see below).

Interviewees on the Constitution's objective

	Constitution drafters	Members of amendment committees	Members of political groups	Total
Preventing the return of dictatorship	4	2	2	8
Establishing a democracy	5	1	1	7
Regulating politics	1	1	1	3

The interviewees were also asked what factors might have prevented the Constitution's objectives from being achieved. There was significant disagreement between the interviewees, as shown in the following table:

Number of interviewees who believe that the following factors prevented the Constitution's objectives from being achieved

	Constitution drafters	Members of amendment committees	Members of political groups	Total
The Constitution's inability to unify the population	3	2	2	7
External pressures during the constitution's drafting	4	1	2	7
Constitution's limited role in reducing disagreements	4	2	1	7
The problem is lack of proper enforcement	4	3	3	10

The largest group of interviewees agreed that the Constitution enjoys some form of legitimacy and that it is democratic, although all the interviewees agreed that the way in which the Constitution was enforced contributed to whatever failures might have taken place. Some referred to the parliament's failure to adopt necessary legislation. Others stated that partisan interests, ambiguities in the Constitution's wording and the lack of transparency during implementation were to blame.

External pressure

The interviewees acknowledge the existence of external pressures during the drafting process. These included the Law of Administration for the State of Iraq for the Transitional Period (or the Transitional Administrative Law) which was enacted by foreign forces and which determined that the system of government would be parliamentary rather than presidential, and federal rather than centralized or decentralized. Some of the interviewees, in particular members of the Constitution Drafting Committee, stated that the main source of pressure came from the United Nations rather than the United States, and that the United Nations pushed for human rights and women's quotas.

The Constitution's shortcomings

After the 2005 Constitution entered into force, many controversial issues surfaced. Some were enforcement issues and others required the Federal Supreme Court to intervene. These controversial issues include but are not limited to the following:

- **The majority and quorum needed to elect the President of the Republic.** The interviewees agreed that the constitutional requirement that the president be elected by a two-thirds majority has been an obstacle. The Constitution's drafters stated that this provision was included at the behest of the Kurdistan Alliance, who viewed this as a means to defend their interests against an Arab majority and protect themselves from the return of dictatorship. The interviewees stated that they did not expect that difficulties would occur during enforcement. However, the interviewees were divided over the Federal Supreme Court's decision on this issue. Some consider that the Court was wrong to decide that the quorum requirement should be respected in all rounds and were of the view that it should only be required during the first

round. Others agreed with the Court's interpretation. This means that this paragraph will remain controversial unless it is amended or unless consensus is reached by deferring to the Constitution Drafting Committee's original intent as determined by reviewing the committee's minutes.

- **Ambiguity in the phrase “the largest Council of Representatives bloc”.** Ninety percent of the interviewees agreed that Article 76 was intended to refer to the largest electoral bloc, rather than the largest parliamentary bloc. The interviewees were also asked about the Federal Supreme Court's 2010 decision to interpret Article 76 as meaning that the government should be formed by the largest parliamentary bloc. In the view of the interviewees, the Federal Supreme Court's decision was not in conformity with Article 76's true intent. The interviewees also considered that the drafters should have been more specific in their choice of wording. The interviewees offered the following rationale:
 - The interviewees stated that in most countries the largest electoral bloc is given the first attempt to form a government, and Article 76 was originally included in the Constitution pursuant to comparative practice.
 - Providing that the government should be formed by the largest electoral bloc is a means to reflect the will of the people. On the other hand, privileging the largest parliamentary bloc is a means to privilege political parties.
- The relationship between independent commissions and the three branches of government: The interviewees were also divided over which branch of government independent commissions should be attached to. The interviewees offered a range of views on this issue, including the following:
 - Independent commissions should be affiliated to the Council of Representatives.
 - Independent commissions report to the executive, which should be responsible for determining their budgets and appointing each commission's leadership.
 - Some independent commissions should be affiliated to the Council of Representatives (e.g. oversight commissions) while others should report to the government (e.g. executive commissions).

- Independent commissions should be totally independent from both the Council of Representatives and the executive.
- Independent commissions are useless. This view was only expressed by two interviewees, including one of the Constitution's original drafters and one member of a political group. In their view, commissions should only be established after reaching a state of stability, which has not been achieved yet. They were also of the view that creating a large number of commissions can cause significant waste of state funds.

This diversity of views is evidence that the Constitution's drafters did not have a clear or unified understanding of how independent commissions should operate and of what it means for them to be independent. It also constitutes evidence that there is not anything close to consensus that independent agencies are intended to prevent dominance by the executive.

- **The political system, the balance between the legislature and the executive and disputes over the federal system.** A parliamentary system should establish some form of balance between the executive and the legislature. However, the Constitution's drafters set in place many mechanisms that give the Council of Representatives the right to question the government and withdraw confidence from it, in ways that suggest an imbalance in favor of parliament. This issue was put to the interviewees, most of whom indicated that the drafters deliberately favored parliament. The interviewees justified that decision for a variety of reasons, including:
 - Concerns about the executive's dominance over the legislature.
 - The Council of Representatives acquires its legitimacy from being directly elected by the people.
 - Iraq follows a bicameral rather than a parliamentary system, and imbalance is not uncommon.
 - The desire to link the executive with the "components" in the parliament so that the components become partners in decision-making.

Thus, the interviewees stressed that the legislative branch is above the executive branch. However, the constitution is not clear

on this superiority. Therefore, they suggest making amendments in favor of the second interpretation according to which the parliament dissolves itself upon the request of the Council of Ministers and after the president's approval.

As for the Constitution's limited role in resolving disputes, some interviewees stated that the Constitution's arrangements, including the federal system, were unrealistic. Some interviewees said that some arrangements were adopted because the drafters were not sufficiently expert.

- **The Federation Council.** The interviewees stated that the Constitution's lack of detail about the Federation Council can only be remedied through a constitutional amendment rather than by legislation, for the obvious reason that the Federation Council is a second chamber of parliament and thus should be granted proper powers and the Council of Representatives cannot legislate such Federation Council for fear that balance will not be ensured. The interviewees were also in agreement that the Federation Council should be responsible for protecting the rights of governorates or components and for developing the country's policy.
- **Interpretation of Articles 111 and 112 and distribution of wealth.** Sheikh Humam Hamoudi, who was the chairman of the 2005 Constitution Drafting Committee, says explicitly that Article 112, on the federal government's management of the oil and gas extracted from the current fields, should not be in the Constitution. According to Sheikh Humam, the provision's original wording changed after the Constitutional Committee completed its work, and after the draft was reviewed by politicians. Mohammed Shia' Al-Sudani, a member of the 2009 Constitution Amendment Committee (and the current prime minister of Iraq), stated that these provisions have been controversial and have led to internal disputes between individual component's members. Many politicians stressed that Article 112 was written to satisfy the Kurdistan Alliance so as to increase the chances that the Constitution would be approved in the referendum. The interviewees stated that the dispute over this issue will continue despite the Federal Court's decision that oil and gas revenues should fall under the central government's control. Thus, the issue requires a constitutional amendment to regulate the distribution of

wealth because in federal states, this issue is either a factor of unity or a cause of separation and division.

It is worth noting that 17 years after completing their work, many of the Constitution's drafters disagree about whether any oil fields have been discovered after 2003. For example:

- i. According to Ayad al-Samarrai, some oil fields have been discovered since 2003 but have not yet been exploited.
- ii. According to Yonadam Kanna, all oil fields were discovered in the 1960s and no new fields have been discovered since 2003.
- iii. According to Mohammed Shia' Al Sudani, wealth is renewable due to technological developments and oil and gas mapping in Iraq is improving as a result.

What this means is that any constitution amendment on wealth should be subject to technical review by the authorities in charge of oil policies so that any new wording that is prepared is based on the reality on the ground and not only with legal and political opinions.

- **Transitional provisions.** Out of seven interviewees who mentioned Article 140, five agreed that it is academic and that its drafters knew that it could not be applied. The interviewees clearly agreed on the time limits of the transitional provisions. 90% of the interviewees stated that the priority should be to resolve issues in dispute, regardless as to whether the constitutional time limits are being respected. Only one interviewee, Mr Ali Al-Adeeb, argued that the relevant legislation should be abolished, stressing that Article 140 is a mistake and that it "undermines the integrity of the state and promotes separatism".

In conclusion, all the interviewees agreed on the need for abolishing the articles that contain definite terms, even if they do not specify binding deadlines, and replacing them with provisions suitable for the emerging circumstances and removing the word "transitional", as it is ambiguous and vague.

- **Articles added to the Constitution:** The interviewees were asked if, immediately prior to the referendum, any provisions were added to the original draft of the 2005 Constitution.

Many of the interviewees confirmed that some articles were added to the final draft. However, they disagreed as to whether it was a deliberate mistake, and as to whether the Constitution's credibility was impacted as a result.

- Some of the Constitution's drafters and politicians stressed that it was not a major mistake and that the Constitution was not undermined as a result. According to that view, the error was more administrative in nature, and that it was more related to rushing the decision to print paper copies of the Constitution that was presented to the public. The interviewees noted that the version that was circulated did not include any transitional provisions. 30% of interviewees said that it was incorrect to state that provisions were crammed into the draft at the last minute.
- 70% of interviewees stated that specific provisions were added to satisfy Sunni and Kurdish groups to guarantee their participation in the referendum. According to that view, the version of the draft that was printed and distributed included 139 provisions, but the final draft included 144 articles.

Regardless, all interviewees were of the view that the Constitution was drafted hastily and that some provisions were included to satisfy certain political factions without taking into account technical input, and that therefore these provisions should be reviewed.

Possible constitutional reforms

Two categories of views were expressed about possible constitutional reform. First, some of the interviewees stressed the need to amend the Constitution in a conducive environment. Another view on this issue (which was supported by comparatively fewer interviewees) cited the repeated failure of previous amendment committees to achieve any results on the key issues, and proposed the need for a new constitution with a new vision that is more suited to current needs and to the transformational events in Iraq since 2005 and that acts as a new social contract. It should be noted that some of the interviewees were of the view that current political and social circumstances are not suitable either for amending the Constitution or for drafting a new constitution, and that any effort at constitutional reform should be postponed until circumstances allow.

When asked what might justify an effort to amend the Constitution, the interviewees provided the following justifications:

- The circumstances in which the Constitution was written, including:
 - The Constitution was drafted hastily and in an inappropriate environment.
 - External pressures during the drafting process and the boycott of some political forces.
- The ambiguity of some articles, including:
 - The ambiguous relationship between the center, the KRG and governorates not organized into a region.
 - The articles on the distribution of wealth are unclear.
 - Some articles contain gaps under the phrase “shall be regulated by law.”
- The fact that some articles are not applied.
- Some amendments and interpretations were imposed by the Federal Court and became a source of disputes, which impedes political activity.
- Changing circumstances, including:
 - The fact that circumstances have changed and that new political forces have emerged that demand that their voice be heard on constitutional amendment issues.
 - The emergence of many political problems not addressed in the Constitution, such as the caretaker governments.
 - The 2005 Constitution was drafted to prevent the return of dictatorship. However, new important objectives emerged, including enhancing democracy, freedoms, the unified national identity, etc.

4. Workshops with minorities

Two workshops were organized to discuss the Constitution with members of minority groups, to listen to their views about the Constitution and whether it guarantees their rights and how it can be improved. The workshops covered a number of topics, including language rights, the place of small minorities in a plural society, disputed areas, and state identity.

Language

Some of the participants complained that their languages, which constitute an inherent part of Iraq's diversity, were not recognized by the Constitution. For example, Article 4(1) states that: "The Arabic language and the Kurdish language are the two official languages of Iraq. The right of Iraqis to educate their children in their mother tongue, such as Turkmen, Assyrian, and Armenian shall be guaranteed in government educational institutions in accordance with educational guidelines, or in any other language in private educational institutions."

Article 4(4) provides that: "The Turkmen language and the Syriac language are two other official languages in the administrative units in which they constitute density of population." This provision therefore provides official status to the Turkmen and Syriac languages but does not do so with other minorities.

Yezidi participants in the workshops stated that they should have the right to teach their children in their mother tongue in the Nineveh Plains where Kurdish and Christian languages are taught. They stated that parliament is yet to adopt specific legislation allowing Yezidis to teach their language at school.

Minorities as part of pluralism in Iraq (preamble)

Participations in the workshops stated that that the Constitution was written by the country's major groups and that minorities were not involved. They stated that because the Constitution mentions some components, it should have mentioned all of them. Minorities should also be considered in all legislation on rights and freedoms in line with international conventions, including freedom of association and belief in the personal status law.

Participants from groups such as the Shabak and Sabians indicated that the Constitution does not give them equal treatment with other minorities. They referred to the preamble, according to which "Shiites and Sunnis, Arabs, Kurds and Turkmen and from all other components of the people", and noted these "other components" are not specifically named. The participants noted that they are uncomfortable with a constitution that ignores their ethnicities and religions (including the Sabians, Christians, Shabaks and Yezidis). At the time when the Constitution was

drafted, the focus was on recognizing the suffering that specific components were made to endure, and yet the suffering of other components was not recognized.

As for Article 125 (“This Constitution shall guarantee the administrative, political, cultural, and educational rights of the various nationalities, such as Turkmen, Chaldeans, Assyrians, and all other constituents, and this shall be regulated by law”), Shabaks, Yezidis and Sabians participants indicated that they have unique identities and have recognized percentages (no less than 2% each). In their view, the Constitution’s drafters should have listed all ethnicities. Participants stated that the Constitution’s drafters were members of major ethnic groups who gave little attention to the rights of smaller minority groups.

Disputed areas

Participants stated that minorities residing in the disputed territories believe that they are targeted, that the Constitution does not resolve their situation, and does not provide them with the legal protection that they need. These same people believe that their voices are not heard, as they have no representatives in these areas now that the governorate councils were abolished by parliament in 2019 and that the Federation Council (which is supposed to represent all components) has not yet been established. The delivery of basic services worsened after the councils were dissolved, particularly for minorities who live between Sinjar and Kirkuk and in Khanaqin. The common view is that very little attention is given to public services in these areas.

Identity of the State

Article 2 states that “[n]o law may be enacted that contradicts the established provisions of Islam”. Participants in the workshops stated that they were impacted by this provision, particularly in their personal status. When an Iraqi male converts to Islam, the law also considers that individual’s children to be Muslim. Thus, even where the children do not wish to convert, they cannot practice their religion, as they could be considered apostates. This amounts to religious discrimination in so far as members of religious communities can convert to Islam, but Muslims who convert to other religions are considered apostates. As a result, the identity cards of many Yezidis and Sabians state that they are Muslim. Parliament has yet to find a solution to this problem.

5. Chronology of constitutional events

A detailed list of constitutional events was developed to support the work. This chronology was prepared for many reasons, including to ensure that any analysis of constitution performance takes all significant events into consideration.

The first question that needed to be addressed was to determine what kind of events should be included in the list. One option was to adopt a narrow definition of the term “constitutional” and limit the chronology to legal developments related to specific constitutional provisions. In the end, a more extensive approach was adopted and all the incidents which had an impact on the general framework that resulted from the 2005 Constitution were included. In practice, this means that the chronology includes all key legislation, court decisions, political events (e.g., parliamentary and local elections, government formation processes), social developments (e.g. demonstrations which impacted the national debate on reforms), security developments which had an impact on the discourse around the constitution (e.g. ISIS’ invasion of Mosul and other cities in 2014 and subsequent developments, including the failed attempt to declare a state of emergency).

After adopting this expanded approach, a decision had to be made about how much information should be included in relation to each individual entry in the chronology. For practical reasons, a narrow approach was adopted. What this means is that, for each entry, the date and a brief description of the relevant event was included. Despite that limited approach, the chronology is over 30 pages long (which means that a more expansive approach would have resulted in a chronology that is hundreds of pages long). Upon completing the final version, the chronology was distributed to the Expert Committee members to help each one of them prepare the relevant part of the report.

The chronology’s final version is set out in Annex C of this report.

6. Legal papers

Part of the process of preparing the final report included the preparation of what the Expert Group referred to as “legal papers”. Specific members of the Expert Group drafted individual legal papers in relation to specific areas, including (a) on the system of government; (b) the judiciary; (c) the federal and decentralized system of government; and (d) fundamental rights.

These papers were drafted for the purpose of exchanging views with other members of the Expert Group. After each paper was drafted, it was circulated to the remainder of the Group for their review, after which dialogue sessions were organized with a view to discussing the papers.

During the sessions, the authors presented summaries of their papers' contents, following which all members of the Expert Group as well as members of the Research Group participated in a debate about the paper's contents. The purpose of the discussion was to determine to what extent other members of the Group agreed with the papers' contents and whether it was possible to reach consensus. For example, during the discussion on the paper on the judiciary, there was consensus that changes were necessary to improve the courts' situation and their performance, but some members of the Expert Group were of the view that the recommended changes should go further. In addition, in relation to the paper on fundamental rights, there was also widespread agreement that the relevant constitutional provisions were in need of improvement, but some members were of the view that more radical changes were necessary, including the elimination of all distinctions between civil and political rights on the one hand, and social and economic rights on the other.

On federalism, the members debated what, if any, principles should inform the way in which the federal system of government should be built (e.g. solidarity, shared sovereignty, etc.). Finally, in relation to the system of government, a vigorous discussion took place on whether a parliamentary system could ever be effective in Iraq, and whether any guarantees could ever be sufficient to guard against the dangers of a presidential regime.

In all cases, following the dialogue on the papers, the authors committed to taking the respective views into consideration as they prepared the final section of the current report on those specific issues.

C. The project team (Expert Group, Research Team)

This report was written by a large team of professionals, who were divided into two groups:

- a. The expert group was responsible for providing intellectual guidance for the work, and ultimately for drafting the report's contents. The expert group was composed of six individuals, who included experts in constitutional law, political science and sociology. The diverse fields of expertise were crucial to ensure that different perspectives would be introduced to the report's conceptualisation and drafting. The expert group met on a near weekly basis over a period of months, often physically in Baghdad but most often virtually, to discuss the report's contents and the collection of data.
- b. The research group was responsible for collecting data on behalf of the expert group, including by carrying out interviews, collecting data on judicial performance, on socioeconomic rights, by preparing the chronology of constitutional events, and by contributing to the analysis of parts of the data. The research group participated in virtually all of the expert group's meetings and participated in discussions relating to the report's contents. The research group's members also included jurists, political scientists and sociologists.

III. General information about the 2005 Constitution

Iraq's Constitution was drafted and has been implemented in challenging circumstances. Throughout the entire period, the country has been subject to enormous pressures, including waves of terrorism as well as endemic political challenges, including corruption. This section seeks to summarise these circumstances as well as the challenges that must be faced in case of any renewed attempt at amending the Constitution.

A. Constitution drafting history

The 2004 Law of Administration for the State of Iraq for the Transitional Period (also known as the "Transitional Administrative Law" or the "TAL") provided that a transitional National Assembly should be elected, and that that Assembly would be responsible for drawing up a permanent constitution for the country. It also provided that after that constitution was adopted, the transitional period would end and power would be transferred to an elected civilian constitutional and democratic authority.

A National Assembly was elected under the Transitional Administration Law in January 2005. Shortly thereafter it created a 55-member committee that represented different groups and parties to draft the constitution. However, one of the components (mainly Sunni-majority areas and governorates) boycotted the elections and so therefore were not included in the Committee's original membership. To account for this, the Committee was eventually expanded by 15 additional members (as well as 10 advisers) all of whom were drawn from that group.¹

The Committee continued working and formally completed its work on 22 August 2005. Throughout that period, the country

1 Mohamad Ahmad Mahmoud: Amendment of the Constitution, First Edition, Publications of the Iraqi Council of Representatives, Media Department, Baghdad 2010, page 85 (in Arabic).

witnessed violent acts of terrorism, including huge explosions that targeted markets and other civilian areas, as well as assassination attempts that targeted Committee members. By the time the Committee's tenure ended, important disagreements remained unresolved. Negotiations therefore continued outside of the Constitutional Committee on a number of issues and were completed only 3 days prior to the referendum. This second round of negotiations were opaque and involved a number of actors who were not formally part of the Constitutional Committee, including foreign actors (for more on this, see page 36 above).

The referendum took place on 15 October 2005. The participation rate was 64.6% out of 15.5 million registered voters. 79% of voters approved the draft.² The general opinion poll (Annex A) includes data on how familiar Iraqis are with the Constitution and provides some indication that relatively small numbers read the text in its entirety prior to the referendum, which is not uncommon in comparative practice (see page 135).

B. Implementation history

The 2005 Constitution entered into force on 20 June 2006, which is the date on which the new Iraqi government gained the confidence of the Council of Representatives based on Article 144. Five governments have been formed since then. At first, these governments were relatively stable, but failed in many aspects. The following is a brief chronology of the governments that were formed pursuant to the Constitution:

First Government: Granted confidence by the Council of Representatives on 20 May 2006. Nouri Kamel al-Maliki was elected prime minister. The government included 37 ministers. The assignment of the ministers of defense and interior was delayed. This government lasted for a full parliamentary session.

Second Government: Granted confidence by the Council of Representatives on 21 December 2010. This was Mr Maliki's second term of office. The negotiations that led to the formation

² Tarek Harb: *Ibid.*, page 8 (in Arabic).

of this second government were controversial and led to a power-sharing arrangement between two major political alliances, which is what allowed for Mr al-Maliki to remain in office as prime minister. Many of the terms of the power-sharing arrangement were ultimately not respected. The government included 34 ministers. The prime minister occupied the portfolios of defense, interior and national security. The government remained in office for a full parliamentary session.

Third Government: Granted confidence by the Council of Representatives on 8 September 2014. This government was formed after the invasion and occupation of large parts of the country by the Islamic State in Iraq and Syria (ISIS). The crisis that ensued ultimately prevented Mr al-Maliki from being returned for a third term. Mr Haider al-Abadi was ultimately appointed prime minister. His cabinet brought together 22 ministers. Ultimately 7 of the 22 ministers resigned, 2 were dismissed, and some ministries were abolished in 2016 following popular protests (which demanded an end to the quota system to distribute ministerial portfolios and which called for a technocratic government). A cabinet reshuffle was carried out and the new government ruled for a full parliamentary session.

Fourth Government: Granted confidence by the Council of Representatives on 24 October 2018. It was formed by Mr Adel Abdul Mahdi and brought together 14 ministers, some of whom were nominated later. Massive anti-corruption demonstrations broke out in October 2019, which caused the Prime Minister to submit his resignation on 30 November 2019 to the Speaker. This was the first government to resign since the Constitution entered into force. One of the other consequences was that the Council of Representatives decided to organize early parliamentary elections.

Fifth Government: Granted confidence by the Council of Representatives on 7 May 2020, and chaired by Mr Mustafa Al-Kadhimi, succeeding two designated prime ministers who failed to form a government. It brought together 15 ministers, a number of whom were granted confidence at a later stage. The formation of this government had as its purpose to appease public outrage over corruption and to prepare for early elections. The parliament voted to dissolve itself on 7 October 2021. Early parliamentary elections were held on 10 October 2021.

Sixth Government. Granted confidence by the Council of Representatives on 28 October 2022. The new government was chaired by Mohammed Shia' al-Sudani, a former human rights minister. Government formation negotiations lasted more than a year and included serious fighting that led to many dead in Baghdad.

C. Challenges in amending the Constitution

Amending the Constitution has become inevitable. Based on the interviews that were carried out, the general opinion poll, the targeted survey, the workshops and the other forms of data that were collected, there is strong support for a constitutional amendment, even though that support does not enjoy full consensus. However, a number of political and procedural challenges have to be met to amend the Constitution. The most important are: the dilemma of determining which article should be applied when carrying out the first amendment, whether or not that provision can still be applied, and how any constitutional revision effort should be composed:

- i. As noted above, the Constitution was supposed to be amended within a few months of its promulgation. The final version of the Constitution provided that the first parliament to be elected after the Constitution entered into force should form a constitution amendment committee that was supposed to submit a final report within four months at most (Article 142). The Constitution also includes a general provision relating to constitutional amendment (Article 126). There are therefore two separate articles relating to constitutional amendment (each with its own separate procedures) that are currently in force. Given that the Constitution has been in force for 17 years and that the four-month time limit included in Article 142 has clearly lapsed, whether it should still be applied or if the terms of Article 126 should be applied. The Federal Supreme Court examined this issue and found that the terms of Article 142 must be applied first before the terms of Article 126 can be applied.³

3 Federal Supreme Court decision No. 54/Federal/2017 on 5/21/2017: <https://www.iraqfsc.iq/t.2017/>. Last accessed: 30/4/2022.

- ii. The difficulty however is that this approach prioritises the involvement of parliament and therefore of the political groups that are present in parliament. These same groups have demonstrated that they have little interest in amending the Constitution despite the overwhelming support for constitutional reform in various circles in the country (see page 149). In addition, Article 142 imposes a four-month deadline for constitutional reform, which is impossible to meet given the circumstances. The suggestion here is therefore that an extraordinary constitutional revision should be composed and that its proposal for constitutional reform should be put to referendum, without the need for respecting the exact details that are set out in Article 142. This would not be in full conformity with the terms of the Constitution, but it would enjoy popular legitimacy, which should be sufficient. That is the approach that was followed by Egypt to amend the 1971 and the 2012 Constitutions, and in Tunisia to amend the 2014 Constitution. The relevant constitutional rules were not followed strictly, but the outcome was broadly accepted.
- iii. According to Article 142, the constitutional amendment committee should include representatives of Iraq's main components. This can and should be interpreted widely to include not only representatives of political, ethnic or religious communities, but also professional components, including sectoral experts. This was the approach that was followed by Egypt's constitutional committee that drafted the current 2014 Constitution. Under correct circumstances, that approach would allow for a more diverse and professional discussion on constitutional reform.

IV. Assessment of the 2005 Constitution's performance

Internal Criterion 1: The Constitution's objectives

The Constitution has several main objectives. Some are stated explicitly, others implicitly. There are also objectives that should have been provided for but were not, and others still that were included but should have been avoided.

Many of the Constitution's objectives are set out in its preamble. For example, the preamble provides that the objectives include:

- “to create a new Iraq, the Iraq of the future, free from sectarianism, racism, complex of regional attachment, discrimination, and exclusion”;
- “to build a nation of law”;
- “strengthen national unity”;
- “peaceful transfer of power”;
- “just distribution of resources”;
- “equal opportunities for all”;
- “a republican, federal, democratic, pluralistic system”;
- “respect for the rule of law”;
- “to establish justice and equality”;
- “pay attention to women and their rights, the elderly and their concerns, and children and their affairs”;
- “to spread the culture of diversity”;
- “preserve for Iraq its free union of people, of land, and of sovereignty”.

Some of these objectives are affirmed and others are added to in Chapter One (on fundamental principles) and in other sections. These objectives can be classified into four categories.

- a. The first category affirms the federal, parliamentary, republican system and guarantees the unity and sovereignty of Iraq. This is affirmed by wording such as:

- “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 a guarantor of the unity of Iraq” (Article 1); and
 - “The federal authorities shall preserve the unity, integrity, independence, and sovereignty of Iraq and its federal democratic system” (Article 109).
- b. The second category emphasizes pluralism and diversity and guarantees religious and ethnic freedoms. It seeks to preserve the state’s Islamic identity (bearing in mind the fact that Iraq has one of the world’s highest proportions of Muslims, at 98%),⁴ while stressing balance between components. This is affirmed by wording such as:
- “This Constitution guarantees the Islamic identity of the majority of the Iraqi people and guarantees the full religious rights to freedom of religious belief” (Article 2(2));
 - Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices. The State shall guarantee freedom of worship and the protection of places of worship (Articles 41- 43);
 - “The right of Iraqis to educate their children in their mother tongue (Article 4(1));
 - “This Constitution shall guarantee the administrative, political, cultural, and educational rights of the various nationalities” (Article 125).
- c. The third category seeks to ensure that there will be no return to a dictatorial, repressive, or military regime while guaranteeing political freedoms. This is maintained in wording such:
- “Racism or terrorism or accusations of being an infidel (takfir) or ethnic cleansing, especially the Saddamist Ba’ath in Iraq and its symbols shall be prohibited.” (Article 7(1))
 - “All forms of psychological and physical torture and inhumane treatment are prohibited (Article 37).

4 98% according to Britannica [Iraq - Arabs](#) | Britannica; 99% according to PEW-TEMPLETON Global [Religious Futures Project Religions in Iraq](#) | PEW-GRF ([globalreligiousfutures.org](#)); and 97% according to US Department of State [Iraq - United States Department of State](#).

- The State guarantees “freedom of expression using all means” “freedom of press, printing, advertisement, media, and publication.” “Freedom of assembly and peaceful demonstration” (Article 38).
- d. The fourth category revolves around the protection of motherhood, childhood and elderly people and the youth (Article 29(1)), and social and health security (Article 30). The language of these provisions can be described as descriptive, or perhaps secondary, particularly when compared with the other objectives. Social security or employment laws have been enforced only for electoral purposes (masked unemployment). Indeed, Iraq has extremely high rates of labor force employment in the public sector.⁵

As noted above, the Constitution's also includes a number of implicit objectives. These can be classified into two different categories:

- a. The first is to ensure that the former repressive regime does not return, which is referred to repeatedly in the Constitution. This objective is more strongly expressed in its preamble than in its substantive provisions. The preamble provides: “invoking the pains of sectarian oppression inflicted by the autocratic clique and inspired by the tragedies of Iraq's martyrs, Shiite and Sunni, Arabs and Kurds and Turkmen and from all other components, and recollecting the darkness of the ravage of the holy cities and the South in the Sha'abaniyya uprising and burnt by the flames of grief of the mass graves, the marshes, Al-Dujail and others and articulating the sufferings of racial oppression in the massacres of Halabcha, Barzan, Anfal and the Fayli Kurds and inspired by the ordeals of the Turkmen in Bashir and the sufferings of the people of the western region”. The body of the Constitution refers to the crimes of the “defunct dictatorial regime” (Articles 132(1), 134 and 138(3)(d)) and establishes the High Commission for De-Ba'athification (Article 135).

5 About four million employees in the public sector, in addition to three million retirees, out of a total population of 40 million, <https://nnciraq.com/133175>, compared to only 850,000 employees before 2003 out of the total population of 27.5 million at the time, وزير المالية يكشف عن اعداد الموظفين في العراق اقتصاد (alsumaria.tv).

The Constitution also provides that the armed forces and security services “shall be subject to the control of the civilian authority [...] and shall not be used as an instrument to oppress the Iraqi people” (Article 9(1)). Finally, it provides that the National Intelligence Service “shall be under civilian control, shall be subject to legislative oversight, and shall operate in accordance with the law and pursuant to the recognized principles of human rights” (Article 9(1) and Article 84(2)).

- b. The second objective is to ensure a state free of ethnic and sectarian discrimination, to ensure balance among the components and guarantee that no component monopolize power at the expense of other components like in the first Iraqi state (1921-2003). This led to establishing the political system based on “consensual democracy”. This was expressed in the following provisions:
 - “The Iraqi armed forces and security services will be composed of the components of the Iraqi people with due consideration given to their balance and representation without discrimination or exclusion” (Article 9(1)/A);
 - “The flag, national anthem, and emblem of Iraq shall be regulated by law in a way that symbolizes the components of the Iraqi people” (Article 12(1));
 - “The representation of all components of the people shall be upheld in the Council of Representatives” (Article 49(1)); the committee of amendments shall be formed by “the Council of Representatives at the beginning of its work from its members representing the principal components” (Article 142(1));
 - The double voting threshold to amend the constitution set forth in (142, fourth);
 - The following shall be approved by the Council of Representatives: “The President and members of the Federal Court of Cassation, the Chief Public Prosecutor, and the President of Judicial Oversight Commission; Ambassadors and those with special grades; the Iraqi Army Chief of Staff, and his assistants, those of the rank of division commander and above, and the director of the intelligence service” (Article 61(5));
 - “The Council of Representatives shall elect in its first session its speaker, then his first deputy and second deputy” (Article 55);
 - “The Presidency Council shall have the ‘veto’ power” (Article 138);

- “The Prime Minister in the first electoral term” (Article 139);
- “A public commission shall be established to guarantee the rights of the regions and governorates that are not organized in a region” (Article 105);
- “A public commission shall be established by law to audit and appropriate federal revenues” (Article 106);
- “Iraqi citizenship shall not be granted for the purposes of the policy of population settlement” and “Ownership of property for the purposes of demographic change is prohibited” (Article 18(5) and Article 23(3)(b));
- “The capital may not merge with a region” (Article 124);
- “Iraqis are free in their commitment to their personal status” (Article 41);
- “The State shall guarantee freedom of worship and the protection of places of worship” (Article 43).

In addition to all of the explicit and implicit objectives, the Constitution should have aimed to satisfy a number of other objectives as well. For example, the Constitution should have included as one of its objectives (but did not) the construction of a strong state with a solid and realistic national identity that represents all components based on their belief that all the common interests are guaranteed. The Constitution could also have provided for a state that never deepens mutual mistrust because it ensures the intersecting interests of all citizens; a state that makes Iraq a final home for all, not a temporary “option”. There is an important difference between a state’s adoption of federalism as a government system and a “voluntary” federation to form a state.

Instead, the Constitution sought to build a weak state (a weak cabinet and an excessively empowered parliament) to fulfill its core objective of preventing a new dictatorship. It established an extreme and even de facto confederation, which allocates very generous powers to the KRG at the federal government’s expense. The aim was to prevent any component from controlling the state. Even if a component manages to capture the federal government, it would not have full control over the regions and governorates.

To build an effective democracy, the Constitution should have adopted a traditional parliamentary system with balanced powers between the government and the opposition. Instead, Iraq adopted a consensual democracy, which may stop the collapse of

the state, but it does not build or strengthen its political system at all. This has seriously distorted the nation-building process.

The Constitution established a republican, federal, parliamentary system, but it very nearly failed to preserve Iraq's unity, which might have come apart completely had it not been for international circumstances. In an unconstitutional move, in 2017, the Kurdistan Region held an independence referendum, which in large part was stymied only by the fact that virtually all regional and international countries did not support the notion of an independent Kurdistan. Also, the state is still too weak to maintain Iraq's sovereignty against the repeated violations of regional and international states. This almost led to an international or regional crisis or war at the beginning of 2020. The state, on many occasions, suffered from local violations, including the siege of the presidential district in Baghdad. The state was also on the verge of complete collapse following ISIS's invasion in 2014. Taken together, the Constitution cannot be said to have achieved this first set of objectives.

The Constitution did succeed to a large extent in establishing a pluralism that preserves ethnic and religious diversity and that guarantees the cultural, religious and political rights of the various components. The Constitution's wording on the Islamic identity of the state does discriminate against small minorities in relation to some issues. Moreover, limitations of political freedoms, particularly freedom of opinion, publishing, association, nomination, and election, have not been properly constructed, which has contributed to a state of chaos, particularly in public discourse.

The possibility of a return to the Ba'ath regime or any dictatorship does not currently seem realistic. On the other hand, there is justified concern that power can be concentrated in the hands of a few, and that the authoritarian tendency to "seize power by democratic means" remains very much alive. This is a recurrent risk after every electoral cycle and threatens democracy to the core. Taken together, in relation to the third set of objectives set out above, this means that the political system has performed modestly.

Meanwhile, economic and social rights are almost a complete failure, for a variety of reasons, including pervasive corruption.

No acceptable services are provided in Iraq, even at a minimum level, despite Iraq's great financial resources and capabilities. This is in total contravention of the Constitution's objectives (see below). The high rates of unemployment and the low level of health services are not in conformity with human dignity. The Constitution succeeded only in ensuring social security for very large segments of the population. Taken together, in relation to the fourth set of objectives, the constitution's performance is not satisfactory.

In sum, the political system was barely able to satisfy the Constitution's explicit objectives, but it succeeded completely in achieving its implicit objectives. This cannot be considered to be a real success. While the implicit objectives of this transitional constitution that sought to get rid of the effects and consequences of the old regime can be considered to be a success, they have, in the long run, created a state that unfortunately ranks high on the scale of failed, fragile, and corrupt states.⁶

Internal Criterion 2: The adoption of legislation and establishment of institutions required by the Constitution

The Constitution established a system that is completely different from its predecessors. It did so by recognizing pluralism and by seeking to build a democratic state based on genuine partnership in political decision-making. The political system's success or failure can be studied by implementing the requirements of its articles, whether abstract (laws provided for by the constitution) or practical (constitutional institutions).

Constitutional laws

As a result of a number of factors, the constitution drafting process was condensed in time and lasted a few months only. Negotiators therefore had to postpone contentious issues to a later stage. Those issues were left to be addressed in specific legislation, though some of them were basic laws that were provided for in the Constitution to avoid ad hoc amendments.

6 See respectively: Failed States www.worldpopulationreview.com/country-rankings/failed-states, Fragile States Index www.fragilestatesindex.org, and Corruption Perception Index <https://www.transparency.org/en/cpi/2021>.

The Constitution requires for 72 laws to be adopted. 52 of them (about 72%) have already been enacted, half of which were adopted in the first session and the other half in the second and third sessions (some of these laws included several laws, not only one law, in addition to their amendments issued by other laws). Nine other draft laws and proposals were discussed but have not yet been voted on by parliament. It is rare in the political process in Iraq that a law is put to a vote unless a majority is achieved in advance, and the voting stage instead focuses on discussing some amendments.

Thus, the total number of constitutional laws that are now in force or that have been drafted is 61 (85% of those that are provided for in the Constitution). Theoretically, this is a very high success rate. However, the 15% of constitutional laws that remain to be adopted should be examined carefully, particularly with a view to determining their importance and impact on the political system.

The laws that have not yet been adopted are as follows:

- a. Four laws from Section One (flag, emblem, national anthem, and official holidays), one of which was debated in parliament but not adopted;
- b. Six laws from Section Two (political asylum, trade unions, professional federations, expropriation, freedom of movement, assembly, peaceful demonstration and personal status) three of which were debated but not adopted;
- c. Six laws from Section Three (Emergency powers, the Federation Council, the National Intelligence Service, the Federal Supreme Court, the trial of the President, the PM, ministers, and the National Communications and Media Commission) three of which were debated but not adopted;
- d. Two laws from Section Four (oil and gas, antiquities, manuscripts and coins), one of which was debated but not adopted;
- e. Two laws from Section Five (the capital, Baghdad, and guaranteeing national rights) one of which was debated but not adopted.

These laws vary in importance. There is significant controversy on the laws that are provided for by Section One (Fundamental Principles), which indicates a deep structural flaw in the agreement on national identity. It is unreasonable to keep arguing for more than 17 years over fundamental principles such as the flag, the emblem, the national anthem, and the national day. The dispute over the Federal Court Law, the Oil and Gas Law, and the Federation Council is even more intense. All of these laws were debated, but an agreement has thus far been elusive. It is still unclear whether an agreement between the main political components and forces is possible. This is evidence of a serious problem with the identity of the state, and specifically its federal identity. The dispute over these laws is mainly between the federal government and the Kurdistan region, which means that the main constitutional problem that requires significant review is the federal system.

Constitutional Institutions

The Constitution provides for the establishment of a set of new state institutions, most of which are essential for establishing or maintaining a democratic system and they represent a qualitative shift in the nature of Iraqi state institutions. Therefore, some institutions that were established during the occupation era by the Coalition Provisional Authority were included. The Constitution also makes reference to some pre-existing institutions, but their functions, mechanisms and even legitimacy are radically different from what they had been before 2003, and therefore can be considered new institutions as well, such as the Presidency.

Within this classification, the Constitution mentions 19 constitutional institutions, 14 of which have already been established (74%). In addition, legislation in relation to two others has been adopted but not implemented, and the relevant institutions (the Commission to audit and appropriate federal revenues, and the commission of the regions and governorates that are not organized in a region) have yet not been formed. The draft laws and proposals of three other institutions were debated, but a final vote has not yet taken place (the Council of Federation, the Federal Supreme Court and the Communication and Media Commission).

The above suggests that constitutional institutions are almost fully completed. But again, there is no prospect of political consensus on enacting the laws of the remaining institutions or forming those with already legislated laws. Thus, the implementation of its own constitutional articles, which have not set a specific time limit for their formation, continues to be overlooked. Of course, the two most critical of these institutions are the Federal Supreme Court and the Council of Federation. There is a transitional court formed in accordance with the Law on State Administration at the time of the interim government, which serves as the Federal Supreme Court. This is a *fait accompli* agreed upon by most political forces. But the establishment of the Federation Council, which suffers from a constitutional imbalance in the first place, remains the subject of intense political debate.

As usual, the institutions in question are the federal institutions that are responsible for distributing power between Baghdad and the KRG. This raises many questions and doubts about the seriousness and viability of the consensus that is provided for in the Constitution, in particular whether there can be said to be a single national identity. The existing political system is closer to a confederation - which the KRG sought to become independent from, which threatens the whole federal system.

In conclusion, the political system has completed the requirements for establishing the state as outlined in most of the Constitution's sections to a very satisfactory degree. The legislation and institutions that were provided for have mostly come into being. The main exception is legislation and institutions relating to the federal system, which the system as it currently exists is unable to resolve. What this means is that the Constitution appears to have failed completely to formulate a vision that is acceptable to all of Iraq's components. This is a fatal flaw in the system, which will persist until an alternative formula is reached; a formula that is more realistic and that is fairer, and that establishes an acceptable guarantee of common interests.

Internal Criterion 3: Political stability

1. The Constitution succeeded in establishing the rules of a democratic system, by ensuring that citizens enjoy political rights, primarily freedom of expression (Article 38), freedom of thought, conscience, and belief (Article 42), freedom of association (Article 39), and the right to vote (Article 20). The Constitution also succeeded in establishing a real parliamentary system of government that derives its legitimacy exclusively from the representation of the people, who are the source of powers, through periodic elections.

All six governments that were formed pursuant to this Constitution were formed in this context, and none of the five parliamentary sessions were delayed, extended, or circumvented to maintain power. The constitutional provisions (Articles 1, 5, 6, 49 and 56) are crucial to this end. Meanwhile, the constitutional agenda was not decisive in its timing, although it was detailed in an acceptable manner. The dates for the first session, the elections to select a Speaker of Parliament, President and Prime Minister were repeatedly circumvented.

Moreover, the Constitution did not clearly define the largest bloc, the identity of the substitutes and the final duration of the cabinet formation process. For example, no fixed dates were adopted, and no threat was used to dissolve parliament if the latter failed to meet the constitutional government formation deadlines.

On the other hand, the constitutional design – which was certainly deliberate – that links the elections of the three presidencies opened the way for consensual democracy. This design – which was preceded by the troika of the three presidencies in the first session (Articles 138 and 139) – was one approach to translate the constitution into reality to enable the mechanisms for implementing this model. This thus enshrined the basic identities as political identities alternative to the national identity and aborted the possibility of achieving a common national identity, and later gave way to political corruption with no parliamentary opposition. The clearest evidence of the failure to crystallize a common national

identity is the failure to express its symbols, as represented in the flag, the national anthem and the national day (Article 12). The Constitution also failed to find a practical and applicable formula to adopt the official language (Article 4).

Consensual democracy may destroy the prospects for building a strong national state, and this is exactly what the Constitution has led to. At the same time, consensual democracy also constitutes the final attempt to defuse the division that was looming in the wake of the complete collapse of the Iraqi state in 2003. From this perspective, the troika deals may be a "single" solution to reach an acceptable deal to the mutual mistrust among all parties.

The collapse of the state – not just the regime – in 2003 was a collapse of national identity as well as the nation-state formula on which the modern state of Iraq was founded in 1921. The Constitution succeeded in building a completely new state that recognizes pluralism and diversity in ethnic, religious and sectarian communities (Articles 3 and 125). This contributed to reassuring these minorities that had suffered from sectarian and national discrimination that had reached the point of genocide in the Sha'ban uprising and Anfal crackdown. The Constitution also succeeded in restoring hope of belonging to a common state.

However, the Constitution completely failed to implement the essence of transitional justice, which required honesty, recognition, and reaching a national consensus on condemning the previous regime and the need to establish a new one. Despite the implementation of some steps towards transitional justice, such as the trial of a small group of the "defunct regime symbols" (Article 134) and the return of some properties (Article 136), it failed to achieve a national consensus on de-Baathification. As a result, the new regime failed to reassure Arab Sunnis in particular that they were not collectively accused of being loyal to the previous regime.

The Constitution succeeded in establishing a democratic system based on the separation of powers (Article 47). It protected the parliament against the executive's hegemony by denying the latter the ability to dissolve the Council of Representatives (Article 64), as was the case in recent

regional experiences such as Kuwait and Bahrain. Some may see this as a breach of the balance between the two powers in favor of the legislature, but in fact it is a justified and even necessary condition in a country with a deep legacy of tyranny and dictatorship.

The Constitution also strengthened the legislature by arming it with mechanisms of oversight, interpellation, withdrawal of confidence from ministers and/or the Prime Minister (Article 61(7) and (8)) (albeit subject to partisan bargaining according to the traditional overlap between the legislature and the executive in the parliamentary system), questioning and dismissing the President (Article 61(6)). It also prevented the executive branch from seizing power through declaring a state of emergency (Article 61(9)), (the parliament aborted the government's attempts to declare a state of an emergency during the ISIS occupation crisis. It also held the government accountable financially through almost regular annual budgets (Article 62), a core practice that had been absent for decades. It granted immunity and independence to the members of parliament and protected from political repression (Article 63).

This preference for empowering the legislature also intentionally led to the weakening of the government. The Prime Minister no longer has the right to dismiss his ministers; instead, they are imposed by the fact that they are granted confidence individually (Articles 76(4) and 78). This is done through the consensual system that was established with the ambiguous wording of "the largest Council of Representatives bloc" (Article 76), by reproducing the Lebanese experience and destroying the democracy of the natural majority.

Nevertheless, the prime minister is still sufficiently powerful to try to seize power. Parliament may be powerful institutionally, but it is politically weak, which has allowed prime ministers in the past to expand their powers in an attempt to monopolize power. This might have been fully achieved had it not been for the 2014 invasion by ISIS, which stopped one such initiative fully in its tracks.

The consensual system caused the state administration to be politicized by subjecting senior government positions to parliamentary consensus (Article 61(5)). Thus, an excessive

bureaucracy of a centralized public administration became a target of political corruption.

The Constitution guaranteed the independence of the judiciary (Articles 19(1) and 87). It even exaggerated and put it beyond accountability and outside checks and balances. It achieved great success in establishing the culture of the Federal Supreme Court – which was established in the new system prior to its drafting – and the commitment to its provisions (Article 92). This is a great success in elevating the culture of constitutional supremacy (Article 13). However, the Constitution's provisions were extremely confusing in organizing the judiciary and determining the position of the Federal Court and the Higher Juridical Council within the judicial branch (Article 89).

The Constitution also failed to establish the Public Prosecution Department and the Judiciary Oversight Commission in a manner that guarantees their independence from the Court of Cassation and the Courts of Appeal judges that control the Higher Juridical Council. The Constitution barely makes any mention of the administrative courts (Article 101).

The Constitution failed to reform and diversify the Iraqi economy, encourage the private sector (Article 25), and abandon the rentier state system. In fact, the previous regime used this system to control the power and deepen its authoritarianism, while the new democratic system has turned the rentier state into clientelism based on providing jobs in return for votes. The public sector has become sluggish under the burden of underemployment. We saw a populist system destroying the Iraqi economy that became completely reliant on oil.

On the other hand, the consensual system – which was created to maintain balance between the components – eliminated political opposition, now that all political forces “must be represented” in the national unity governments to avoid accusing the latter of exclusion and marginalization. Consequently, the system turned into an irresponsible partisan quota because they all became partners in political corruption. These two factors (i.e., a rentier state in a

consensual system) have produced a weak state and Iraq has now, for years, been at the top of international administrative corruption indices despite the Constitution's arrangements (Article 127), the monitoring and accountability mechanisms with the parliament, and the oversight and anti-corruption commissions.

The failure to shape a common national identity and to go past a state of distrust and mutual apprehension between the components can be summed up in the stalemate of the constitution and the near impossibility of amending it, especially in its major problems and on top of them the federal system structure, since the requirements include the approval of the legislature of the concerned region and the approval of the majority of its citizens in a general referendum (Article 126). This indicates a stagnation in the Constitution's political system.

2. In terms of the federal system, the Constitution failed to find a convincing formula for a just partnership, because it failed to eliminate the fear caused by decades of authoritarianism and totalitarianism. It promoted a division of power (rather than power sharing) through a hybrid system between federalism and decentralization (Article 116). It also caused a feeling of inequality among "components", because it gave "priority" based on the grievances from the previous regime. This priority was embodied in constitutional privileges that were recklessly granted based on temporary political balances. This disparity or difference in vision about building a system that is fair or acceptable to all parties led the federal power-sharing system to another failure in completing its constitutional institutions, such as the Federation Council (Articles 48, 65, 137), the public commission to guarantee the rights of the regions and governorates that are not organized into a region, and the commission to audit and appropriate federal revenues (Articles 105 and 106).

This reflects the extent of skepticism about the fairness of the competent federal authorities, such as the Ministry of Planning, Ministry of Finance or even the Council of Representatives. The constitution also failed to define the powers of the federal government, regional governments and local governments. This includes restricting the exclusive

powers of the federal government and devolving powers to regional governments, the unusual supremacy of regional legislation over federal legislation, and entitling the regions to amend the enforcement of federal law (Article 115 and Article 121(2)).

This eventually diminished the state's authority and sovereignty, over the territory (because of the failure to form multiple regions that give credibility to the federal system (Article 118). It also transformed the federal system stipulated in the constitution into a de facto confederal system because of all those failures. Examples of such failures are foreign policy, diplomatic representation, national security policy, general budget development, water resources, census, and the general population census (Article 109 and Article 121/4); customs administration, and electrical energy sources (Article 110); as well as the "frequent postponement" in addressing the time bombs in disputed areas, especially Kirkuk (Article 140).

These failures caused another failure to enact the oil and gas law. Those two resources represent the main source (90%) of income for the Iraqi state. The language of the articles related to this issue (Articles 111 and 112) was confusing. Thus, as KRG became independent in exploiting and exporting oil, the inevitable result was a referendum on independence from Iraq. This represented the pinnacle of the failure of the 2005 Constitution to guarantee the unity of Iraq (Articles 1 and 109).

The lack of equality in this hybrid system and the fear of inequality in the distribution of power and wealth were reflected in contradictory provisions by mixing the functions and powers of the regions with the governorates that are not organized into a region (Article 115), and thus confusing the federal system with the decentralized system. The Constitution blatantly lacked a real vision about decentralization structures and mechanisms and how to establish it. It failed to draw the structure of local governments (Article 122) and limited the roles of local councils and governorate councils to only electing the governor, who represents "all" of the local government.

3. Among the Constitution's shortcomings is that its wording is too general in some places, lacking in accuracy in others, and even contradictory in others. This caused a number of challenges that impeded the state building process.

However, even in its clear, explicit and approved provisions, the main political forces ignored them and agreed to violate the constitution, either to achieve their interests or to overcome the specific hurdles of a new democracy emerging from a harsh totalitarian regime. This calls us to rethink before passing judgment on the shortcomings of some provisions, and to study them carefully in the light of the events of the political process.

However, it is not clear that if the Constitution's wording had been clearer that that would have made any difference. The country's political blocs have in the past used bad faith interpretations and legal tricks to avoid specific constitutional arrangements even when the wording was clear.

In addition, it is not clear what the impact might have been had the Constitution provided for different arrangements. For example, as noted above, the Constitution does not allow the executive to dissolve parliament without its consent. Some have noted that this creates an imbalance in favor of the parliament. However, it is unclear what the impact of such an arrangement might have been in practice, given the fragile political stability and the potential to destabilize civil peace.

Thus, assessing the constitution on the basis of the political system and its performance is a controversial matter. It is not possible to judge the Constitution's provisions with assumptions of open-ended possibilities. The Constitution may have succeeded in some places and failed in others. But we cannot be certain that different arrangements would have made any difference.

External Criterion 1: The system's legitimacy

The first Iraqi state (1921-2003) passed through four regimes: Monarchy (1921-1958), First Republic (1958-1963), Second Republic (1963-1968), and Third Republic (1968-2003). None of these regimes enjoyed political legitimacy. They were established either by an occupying power or by military coups and they did not express, in any way, the opinion of the people (a formal referendum was held to pledge allegiance to King Faisal I, which is in fact just an attempt to legitimize the decisions of the British Colonial Ministry conference in Cairo (1921). Authority was not granted or delegated to the people in any democratic form, and those regimes, especially the republican ones, were autocratic regimes that developed into dictatorship and totalitarianism. The monarchy practiced limited democracy, and the first republic made achievements in infrastructure. However, these achievements did not provide any of those regimes with legitimacy that can compensate for their political illegitimacy or gain them some public consent.

At the same time, the constitutions that accompanied these regimes (1925, 1958, 1963, 1964, 1964, 1968, 1970) also did not enjoy any legitimacy. Almost all of them came through an edict, particularly the temporary constitutions' republican regimes. The drafting, amendment and repeal of those constitutions were entirely the result of the will of whichever president or prime minister happened to be in power at the time, typically in total disregard for standard constitutional norms.

The circumstances through which the republican constitutions were adopted confirm how illegitimate those texts were. In some cases, it was not even clear if they were constitutions or merely legislation that regulated power, give that there was no constitution in force at the time (for example in 1963, and on 22 April 1964). Some were written by one person in just a few days (the 1958 constitution), and some survived only for a few days (the 22 April 1964 Constitution). More importantly, these texts' substantive content was also wholly undemocratic. Their texts could not, even partially compensate the illegality of these constitutions, which simply reflected the illegitimacy of the political regimes that "granted" them.

Even the 1925 Constitution was imposed by force by the occupation authorities, although it was later ratified by an elected Constituent Assembly in circumstances marred by boycotts, threats, and violence. The 1925 Constitution was adopted pursuant to a deal with the occupation authorities in exchange of which the Mandate Treaty was ratified to grant “national” legitimacy to the Mandate. Force was only used to convene the session through which the 1922 Treaty was ratified.

The second Iraqi state (2003) was established illegally by the US-led occupation. But the occupation authorities were gradually forced to hand power over to a provisional government under an interim constitution that was also imposed by the occupation on a Governing Council. This Council was refused by the public also and popular protests started against the interim constitution itself. However, these events led to a *fait accompli* imposed by the religious authority to hold free and direct elections under international supervision. These elections eventually produced an elected national assembly that gave confidence to an elected transitional government and, at the same time, acted as a constituent assembly to write a permanent constitution (the 2005 Constitution).

This 2005 Constitution was approved by a majority vote in the National Assembly itself and was subsequently approved by a popular referendum with a comfortable majority. Considering the two democratic mechanisms for writing the 2005 Constitution (enactment by an elected Constituent Assembly and approval by a general referendum, and even with a double threshold to ratify the referendum and under an elected government), the level of democratic legitimacy appears to be very satisfactory.

On the other hand, the international community and in particular the United States still exercised considerable influence over the process. The United States had an interest in completing the constitution-writing process successfully as soon as possible and used a number of means to influence the discussions to achieve that objective. Among other things, the United Nations put pressure on the constitution's drafters to abandon their draft chapter on federalism in favor of the interim constitution's arrangements, despite the fact that there is no consensus in favor of those arrangements (see above). That manner of proceeding threatened the future of the political process of building the Iraqi state.

As a result, a political system was born through ballot boxes, after the permanent constitution was approved, a parliament and a government were formed, and a president was elected. All of these took place in line with traditional democratic mechanisms. Thus, the Constitution was very successful in establishing a legitimate government according to democratic criteria. On the other hand, and as noted above, there remains serious questions about the federal system of government, which remains a major source of controversy in Iraq.

External Criterion 2: Peaceful transfer of power

As stated above, one of the Constitution's prominent objectives was to establish a democratic system based on the peaceful transfer of power. It includes groundbreaking articles in Iraqi political history, the most important of which is that "[t]he law is sovereign. The people are the source of authority and legitimacy, which they shall exercise in a direct, general, secret ballot and through their constitutional institutions" (Article 5). It also provides that "[t]ransfer of authority shall be made peacefully through democratic means as stipulated in this Constitution" (Article 6).

The Constitution succeeded in establishing a culture of peaceful transfer of power through elections and in consolidating electoral legitimacy. This has replaced the deep legacy of "revolutionary legitimacy" that legalized the military coups that took place after 1958.

Iraq is still almost the only Arab country to maintain the peaceful transfer of power. The population never resorted to overthrowing constitutional legitimacy or seizing power from outside the ballot box, despite widespread rejection of the regime's corruption and its failure to provide basic services. The population expressed its disapproval through demonstrations and by boycotting elections. There appears to be some consensus that calls for the establishment of a national salvation government or for changing the political system from outside the Constitution, whether through popular demonstrations or through political consensus, are inherently dangerous.

The Constitution established an integrated democratic system. It does not provide for an abstract system on the peaceful transfer of power. The structure that it built is based on the election of the Council of Representatives. Once the Council is convened, its members elect the Speaker. Then they elect the President, who in turn assigns the candidate of the largest bloc to form the cabinet that holds executive power. Then, this cabinet is granted confidence by the Council of Representatives and is subject to its oversight and accountability in accordance with the parliamentary oversight mechanisms in all their details. The Council of Representatives also has the right to withdraw confidence from the prime minister, the cabinet or individual ministers and dismiss them. All the above takes place within one parliamentary session that is repeated every four years.

The Constitution adopted the separation of powers and, to some extent, a balance between them. It does lean strongly in favor of the parliament, although it does so to avoid the return of totalitarian and military regimes. It also puts the army and security agencies under civilian oversight. It provides that the President should be limited to two terms, which is an important symbolic text in limiting power and limiting the possibility of monopolizing it. However, it does not include an equivalent limitation for the prime minister, which is the most important and critical executive position.

The Constitution was also a forerunner in establishing institutions for preserving democracy in a special chapter on independent agencies. Independent agencies are often considered to be a fourth branch of government, even if this is not stated explicitly. They include the Independent High Electoral Commission, the High Commission for Human Rights, and the Integrity Commission. The Constitution also includes rights and freedoms, primarily civil and political rights, in significant detail, although even a perfect articulation of those rights does not guarantee perfect implementation. The core political freedoms in general, especially freedom of opinion, assembly and partisanship, publishing and media, nomination, and election are all enshrined.

The impact can be seen in the political system's performance over the past two decades. More than 350 political parties have been officially registered. There are hundreds of political newspapers of different orientations (including more than 30 Arabic-language

newspapers that continue to be published from inside Iraq), not to mention tens of satellite channels and thousands of news and social networking websites on the Internet, which operate without any restrictions or censorship. Also, there are approximately 9,000 candidates in each parliamentary election (an average of 28 candidates for each of the 329 seats).

The Constitution defines the duration of the parliamentary session – and thus the entire political cycle – at four calendar years. It starts with the first parliamentary session, held within 15 days from the announcement day of the results approved by the Federal Supreme Court (Article 52), and ends with the holding of the elections for the subsequent parliamentary session. The elections are held forty-five days before the end of the parliamentary session (Article 52 and Article 54(2)).

On the other hand, the system is not without its flaws. The system is lacking in detail in a number of important respects, in ways that have caused confusion and contributed to political crises. For example, the Constitution could have determined the electoral cycle in a more binding and constraining manner to avoid political disputes. The Constitution does not specify a fixed date for holding the elections, which has caused some confusion in the electoral agenda.

The Constitution also fails to specify some dates in the electoral agenda, such as the date for announcing the preliminary results by the Independent High Electoral Commission. It also does not provide a maximum number of days for announcing and approving the results. It is one of the loopholes that political groups can use to pressure the Commission or the Federal Supreme Court to postpone the announcement of the results with a view to buying more time when facing a political crisis or difficulty in reaching a parliamentary majority.

The Constitution is also silent – deliberately, apparently for the purpose of creating space for political consensus – on the final maximum period granted to a candidate charged with forming a government. It does not mention any possible consequences when the parliament fails to adhere to the electoral agenda in electing its speaker, the president, or the prime minister. For example, the Constitution does not provide that the parliament shall be dissolved and early elections shall be held in the event of

political deadlock, as in many traditional parliamentary systems. This omission may seem justified in emerging democracies, but it allowed political forces to violate the Constitution, but without jeopardizing the principle of peaceful transfer of power.

By reviewing the constitutional timetable for the five electoral cycles between 2005 and 2021, the dates for ratification of the results ranged between two and three months. These are relatively long periods and do not appear to be decreasing over time, even though more modern technologies in electronic sorting of votes have been adopted. As for the date of parliament's first session after each election, which is the first date on the electoral agenda, the Constitution's deadline was respected in all cases with the exception of the first session. However, there was an attempt to maneuver in the second session by not adjourning the first session and keeping it open for months, which the Federal Court later ruled invalid. Therefore, the dates for electing the speaker of the parliament and the president – except for the second session – were regular according to the Constitution, as was the date for granting confidence to the prime minister and the cabinet. The fifth session is also an exception, which for the first time witnessed a failure to elect the president and to assign the candidate from the largest bloc to form a cabinet.

In a newly-born Middle Eastern democracy emerging from a brutal totalitarian regime, the experience of the peaceful transfer of power in the second Iraqi state seems highly satisfactory, if not perfect. However, it remains under threat and unstable, mainly because cabinets are only formed after significant political difficult and (sometimes deep) political and constitutional crises.

Iraq is still far from being a stable democracy, but it has succeeded so far where many countries have failed. Also, we cannot overlook the fact that the political system has failed to hold governorate council elections. These elections were discontinued with the third parliamentary session, although the latter was extended due to the war with ISIS. There does not appear to be any real will to resume them. The elections of KRG National Council are also under threat due to the deep political crisis within the region.

Session	First	Second	Third	Fourth	Fifth
The elections	15/12/2005	7/3/2010	30/4/2014	12/5/2018	10/10/2021
Ratifying the results	2/10/2006	6/1/2010	6/16/2014	8/19/2018	12/27/2021
Duration	57	86	47	99	78
First parliament session	3/16/2006	6/14/2010	7/1/2014	9/3/2018	1/9/2022
Duration	34	13	15	15	244
Election of the Speaker and/or the President	4/22/2006	11/11/2010	7/13/2014	10/2/2018	1/9/2022
Duration	37	150	12	29	1
Granting confidence to the government	5/20/2006	12/21/2010	9/8/2014	10/24/2018	10/28/2022
Duration	28	40	57	22	28
Total duration	156	289	131	165	351

External Criterion 3: Popular oversight over state authorities

For the purposes of this assessment, popular oversight includes oversight that is exercised by the population through public opinion, free expression, association and civil society. In order for popular oversight to be possible, information on the performance of state institutions must be publicly available, the population must be able to exercise basic political rights including the right to form associations and to free expression, and state authorities must be responsive to significant demands that are made through these means. The right to access information in particular is essential. Without this right, the population and civil society cannot exercise popular oversight effectively.

As noted elsewhere in this report, the Constitution affords significant civil and political rights including free expression and association, which are generally protected although not always uniformly. However, the right to access information is not provided for in the Constitution. There is also no legislation that is currently in force that provides for the right to access information. This omission is noteworthy, given the increasing number of constitutions that guarantee the right to information (see for example Article 32 of Tunisia's 2014 Constitution). In addition, parliaments around the world have adopted robust legislation relating to freedom of information (for example, see Tunisia's Organic Law No. 22, 2016). The fact that this right is absent from Iraq's constitutional framework is consistent with the overall approach that was taken in the 2005 constitutional drafting process, which prioritized the effort to cement relations within a new political system at the expense of improving the state's performance in the delivery of services (as noted elsewhere in this assessment).

In addition, as a matter of practice, state institutions in Iraq still adopt a closed approach to information. When approached for information about their working methods, state institutions, including ministries and judicial bodies will often respond (without any legal basis) that such information is confidential and or a protected state secret. That practice, which is a legacy from the pre-2003 defunct regime, has impeded popular oversight in the country. This applies for example to sovereign ministries such as the Ministry of Water Resources and the Ministry of Interior.

Nevertheless, despite these challenging circumstances, civil society has been able to exercise increasing amounts of oversight through a number of means. Increasing numbers of think tanks (including, for example, Rewaq Baghdad) have been established and are able to publish studies, reports and materials on state institutions relatively freely and without interference. In some cases, leading critics of the state have left the country for fear of court proceedings. The picture on this point is therefore mixed.

The final question is whether popular oversight has led to any meaningful response or reforms by state institutions. Here the picture is at best murky and at worst bleak. As noted elsewhere in this report, the Iraqi state continues to rank very poorly on issues relating to corruption, standards of living, service provision,

resilience and others, which underlines the state's inability to reform. In addition, there is very little evidence that any specific reform was carried out as a result of popular oversight. Some political figures were removed as a result of considerable popular pressure and only after hundreds of protesters were killed. This indicates that existing pathways to channel popular oversight are generally closed, except where protests lead to significant casualties, which is not consistent with acceptable democratic norms. In some cases, state institutions have prosecuted critics who have published materials relating to their performance – most notably judicial institutions have on more than one occasion launched prosecutions after opinions critical of its performance were published.

Finally, the 2019 uprising against corruption led to some changes although it is unclear whether those changes had an overall positive impact. The electoral system was reformed, although it is unclear if the new system represented an improvement. The government of the day was forced to resign, but the government that replaced it was generally unable to enact any serious anti-corruption measures. This assessment is consistent with the results of the general opinion survey, according to which 57.3% of respondents stated that the Constitution does not protect their right to popular participation at all or does so only to a limited extent.

In conclusion, the Constitution's performance on the issue of popular oversight is at best mixed. There have been some positive developments, in particular the ability of research institutions to publish materials on the state's performance, but these positive developments are uneven and have not yet translated into the ability to impact the state's performance.

External Criterion 4: Citizens' needs and public services

The 2005 Constitution includes a broad range of basic rights, including civil and political rights as well as social and economic rights. Not all rights are equivalent, however, despite the fact that the Constitution does not formally create a distinction. Civil and political rights are directly enforceable, meaning that individuals may bring a claim before a court in the event of an alleged

violation of civil and political rights. However, the socioeconomic rights that are included in the Constitution are essentially aspirational, which means that individuals generally cannot bring claims before a court for violations of socioeconomic rights. In practice however, the available data suggests that protections of all basic rights have either stagnated or have declined since 2005.

This question was raised in Question 10 of the general opinion poll (see Annex A, page 165) in which respondents were asked if they believe that the Constitution guarantees right to housing, education, healthcare and work. Table 58 shows that the highest percentage of respondents (39.6%) believes that the Constitution has not guaranteed their rights to housing, education and work, while 27.8% said that it has guaranteed these rights to a limited extent. When combined together, the level of dissatisfaction appears to run very high, at 67.4%. As noted above, most respondents have very little knowledge about the Constitution's contents, and are presumably unaware of what the Constitution says about socioeconomic rights. What this means is that respondents generally responded based not on what is theoretically guaranteed but based on actual results in practice, which is a reflection of the political system's willingness and ability to put into practice what the Constitution provides for. Conversely, this also shows that the respondents' personal situation is likely to impact their view of the Constitution.

To evaluate whether External Criterion 4 has been satisfied, it is not enough to examine public opinion. A more complete evaluation of this specific criteria also requires an evaluation of open source data on the implementation of the rights and freedoms that are provided for in the Constitution. A fully complete evaluation would require an analysis of each individual right, which was beyond the capacity of this project to achieve. As a result, the following analysis focuses on a sample of basic rights, including the right to equality (Article 14), the right to defense (Article 19(4)), the right to work (Article 22), the state's obligation to reform the economy (Article 25), the right to health care (Article 30), the right to a healthy environment (Article 33), and the right to education (Article 34). The analysis is based on data produced by national state institutions and by international financial institutions including the World Bank, and on more analytical reports produced by a range of institutions.

In all cases, the picture is either mixed or clearly negative, and all indications suggests that current dynamics will not lead to any meaningful improvement in the near to mid future.

Article 14 of the Constitution provides: “Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status”.

Focusing specifically on the question of gender and economic equality, there are several indications that little progress has been made in meeting the objectives set out in Article 14. For example, the labor force participation rate of women has decreased from 12.12% in 2005 to 12.06% in 2019.⁷ This strongly indicates that discrimination against women has not decreased since 2005.⁸ There have, however, been some areas of improvement.⁹ Of the population of Iraqi women employed in the work force, the rate of female employees receiving wages and salaries increased from 62.07% in 2005 to 96.31% in 2019. In addition, the proportion of seats held by women in the national parliament has increased slightly since 2005 (increasing from 25.45 in 2006 to 28.87 in 2022). Furthermore, the Women Business and Law Index Score increased from 33.125 in 2015 to 45 in 2021. Finally, state institutions have been making some effort to improve gender rights. In 2013, the government adopted a strategy to combat violence against women. In 2015, the government passed a new labor law that prohibits discrimination and guarantees equal treatment for all Iraqi employees regardless of race, gender, nationality, origin, color, religion, sector, belief, opinion, or economic or social situation.

Article 19(4) of the Constitution provides that: “The right to a defense shall be sacred and guaranteed in all phases of investigation and the trial”. Article 19(11) provides that: “The court shall appoint a lawyer at the expense of the state for an accused of a felony or misdemeanor who does not have a defense lawyer”.

7 All numerical data concerning Iraq is drawn from the World Bank’s Iraq data set: <https://data.worldbank.org/country/IQ>.

8 This trend is not unique to Iraq. For example, the labor force participation rate of women in Jordan decreased in 2005 from 15.85% to 13.47% in 2021.

9 Drawn from the World Bank Jordan data set: <https://data.worldbank.org/country/jordan?view=chart>.

The data that is available strongly suggests that the objectives that are set out in Article 19 have not been satisfied. On the right to defense, the United Nations reports that “access to a lawyer is systematically delayed until after suspects have been interrogated by security forces”.¹⁰ The United Nations carried out a survey of 285 instances of detentions involving interrogation by security forces, in which not a single interviewee reported that a lawyer was present. Overall, about 40% of their interviewees stated that they had a court-appointed lawyer during trial.¹¹ According to the OHCHR, lawyers’ compensation ranges from 10,000-30,000 Iraqi Dinars for investigative and trial hearings, which is far from being financially adequate.¹² In 2019, the U.S. State Department reported that, while defendants and attorneys have the right to confront witnesses against them and present witnesses as evidence, they are not always granted such rights. Furthermore, judges in numerous cases relied on forced or coerced confessions as the primary or sole source of evidence in convictions.¹³ These dynamics likely hamper lawyers’ abilities to adequately represent their clients.

Article 22 of the Constitution provides that “Work is a right for all Iraqis in a way that guarantees a dignified life for them”.

There are strong indications that the objectives that are set out in Article 22 have not been met. The overall unemployment rate in Iraq has increased from 8.71% in 2005 to 14.19% in 2021.¹⁴ Other metrics corroborate this data. For example, the labor force participation rate of men (as a percentage of the male population between the ages of 15 and 64) decreased from 34.09% in 2005 to 28.14% in 2020. Similarly, the labor force participation rate of women (as a percentage of the female population between the ages of 15 and 64) decreased from 12.12% in 2005 to 12.06% in 2019.

10 ‘Human Rights in the Administration of Justice in Iraq: legal conditions and procedural safeguards to prevent torture and ill-treatment’, page 5. https://www.ohchr.org/sites/default/files/Documents/Countries/IQ/UNAMI_Report_Administration_of_Justice_EN.pdf.

11 Ibid, page 13.

12 Ibid, page 13.

13 2019 Country Reports on Human Rights Practices: Iraq. <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/iraq/>.

14 All numerical data is drawn from the World Bank’s Iraq data set: <https://data.worldbank.org/country/IQ>.

Wages and overall income when adjusted for inflation have increased in Iraq since 2005. GDP per capita measured at the current LCU increased from 2,731,328.90 Iraqi Dinars in 2005 to 4,941,868.62 Iraqi Dinars in 2020.¹⁵ However, GDP per capita reached its peak in 2013 at 8,251,259.94 Iraqi Dinars, but has since steadily declined to the 2020 GDP per capita. There is a similar pattern with the other metrics of wages and GDP per capita.

However, despite this downturn from the 2013 peak, wages and GDP per capita have still seen an overall improvement since 2005. For example, measured in 2015 USD, GDP per capita was \$3,493.34 in 2005 and increased to \$4,247.81 in 2020. The Gross National Income per capita (in constant 2017 international dollars) was 7,411.66 Iraqi Dinars in 2005 and increased to 9,012.38 Iraqi Dinars in 2005. The World Bank's estimates of the Purchasing Power Parity conversion factor for private consumption (LCU per international \$) increased from 304.46 in 2005 to 536.72 in 2021, indicating that the purchasing power of Iraqi Dinars has decreased since 2005.

Article 25 of the Constitution provides that "[t]he State shall guarantee the reform of the Iraqi economy in accordance with modern economic principles to insure the full investment of its resources, diversification of its sources, and the encouragement and development of the private sector". Has this objective been met?

Some economic indicators (including the size of Iraq's GDP) have improved since 2005, but it is not clear if that is the result of government policies to reform the economy. Indeed, the hydrocarbon sector accounts for 95% of both fiscal and current account revenues and over half of the total GDP.¹⁶ This means that GDP growth is mainly a function of international demand for oil and gas rather than an improvement in Iraq's economic performance. Analysts have predicted that in the 2022 fiscal

15 GDP per capita is not universally considered to be the best measure of purchasing power. The IMF's constant price data paints a picture that is very similar to GDP per capita, starting at \$7.9k in 2005, rising to a peak of \$11.6k in 2016, then declining to \$9.7k in 2021; see <https://www.imf.org/en/Publications/WEO/weo-database/2022/April/weo-report?c=433,s=NGDPRPPPPC,NGDPDPC,&sy=2000&ey=2021&ssm=0&scsm=1&sc=0&ssd=1&ssc=0&sic=0&sort=country&ds=.&br=1>.

16 Fitch Solutions, "Iraq Country Risk Report," page 5.

year, Iraq will post its second largest fiscal surplus since 2004.¹⁷ However, this will be due to the increased price of oil rather than government policy, since growth in Iraq's GDP has been tightly correlated with global energy prices.¹⁸ Also, this lack of diversity leaves the economy very vulnerable to fluctuations in oil prices.

Pursuant to the above, Iraq's GDP (measured in constant 2015 USD) did increase from \$94 billion in 2003 to 170,857,727,944.571 in 2021.¹⁹ Furthermore, the GNI (measured in current USD) increased from US \$45 billion in 2005 to US \$164 billion in 2020. However, the overall decrease in employment rates may point in the opposite direction.

Iraqi governments have tended to be preoccupied with political disputes and have made little efforts to reform the economy. One indicator of this failure is the World Bank's Ease of Doing Business Index, which was discontinued in 2021 but prior to this provided an annual assessment of Iraq's business environment in areas such as the ease of starting a business or access to credit.²⁰ In every report which it featured in since 2004, Iraq ranked close to the bottom globally and its scores in various areas rarely improved and often deteriorated. Its final rank in 2020 was 172nd/190, which was its lowest ever ranking, down from a high of 114th/155 in 2006.²¹ Some of the reasons for the failure to diversify and empower the private sector were identified in the government's 2020 White Paper on Economic Reforms.²² It states that "The expansion of the state's role, in addition to the complex administrative system and the state's weakness in imposing the rule of law, the militarization of society, and the influence of non-governmental actors in public institutions, led to the decline of the Iraqi private sector." A weak financial system which makes it difficult for small businesses to access credit is one of the problems it identifies, as well as a failure in education to equip workers with suitable skills.

17 Ibid, page 22.

18 Ibid, page 28.

19 All numerical data is drawn from the World Bank's Iraq data set: <https://data.worldbank.org/country/IQ>.

20 See <https://www.worldbank.org/en/programs/business-enabling-environment/doing-business-legacy>.

21 See https://en.wikipedia.org/wiki/Ease_of_doing_business_index.

22 See <https://gds.gov.iq/iraqs-white-paper-for-economic-reforms-vision-and-key-objectives/>.

It also appears that not all workers are getting access to whatever economic development is taking place. Some of this discrepancy may be attributed to government corruption. In 2005, Transparency International rated Iraq 22/100 in its Corruption Perception Index, placing it at 137 out of the 158 countries evaluated.²³ In 2021, Transparency International gave Iraq a rating of 23/100 in its Corruption Perception Index, placing it at 157 out of 180 countries evaluated.²⁴ This lack of improvement supports the suggestion that economic reform has not been seriously attempted or at least that it is not effective.

Article 30 of the Constitution provide that “[t]he State shall guarantee to the individual and the family – especially children and women – social and health security”. Article 31 provides that “[e]very citizen has the right to health care. The State shall maintain public health and provide the means of prevention and treatment by building different types of hospitals and health institutions”.

The overall picture on health care is mixed. Official data suggest that there is a trend of increased spending in healthcare, which appears to have contributed to some improvement. For example, official data suggests that the probability of youths dying (per 1,000) has slightly decreased from 5.2 in 2005 to 4.4 (2020), and neonatal deaths have gone down from 2,000 (2005) to 1,600 (2020).²⁵ For reference, the probability of youths dying and neonatal deaths in Portugal and Iran were 1.7 (2020) and 5.3 (2019).²⁶ Overall, the infant mortality rate has fallen from 32.5 (2005) to 21.3 (2020). The mortality rate for children under five (per 1,000 live births) fell from 40 (2005) to 25.2 (2020). Maternal mortality rate (per 100,000 live births) has also fallen significantly from 127 (2005) to 79 (2017), and the total number of maternal deaths decreased from 1200 to 870. The lifetime percentage risk of maternal death was halved between 2005 and 2017 (from 0.6 to 0.3).

23 Transparency International, ‘Corruption Perceptions Index’: <https://www.transparency.org/en/cpi/2005>.

24 Transparency International, ‘Corruption Perceptions Index’: <https://www.transparency.org/en/cpi/2021/index/irq>.

25 All numerical data is drawn from the World Bank’s Iraq data set: <https://data.worldbank.org/country/IQ>.

26 Drawn from the World Bank’s Portugal and Iran data sets: <https://data.worldbank.org/>

Since 2005, health expenditure per capita has nearly doubled, and health expenditure as a percentage of general government expenditure has also doubled from 3.2% (2005) to 6.0% (2019). The percentage of people at risk of impoverishing expenditure for surgical care has remained steady between 13.8% (2006) and 12.6% (2018).

On the other hand, according to the World Bank, for every 1,000 Iraqis, there are 1.3 hospital beds, a drop from 1.9 in 1980, 11 and 0.8 physicians, a significant drop from 1.0 in 2014.²⁷ This is far fewer than other countries in the Middle East. Health centers suffer from chronic shortages of medical supplies and resources.²⁸ As a result, Iraqis are increasingly relying on private sector and out-of-pocket financing for their healthcare expenditures. However, because there is no private health insurance, the average Iraqi covers about 70 percent of their out-of-pocket health expenditures, making quality health care an expensive proposition for most people.²⁹ Many Iraqis seek medical care in other countries, such as India, Iran, Jordan, Lebanon, and Turkey.³⁰

In response, the 2015 Private Healthcare Institutions Law was adopted as a way to make access to private healthcare easier by reforming the legal framework for private investment in healthcare.³¹ The percentage of health expenditure by the public sector decreased from about 70% (2005) to 50% (2019) and private expenditure increased from 30% to 50%.³²

27 The World Bank, 'Hospitals Beds (per 1,000 people) – Iraq', 2017, <https://data.worldbank.org/indicator/SH.MED.BEDS.ZS?locations=IQ>.

28 Reuters, 'Iraq's healthcare has fallen far', 2 March 2020, <https://www.reuters.com/investigates/specialreport/iraq-health/>.

29 Ala'a al-Deen al-Alwan, 'The Health Status in Iraq... Challenge and Priorities', May 2019.

30 Reuters, 'Iraq's healthcare has fallen far', 2 March 2020, <https://www.reuters.com/investigates/specialreport/iraq-health/>.

31 'A Quick Guide to the Iraqi Healthcare Industry', <https://www.tamimi.com/law-update-articles/a-quick-guide-to-the-iraqi-healthcare-industry/>.

32 These data indicate a substantial and potentially concerning shift towards increasing reliance on private healthcare by the Iraqi population, which could indicate a regression in overall healthcare access.

Article 33 of the Constitution provides that that “the individual has the right to live in a healthy environment, and the state guarantees the protection and preservation of the environment and biodiversity.” Has this objective been met?

Indicators relating to the environment are almost universally negative and appear to be declining on a yearly basis.

According to UNICEF, nearly 3 out of 5 children in Iraq don't have access to water services that are safely managed. Additionally, less than half of all schools have access to basic water.³³ Improper sanitary conditions have significant impacts on nutrition, disease, and overall health.³⁴ Terrestrial and marine protected areas make up only 1.53% of Iraqi national territory and renewable electricity output fell from 19.7 % of total electricity output (2005) to 3.7% (2015).

Iraq's water resources have declined sharply since 2005 as a result of a number of factors, including reduced rainfall caused by climate change and the construction of upstream dams in Turkey and Iran. The result is that large parts of Iraq's territory are being transformed into dusty and dry conditions, which have had a range of other impacts. Drought has increased unemployment in the agricultural sector, increases food insecurity and increases poverty. In addition, the decline of water quality poses serious health risks. It increases the risk of waterborne diseases, such as diarrhea, cholera, typhoid, and different forms of hepatitis. The dusty and dry conditions and the occurrence of wildfires irritate the airways and lungs, which results in aggravating chronic respiratory illnesses. All of these conditions are set to increase if environmental conditions do not improve.³⁵

Iraqi state institutions have not yet developed or implemented a comprehensive mitigation plan in response to the environmental degradation that is taking place. The response of state institutions has been limited to reactive measures, including reducing planting of winter crops in irrigated areas by 50% because of water scarcity.³⁶

33 UNICEF Press Release (2021), available at <https://reliefweb.int/report/iraq/running-dry-water-scarcity-threatens-lives-and-development-iraq-enar>.

34 Ibid.

35 UNESCO, 'Integrated Drought Risk Management – National Framework for Iraq', 2014, page 15. SIPRI, 'Climate, Peace and Security Fact Sheet Iraq', 2022, page 5.

36 Ibid, page 9.

Article 34 of the Constitution states that education is a basic factor for the progress of society and a right guaranteed by the state. It is mandatory in the primary stage, and the state guarantees the fight against illiteracy.

According to a 2019 report by Iraqi Alliance for Education (IAE), a civil society group, “the rate of enrollment in the total number of children at the [mandatory] age of 6 years was only 59% [and] the dropout rate was 41%”.³⁷ Additionally, the IAE reported that the government budget for the Ministry of Education dramatically decreased by 70% between 2016 and 2019. The Ministries of Defense and the Interior had similar budgets to the Ministry of Education in 2016 but did not experience comparable funding declines.³⁸

Despite this alarming situation, official data from 2012 to 2017 suggests that some progress has been made in combating illiteracy.³⁹ The literacy rate among adults (people ages 15 and above) grew from 77.2% (2012) to 85.5% (2017). For youths (people ages 15-24) the literacy rate also increased from 83.5% (2012) to 93.5% (2017). The breakdown for adult and young women is comparable but slightly lower. In 2012, 69.0% of adult women and 79.4% of female youth were literate, by 2017 the literacy rates had respectively increased to 79.9% and 92.1%. Notably, the Iraqi official figures on education that the World Bank uses for its datasets are missing in several key fields, including retention rates, levels of education completed, qualification of educators, etc.

External Criterion 5: Citizens’ ability to participate in political and civilian life

There are various means through which political participation can be measured. As already noted above, the Constitution clearly provides for various mechanisms through which citizens participate in political life, including through general elections,

37 ‘Iraq Spotlight Report 2019’: available at <https://docs.campaignforeducation.org/HLPF/Iraq%20Spotlight%20Report%202019.pdf>.

38 Ibid.

39 All numerical data is drawn from the World Bank’s Iraq data set: <https://data.worldbank.org/country/IQ>.

the political system, local government, the exercise of political and civil rights and other means. The question here is whether these arrangements and the manner in which they have been implemented encourage and allow for political participation to thrive.

On elections, the general population is generally able to participate without significant impediments. However, participation rates since the first round of elections in 2005 have been declining steadily. Official data suggests that 41% of the voting population participated in the 2021 parliamentary elections, the lowest on record. By way of contrast, official turnout in the December 2005 elections was 79.63%. Also by way of contrast and by way of comparison, turnout was 67.52% in the United Kingdom's 2019 parliamentary elections, 49.2% in Lebanon's 2022 parliamentary elections and 29.88% in Jordan's 2020 general election. What this suggests is that while Iraqis are able to participate in elections and still do so in significant numbers, they are losing confidence in their ability to affect outcomes.

This is supported by some of the results from the general opinion survey. Table 40 (Annex A, page 155) indicates that a very large majority of respondents favor abandoning Iraq's parliamentary system. Only 21.6% of respondents believe that a parliamentary system should be maintained, which is evidence of a very significant level of dissatisfaction. Respondents who favor abandoning the current parliamentary system heavily favor adopting a presidential system (62.4%) over a mixed system (16%). These preferences are likely motivated by a desire to move away from incoherent coalition governments and towards greater simplicity and clarity in policy formation and decision making. In addition, some political parties and media outlets have encouraged the view that the current system of government prevents reform, which has impacted citizens' views. The levels of frustration that are expressed in these results are at least partially motivated by a sense that political participation through elections is not sufficiently impactful.

As noted above, political participation is also supposed to be guaranteed through local governance. The Constitution was supposed to move Iraq away from its long tradition of centralized rule towards federalism and decentralization. The current system

provides that directly elected provincial councils should indirectly elect provincial governors. That system was intended to increase political participation for the general population. However, the most recent provincial elections took place in 2013, and subsequent elections having been postponed due to the conflict with ISIS. In addition, pursuant to the 2019 popular uprising, provincial councils were dissolved by the central authorities based on the understanding that the councils were ineffectual and were contributing to popular unrest.

The general opinion poll addresses this issue directly. In response to Question 15 (Table 97, Annex A, page 189), 70.7% of respondents indicate that they support changing the current system so that citizens may directly elect provincial governors, while only 7.1% were in favor of maintaining the current arrangement through which governors are indirectly elected. This demonstrates strong dissatisfaction on this particular point, and strong support for amending the Constitution, potentially because of a general impression that the current system contributes to corruption and does not allow sufficient oversight and control by the electorate.

The targeted survey also addressed this point. Respondents were asked how they think provincial governors should be appointed. Table 29 shows that 51% of respondents supported directly electing the governor, while 28% were in favor of maintaining the current system (Annex B, page 221). 21% of respondents were in favor of changing the current system to revert to a form of centralism, through which governors would be appointed either by the cabinet or the Council of Representatives.

These results represent clear dissatisfaction with the current decentralized system of government. There is a significant difference in the levels of dissatisfaction between the general population and subject matter experts but only a minority in both categories of respondents are in favor of maintaining the current system. This clearly indicates that, whatever the Constitution may provide, or whatever its drafters may have intended, Iraqis do not currently consider that the decentralized system of government encourages or allows political participation to a satisfactory extent.

Finally, as noted above, the Constitution generally provides for generous civil and political rights. The political environment is not always considered to be positive and welcoming, but Iraqis are nevertheless able to form associations – including political parties – relatively freely, albeit not always comfortably. A clear example of this is the formation of new opposition political forces (including Emtidad, among others) following the 2019 popular uprising, and their subsequent entry into parliament pursuant to a relatively successful showing in the general elections.

This issue was addressed in the general opinion survey. Respondents were asked if they think that the Constitution guarantees rights and freedoms (see Question 9, Annex A, page 160). Table 49 shows that the highest percentage of respondents (35.3%) believes that the Constitution does not guarantee their rights and freedoms. If this is combined with the respondents who believe that the Constitution only guarantees rights and freedoms to a limited extent (24.8%), then the total percentage of respondents who are dissatisfied with the Constitution on this point is 60.1%.

Reference should also be made here to the responses to Question 1, according to which the bulk of respondents have little to no specific knowledge about the Constitution. What this likely means is that respondents' answers to Question 9 reflect not their views about what the Constitution provides on paper, but their views about the way in which civil, political, social and economic rights are actually protected and promoted in practice. What this suggests therefore is that respondents generally have a negative view of this issue, and that the Constitution and the manner in which it has been implemented has not had a meaningful impact in that regard.

These results should be juxtaposed with the results of the targeted survey, in which 44% of respondents stated that they believe that the Constitution guarantees all rights and freedoms that are appropriate to the nature of Iraqi society (Annex B, page 201). 40% of respondents stated that rights were included only to a limited degree. What this suggests is that individuals who are more familiar with the Constitution's substantive content are more likely to believe that the rights and freedoms that it sets out are satisfactory.

The repression that took place following the 2019 uprisings in Baghdad, southern provinces and elsewhere deserves special attention here. The protests were the largest, possibly in Iraq's entire history, both in terms of the numbers of people who participated and in terms of their length. They were mainly motivated by deteriorating economic conditions, concerns relating to corruption, and other factors. The state responded through a number of means, including dissolving the parliament and deciding in favor of early elections. Three separate constitutional revision committees were formed. As noted above, provincial councils were dissolved. On the other hand, approximately 700 protesters were killed in acts of violence by security forces. The manner in which the protests were repressed is not fully representative of how the state has managed public protest since 2003, as very large numbers of protests have taken place without any repression whatsoever. However, this was not the only instance of state violence in response to public protest since 2003. In addition, the impact of the violence was to quash the protests completely before any meaningful improvements could be made to Iraq's governance structure.

What all of the above suggests is that while the Constitution sets out many strong mechanisms that allow and encourage political participation, there are significant flaws either in the constitutional arrangements themselves or in the manner in which they are implemented (or both). The consequences in practice are that opportunities for political participation are narrowing and that increasing proportions of Iraqis are losing confidence in their ability to affect political outcomes.

V. How can the Constitution be improved?

Pursuant to all of the above, it is clear that the Constitution has achieved only mixed success since it was adopted in 2005. As noted above, several attempts have been made to improve the text since 2005, none of which have since succeeded. This section consists of a number of observations on the Constitution itself and some recommendations on how it can be improved pursuant to the analysis that was carried out in the preparation of this report.

A. System of government

Article 1 of the Constitution explicitly provides that Iraq is a parliamentary democracy. However, in 2019 and in 2022, much of the population demanded that the current political system be changed. Crucially, Article 5 of the Constitution provides that the people are the source of authority and legitimacy, which means that serious consideration should be given to whether the system of government should be changed.

1. Parliamentary system, presidential system, and mixed system

Political systems are divided according to the principle of separation of powers into four types: parliamentary, presidential, legislative, and mixed.

Parliamentary systems are based on three main pillars or elements: two sources of authority within the executive (the head of state and the Council of Ministers), cooperation and balance between the legislature and the executive, and the fact that the prime minister and ministers are held accountable by the Council of Representatives, the most prominent example of which is the British political system.

Iraq's Constitution and the parliamentary system that it adopts have departed from the traditional picture in many manifestations,

despite the explicit entrenchment of the parliamentary system in Article 1. First, it failed to grant the President of the Republic or the Council of Ministers the power to dissolve the Council of Representatives as a weapon in exchange for the political responsibility of the Cabinet, according to Article 64 of the Constitution. Second, it granted the President of the Republic in Article 73 broad and influential powers in the political system that go beyond those granted to him in traditional parliamentary systems, where he is an arbiter between the legislative and executive branches. Furthermore, the president can be held accountable in accordance with Article 61(6), which is subject to interpretation.

The third manifestation is the use of the term the “largest Council of Representatives bloc” that is used in Article 76. According to the manner in which that article has been interpreted, the Cabinet is formed by the candidate of the winning party in the elections. That has transformed the political system from a parliamentary system based on a parliamentary majority to a system based on an asymmetrical or consensual majority.

As a result, some commentators have described Iraq’s political system not as a traditional parliamentary system but as a legislative system, in which the Council of Representatives is granted broad powers at the expense of the executive branch.⁴⁰ Others have argued that the current system is semi-parliamentary, since it adopts the basic pillars of the parliamentary system while not following the co-signatory rule, and the impermissibility of combining membership in the Council of Representatives with ministerial positions.⁴¹

Presidential systems are based on two pillars: the unity of the executive and its concentration in the hands of a head of state elected by the people, and the almost absolute separation between the three powers, the most prominent example of which is the political system in the United States of America.

40 Dr. Hameed Hanon Khaled: *Principles of Constitutional Law and the Evolution of the Political System in Iraq*, Al-Sanhoury Library, Beirut, 2012, page 399.

41 Dr. Omar Ayyash: *The Nature of the Parliamentary System in Iraq under the 2005 Constitution of the Republic of Iraq in Force*, al-Hiqouq, Volume 4, Issue 13 (2011), page 27.

Legislative systems are based on three pillars: the concentration of power in the hands of the legislature and the subordination of the executive to it, the adoption of the collective leadership of the government or the ministry, and the concentration of power with forms of political control over the government, the most prominent example of which is the Swiss political system.

Finally, mixed systems (presidential-parliamentary or semi-presidential) combine the characteristics of more than one system at the same time, the most prominent example of which is the French political system.⁴²

2. Conditions to be fulfilled in both systems

As noted above, since 2019 increasingly large proportions of the population have demanded that Iraq's political system be reformed so as to make it more consistent with the will of the people as the source of authority and legitimacy. In response to those demands, experts, politicians and others have been split on this issue. In the general survey that was carried out in preparation for the drafting of this report, it appears that 62.4% of Iraqis support establishing a presidential system along US constitutional lines, 21.6% prefer maintaining a parliamentary system without amendment, and 16.0% support the mixed system applied in France, as the table below shows.⁴³

Preferred System	Number	Percentage
Current System (Parliamentary)	325	21.6%
Presidential System (USA model)	935	62.4%
Mixed System (France model)	240	16.0%
Total	1500	100%

By distributing the mentioned categories by governorate, the highest percentage of those who chose the presidential system was in the governorates of Babel, Dhi Qar, and Basrah, while the

⁴² For more details, see Dr. Musadaq Adel, Dr. Monjed Mansor Al-Helo: Political Systems, Al-Sanhoury Library, Beirut, 2019, page 38.

⁴³ For more on this, see page 155.

highest percentage of those who wanted to maintain the current system was in the governorates of Dohuk, Sulaymaniyah, and Erbil. The percentage of those who chose the mixed system was low.

The reason for the high degree of support for a presidential system is the many calls from the political parties and from media, which see the current system of government as the main impediment to advancing a meaningful reform agenda. Those calls have had a major impact on citizens' views on the issue. The percentages that favor establishing a presidential system is also consistent with the responses that were given in the rest of the poll. For example, 68% of respondents stated that they were in favor of amending the Constitution, despite the fact that half of respondents stated that they were not familiar with the Constitution. Only 13.5% were not in favor of any amendment whatsoever. An inverse proportion between the demands for amendment and educational attainment was found. The higher the level of educational attainment, the higher the percentage of support for amending the Constitution, and vice versa.

However, the general population's views are inconsistent with their views on related issues. Question 16 of the general survey asked respondents if they thought that the powers of the President of the Republic (Article 73) should be changed.⁴⁴ The results indicate that 43% of respondents support maintaining these powers without amendment, 39% consider that they should be increased to bring them in line with the President of the Republic's role, and 18% believe that they should be reduced. This means that the percentage who support amending the political system does not coincide with the percentage of those who advocate expanding the powers of the President of the Republic, as shown in the table below. This contradiction is perhaps partially informed by the inherent risks that exist when adopting strong presidential systems, as clearly demonstrated by Iraq's pre-2003 history.

44 See page 191.

Regarding the powers of the President of the Republic in the Constitution, Percentage which of the following opinions is the closest to your opinion?

I am in favor of keeping them as stated in the constitution	43.0%
I am in favor of reducing these powers, as they are not commensurate with the role of the President of the Republic	18.0%
I am in favor of increasing these powers, as they are not commensurate with the role of the President of the Republic	39.0%
Total	100.0%

Pursuant to all of the above, on the issue of how Iraq's political system should be amended, several possibilities exist: (a) adopting a US model, (b) maintaining the current system while adopting important improvements; and (c) adopting a mixed or semi-presidential system. Each of these possibilities presents its own advantages and risks, which are not discussed here. Instead, the following sets out the reforms and changes that would be required under each system:

- **First Scenario:** Reforming Iraq's political system towards a presidential model similar to the US's system.

This can be achieved by strengthening the President of the Republic's role and his authority over the Council of Representatives and the Council of Ministers through the following constitutional amendments:

1. Amend Article 1 by replacing the phrase "the system of government is republican, representative (parliamentary)" to become "the system of government is republican, representative (presidential)."
2. Amend Article 70 related to electing the President of the Republic to make him elected directly by the people, and redistribute powers and competencies between the President of the Republic and the Prime Minister in favor of the former, similar to the French Constitution of 1958 or the amended Egyptian Constitution of 2014.
3. Amend Article 78 so that the President of the Republic becomes the direct executive responsible for the general policy of the state, and by stating that the president presides over the Council of Ministers' sessions if he is present.

4. Amend Article 73(2) and (3) by granting the President of the Republic the right to veto or object to draft laws, treaties, and agreements approved by the Council of Representatives.
 5. Grant the President of the Republic the power to appoint to special grades those of their rank, which requires amending Articles 61(5) and 80(5) of the Constitution, while at the same time requiring that all appointees be sufficiently qualified and satisfy other relevant conditions (including but not limited to integrity) and that all appointments be subject to judicial review.
 6. Clearly stating that the president is the Commander-in-Chief of the Armed Forces, and providing that the President may declare war or send the armed forces outside of Iraq's national territory after consulting with the National Defense Council and after obtaining approval of two-thirds of the House of Representatives (Articles 61(9), 78, and 73(9)).
 7. Introduce a text allowing the President of the Republic to resort to a people's referendum on important and crucial issues.
 8. Ensuring that oversight bodies such as the Board of Supreme Audit, the Integrity Commission, and others remain independent from the executive branch, including in terms of appointment powers, and removal of directors from office. These bodies' mandates should be clearly defined and their reports should be made available to the public as a general rule, and to the parliament in all cases.
- **Second Scenario:** Maintain the current parliamentary system, while introducing substantive improvements. Under this scenario, the political system will broadly remain in its current form. There are, however, two different ways of proceeding here.

First option: It is enough to amend Article 1 of the Constitution by deleting the phrase "representative parliamentary" and allowing the nature of the Iraqi political system to be deduced by the specialists. Through this amendment, the contradictions between Article 1 and Articles 64 and 61 will have been eliminated. Iraq's political system would remain parliamentary and will grant controlling authority to the Council of Representatives in the face of both the President of the Republic and the Prime Minister.

Second option: A number of changes can be introduced to the Constitution to improve the parliamentary system. This could include:

- Enshrine the principle of separation of powers under Article 47;
- Make partial amendments to grant the Prime Minister, with the approval of the President of the Republic, the power to dissolve the Council of Representatives to limit the latter's controlling authority over all matters;
- Amend Article 70 related to the election of the President of the Republic to become "by the people" and not "the Council of Representatives";
- Amend Articles 61 and 65 by expanding the powers of the Federation Council and involving it in approving laws with the Council of Representatives to ensure reducing the latter's dominance;
- Amend Article 76(1) by clearly stating that the President of the Republic shall charge the nominee of the "the electoral bloc that wins the elections" rather than of the "largest parliamentary bloc".

Through these amendments, the fundamental choices that were made by the Constitution's drafters would be maintained. These changes would also bring the Constitution closer the views of the general population, which appears to support the view that the largest bloc should be the winning bloc announced by the Electoral Commission.

Answer	Percentage
Keep the text as is	9.0%
Add conditions to the text that explain the largest block	20.0%
The largest bloc is the winning bloc announced by the Commission	48.0%
The largest bloc is the parliamentary bloc formed after the elections	10.0%
The largest bloc is the problem in the parliament	8.0%
Other	5.0%
Total	100.0%

- **Third Scenario:** Adopt a mixed model (parliamentary - presidential):

This change would require strengthening and enhancing the role of both the President of the Republic and the Prime Minister in the political system, eliminating the Council of Representatives' dominance, and liberating the political system from the constraints of political consensus and sectarian quotas in the formation of governments, and the consequent weakness of the performance of these governments. This scenario also involves redistributing the powers between the Prime Minister and the President of the Republic to ensure the dominance of the executive over the legislative and parliamentary decisions at the same time, which requires the following actions:

- Amend Article 1 of the Constitution by adopting the mixed system. This may even include deleting the phrase "representative parliamentary" only, or replacing the phrase "the system of government is republican, representative (parliamentary)" by "the system of government is republican representative", or "the system of government is republican representative (mixed)".
- Amend Articles 70 and 76 to make the election of the President of the Republic and the Prime Minister directly by the people simultaneously with the Council of Representatives elections, meaning that the election is one single event.
- Amend Article 61(5) by stripping the Council of Representatives of the power to endorse the appointments of those with special grades as well as military positions and granting it to the executive (the President of the Republic, upon proposal by the Council of Ministers).
- Entrust the appointment of the heads of independent commissions exclusively to the President of the Republic in Articles (102-108).
- Amend Article (73(2) and (3)) by granting the President of the Republic the right to veto or object to draft laws and international treaties approved by the Council of Representatives.
- Amend Article 78 by granting the Prime Minister the power to dismiss a minister without referring to the Council

of Representatives, as well as redistributing the power of the High Command of the Armed Forces, so that the administration and military appointments remain in the hands of the Prime Minister, while exceptional powers, such as the declaration of war and the honorary High Command, are given to the President of the Republic.

B. Structure of government

1. Redefining the relationship between Baghdad and the KRG (federalism based on synergy and common interests)

The relationship between Baghdad and the Kurdistan Region is informed by Iraq's recent history. The decade that preceded 2003, the Kurdistan Region was virtually independent, with almost no relationship with Baghdad. After 2003, as the Kurdistan Region was reintegrated into Iraq, the question that emerged was what type of relationship would it have with the central government. Ultimately, the arrangement that was adopted and that was incorporated into the 2005 Constitution does not appear to satisfy either side to a significant extent. Leading politicians in Baghdad have expressed significant hostility to the arrangement that is provided for in the Constitution and have sought to reassert control over a number of issues and areas and have inflicted heavy penalties on the Kurdistan Region. For example, on more than one occasion Baghdad halted the transfer of funds to Erbil. In Kurdistan, sentiments in favor of full independence appear to be very high, although there appears to be consensus that independence is not currently achievable. At the same time, many citizens in Kurdistan appear to be unhappy with their overall situation and are emigrating in very large numbers.

A long-term resolution of the federal arrangement would be beneficial to all sides. It would increase and improve political stability in the entire country. It would serve to heal the damage that was caused over the past few decades and could contribute to an improvement of standards of living. In order to achieve this, a new national agreement on federalism would have to be held for the purpose of defining what federalism's objectives should be, and what compromises both sides would have to make to satisfy those objectives. The broad outlines of both sides' interests on the issue of federalism are set out below.

1. The Constitution establishes Iraq as an asymmetric state. Certain areas (namely the Kurdistan region) have political autonomy, while other areas (the governorates that are not organized in a region), are only autonomous administratively.

Politically, the federal government has sought to reassert control over sovereign issues since 2005. That effort is supported by the fact that, with regard to shared powers, constitutions in most federal states around the world typically give supremacy to federal law. That arrangement is designed to preserve a country's unity and the integrity of its national security. Iraq's Constitution adopts the opposite arrangement. The Constitution's drafters gave priority to the law of regions and governorates that are not organized in a region in the event of a dispute. Baghdad has been seeking to redress some of the consequences of that arrangement since 2005, some of which are described below.

Article 110 includes a list of nine exclusive authorities that are reserved for the federal government, including administrative, political and security matters. Article 115 addresses the powers shared between the federal government and the regional/governorate governments, giving priority to the latter by stressing that “[a]ll powers not stipulated in the exclusive powers of the federal government belong to the authorities of the regions and governorates that are not organized in a region. Concerning other powers shared between the federal government and the regional government, priority shall be given to the law of the regions and governorates not organized in a region in case of a dispute”.

Again, all federal states do not justify making the regional law higher than the federal constitution, because the constitution is higher than the law. In the targeted poll that is set out in Annex B of this report, 40% of respondents stated that the powers mentioned in the Constitution have weakened the federal authority.

An important point must also be clarified. The Constitution's drafters made a significant mistake when it regulated, in a single constitutional provision, the powers of the region and those of the governorates not organized in a region based on the principle of administrative decentralization. A federal system and administrative decentralization have different

legal natures. According to comparative practice, constitutions regulate the details of federal systems, while the details of administrative decentralization are left to ordinary law. As is known, the Constitution is the highest authority in any country, and regions may issue laws, and governorates may issue administrative orders.

The ambiguity of some of the Constitution's provisions created a dispute between Baghdad and the KRG regarding the distribution of powers, including the management of oil and natural resources. Article 111 provides that oil and gas are owned by the people of Iraq in all regions and governorates. With regards to the joint management of oil and gas fields, Article 112 provides that "[t]he federal government, with the producing governorates and regional governments, shall undertake the management of oil and gas extracted from present fields, provided that it fairly distributes its revenues in proportion to the population distribution in all parts of the country... This is regulated by law."

This Article has two shortcomings: first, the use of the word "current" in the joint management of those resources without clarifying who will manage them in the future; second, requiring that oil and gas resources be distributed according to population distribution, despite the fact that from 2005 until now, the authorities have been unable to carry out a census. The Constitution leaves the detail to law, and the parliament has been unable to adopt the necessary legislation, despite the fact that a draft was prepared and submitted to the parliament in 2007. This law provides for the establishment of a Federation Council for the management of oil and gas to draw up oil policy.

The KRG issued Oil and Gas Law No. 22 of 2007, which provides that "the KRG Ministry of Oil shall oversee and regulate petroleum operations, including the marketing of petroleum." Since that time, Baghdad has accused the KRG of not declaring the real amounts of oil and gas exports from the region. On 15 February 2022, the Federal Court found that the 2007 Oil and Gas Law was not in conformity with the constitution. In the targeted survey, 55% of respondents supported making oil and resources management an exclusive competence of the federal government (see page 218).

Another contentious article between Baghdad and the KRG is Article 140. After 2003, the KRG began expanding and controlling areas outside its geographical borders to the disputed areas, (including Diyala, Salah Al-Din, Nineveh, and Kirkuk). However, the federal government regained control over those areas in 2017. Article 140 requires the federal authorities to carry out complete normalization, a census, and a referendum in Kirkuk and other disputed territories to determine the will of their citizens, by a date not to exceed 31 December 2007. However, Article 140 has yet to be fully implemented. In August 2019, the Federal Court found in a decision that Article 140 is still in force as a mechanism to reduce differences between the two parties over the disputed areas. However, the decision did not receive support from all political parties.

Federal states that adopt political and administrative decentralization typically establish an upper chamber, which includes representatives of the regions and governorates and expresses their interests. Article 65 provides for the establishment of such a council, but leaves all the detail to a law that is to be adopted by the Council of Representatives. However, the Constitution's drafters were unable to establish a council.

What this means is that the drafters subjected the Federation Council to the Council of Representatives. In a federal system, there is no justification for making the Council of Representatives more senior to the Federation Council. In order for the system to function, there must be a balance in the legislative branch between the Council of Representatives (representatives of the people) and the Federation Council (representatives of the KRG and governorates). And yet, the Federation Council has not yet been established. Importantly, in the targeted poll, 46% of respondents affirmed that the Federation Council is necessary for the stability of the federal system (see page 212).

2. From its perspective, the Kurdistan Region has argued and complained with justification that the basic elements of a real federal arrangement have not been established in Iraq. In particular, all systems of government (federal or otherwise) are based on a number of basic principles, including the fair and equal treatment of all peoples within the country. In a federal

arrangement, one of the ways in which this manifests itself is through the existence of a revenue allocation mechanism that allocates state revenue through a mechanism that is based on clear criteria and that is nearly automatic.

In Iraq, such an institutional mechanism has not been established. Instead, allocations to the Kurdistan Region and to the provinces are negotiated on a yearly basis, and decided upon in legislation. On occasion, political crises prevented the parliament from reaching an agreement and financial transfers to the Region were blocked for significant periods of time. In practical terms, the consequence was that there was not enough money in the Kurdistan Region to pay regional employees for extended periods of time, despite the fact that state employees in Baghdad were receiving their monthly salaries throughout those same periods – exactly the opposite of the type of fair and equal treatment the people of a single country are entitled to expect. This is exactly the type of treatment that a federal revenue allocation mechanism is designed to prevent.

In order for such an arrangement to be meaningful in an Iraqi context, it would have to be backed up by significant guarantees. One such guarantee could be that a revenue allocation body would be established, composed and empowered in a way that would reassure the Kurdistan Region. Another such guarantee would be to ensure that any disputes that would emerge would be adjudicated by an independent judicial authority. For now, under the current arrangement, the Federal Supreme Court is responsible for such matters, but there is significant dispute on the Court's standing and legitimacy, including within the judiciary itself (see below). As a result, for this matter to be fully resolved, either the Court's standing would have to be resolved or another solution would have to be identified. One possibility could include the established of a new specialized court that is specifically mandated for disputes relating to the allocation of revenue.

2. The relationship between Baghdad and the governorates

In Chapter Two of Section Five, in particular in Articles 122 and 123, the Constitution addresses the governorates that are not organized in a region. Article 122(1) provides that the governorates are made up of a number of districts, sub-districts,

and villages. Article 122(2) provides that “Governorates that are not organized in a region shall be granted broad administrative and financial authorities to enable them to manage their affairs following the principle of decentralized administration, and this shall be regulated by law.” Thus, the Constitution provides that the governorates benefit from administrative decentralization.

Article 122(3) provide that governors are elected by Governorate Councils as the highest executive official in the governorate. Governors are therefore not directly elected by the residents of the relevant governorate. Article 122(4) provides that subsequent legislation should regulate the election of Governorate Councils, the Governor, and their powers. It is noteworthy that 51% of respondents in the targeted survey consider that Governors should be directly elected (Annex B, page 221).

The Constitution does not provide any guidance on the Governorate Council’s oversight powers. In practice, it is not possible to perform administrative functions in the governorates without overseeing them. In addition, the Constitution does not subject the governorate councils to the oversight of the federal authority. On the contrary, Article 122(5) provides that “[t]he Governorate Council shall not be subject to the control or supervision of any ministry or any institution not linked to a ministry. The Governorate Council shall have independent finances.” Through this provision, the Constitution works against the state’s administrative unity.

Based on the provisions of the Constitution and to regulate the work of the governorates, the Council of Representatives issued Law No. 21 of 2008, known as the Law of Governorates not Organized in a Region. That law was amended three times over ten years, more recently in April 2018. The law applies to 15 out of 18 governorates, that is, except the KRG governorates. The last governorate elections were held in 2013. Elections were planned to take place in 2017, but those elections were postponed, pursuant to which, in October 2019, the Council of Representatives issued a law dissolving all existing governorate councils. The parliament’s decision was not in conformity with the Constitution, given that the Council’s existence is provided for by the Constitution itself. The Constitution does not give the parliament the power to dissolve the councils. In response, the governorates, including Kirkuk, appealed the Council of

Representatives' decision before the Federal Supreme Court. On 2 June 2021, the Court issued its decision and found that the decision to dissolve the governorate councils was not in conformity with the Constitution, and indicated that the Councils could only be suspended until elections are held.

What this means is that Article 1(3) of Law No. 27 of 2019 (which is the second amendment to the Governorate and District Council Elections Law No. 12 of 2018) did not lead to the governorate councils' abolition, but to the suspension of their work given that they exceeded their term. This represents a return to the popular desire to renew their election. The Federal Court also confirmed that in the meantime, governors should continue to exercise their functions as the supreme executive power in the governorates and that they are obligated to implement the Council of Ministers' policies. The Court also found that they are subject to its supervision to ensure the functioning of public utilities and not disrupt them in light of parliamentary and administrative oversight.

In addition to all of the above, the decentralized system of government remains incomplete. Among other things, the bodies that were supposed to have been established pursuant to Articles 105 (public commission to guarantee the rights of the regions and governorates that are not organized in a region), and Article 106 (public commission to audit and appropriate federal revenues), have not yet been established.

C. Judicial System

1. Increased accountability

The independence of the judiciary in Iraq is facing serious problems despite the fact that Article 87 of the Constitution considers the judicial power to be an independent authority. Before 2003, the judiciary was under the executive's (and in particular the Ministry of Justice's) authority. Article 88 also provides that judges are independent and are subject to no authority other than the law. However, the judiciary's work has been subject to serious infringements. It is facing huge issues related to transitional justice on the one hand, and the struggle

for power between rival political parties and leaders, in addition to the fight against corruption.

The goal of creating an independent judiciary in nascent democracies is a major concern of international organizations and the international community. On 24 March 2009, the 11th Session of the UN Human Rights Council published the report of Mr Leandro Despouy, the Special Rapporteur on the independence of the judges and lawyers, which underlined the importance of the independence of the judiciary and commented on the method of appointing judges, their rights and training. It stated that “the principles of integrity and independence are the two distinguishing features of the logic and legitimacy of the judicial function in every country... and their absence leads to a denial of justice and makes the credibility of the judicial process questionable. According to the Bangalore Principles of Judicial Conduct, the independence of the judiciary is a precondition for the rule of law and an essential guarantee of a fair trial”.⁴⁵

Pursuant to the above, judicial independence in Iraq faces a number of challenges, each of which can be addressed through a number of common-sense reforms. Each are discussed in turn below.

First: Assassination and intellectual intimidation of judges

There are various situations in which the government attacks, abuses and undermines the edifice of justice in the state of law if its provisions conflict with its immediate or future interests, which is often focused on how to seize power for the longest possible period. This attack may occur by members of the government directly or indirectly, through, for example, their failure to perform the duties assigned to them by law.

Assassinations have occurred in many countries, especially those that suffer from turmoil in their political systems or political life in general, or are facing extremist movements. In Lebanon, four judges were assassinated in Sidon’s Palace of Justice on 6/8/1999. In Turkey, the head of the Second Chamber of the Court of Appeal in Ankara was assassinated, and four members of the aforementioned chamber were injured on 18 May 2006,

⁴⁵ Report of the Repertoire Concerned with the Independence of the Judges and Lawyers <https://digitallibrary.un.org/record/652385?ln=ar>.

after a shooting incident by a lawyer, who was described to have been affiliated with an Islamist group. This incident was followed by a confrontation between Recep Tayyip Erdogan (then prime minister) and the opposition. With the deterioration of the security situation in Iraq since the 2003 occupation, many judges were attacked and killed. In Basrah, gunmen assassinated a judge of the Supreme Criminal Court on 12 February 2005. The head of the High Judicial Council has indicated that 67 judges have been killed in recent years by terrorist groups.

Even where judges are not killed, they may face humiliation and abuse including through defamation by other state officials. Under President Pompidou in France, the Secretary of the Gaullist party criticized judges, calling them cowards for not issuing severe penalties against sedition and riot groups. Subsequently, eight hundred judges and a thousand lawyers took the street to protest that criticism.

In Iraq, in 2003, government officials criticized the head of the Supreme Criminal Court and described him as weak and indecisive in trying Saddam Hussein and seven of his aides regarding the Dujail case. The president of the court resigned in protest against those statements.

The interference of government officials in the judiciary's work by evaluating its actions or rulings or criticizing is tantamount to an attack on its independence and an abuse of its institutional standing. For this reason, a judge in Canada considered a minister's query about a case being considered a blatant interference in the work of the judiciary, which sparked a constitutional crisis in which this minister was accused of violating the independence of the judiciary, forcing him to resign. The President of the Egyptian Court of Cassation, the late Sayed Pasha Mustafa, described the praise by the Minister of Justice of the Egyptian Judiciary as an interference and an assault on the independence of the judicial authority. He strongly criticized him, saying, "[w]hoever praises the judiciary can also defame and criticize it, which constitutes a blatant interference by the executive in the work of the judicial authority," which prompted the said minister to submit a formal apology.

This is a serious matter which must be addressed through a robust reform. The reform may not be constitutional in nature, and

may consist of legislative or regulatory reform, but whatever is done must be for the purpose of strengthening the courts' ability to independently render justice and oversee the proper protection of basic rights.

Second: Interference of other authorities in the appointment of judges

The Despouy report stated: "To ensure that this body can select judges in an objective, fair and independent manner, the judiciary and other parties that have a direct connection to the judicial system must have a strong influence in the selection and appointment of the members of this body. According to some regional criteria, the judiciary should choose members of this independent body."⁴⁶

The legislature and executive use negative means of influence against judges when they reach a point in which their judgments and actions conflict with the aspiration of the other authorities. This situation leads to a collision that in one way or another exposes the judges to means of pressure and influence possessed by the Parliament and the Government. It is therefore essential that constitutional and legal frameworks and methods should be found to distance the judges as persons from that influential force, the most prominent of which is organic independence. This is attained by removal of the influence of the authorities upon the persons of judges when exercising their judicial functions or because of them, whether this influence occurs by material means, such as force or by legal means as in the government's use of the legal powers given to it against the judges.

Therefore, the World Charter of Judges emphasized personal autonomy by stating that, "No person shall attempt to impose orders or instructions on a judge of any kind that might affect his legal decisions..."⁴⁷ The charter also stated that "the independence of the judiciary must be guaranteed by the law that establishes and designates the judicial offices so as to be in effect independent from other state authorities. Besides, the

⁴⁶ Id, p.9

⁴⁷ Article 4 of the Charter written by judges from around the world and endorsed by the associations of International Judges of 1999 as the minimum standard of the norms of the judicial authority function.

judge, in his capacity as a judicial office, must be able to exercise his judicial powers free from any social, economic and political pressures, and with complete independence from other judges and the administration responsible for the judiciary".⁴⁸ It has also ruled that the judge should only be subject to the law when performing his duty, and that he should not take others into consideration.

The personal independence of judges has been given a conspicuous place among the decisions of the 7th Session of the UN Conference on the Prevention of Crime and the Treatment of Offenders in according with the Fundamental Principles of the Independence of Judges, which says that "The judiciary shall rule on matters before it impartially and on the basis of facts in conformity with the law...away from any restrictions, improper influences, temptations, pressures, threats, or interferences, whether direct or indirect, from any other party and for whatever reasons."⁴⁹

Interference may occur by influencing the appointment of senior positions in the judiciary by the Parliament. Article 61(5) of the Constitution provides that parliament is responsible for approving the appointment of the president and members of the Federal Court of Cassation, the head of the Judicial Oversight Commission, and the head of the Public Prosecution body by an absolute majority, based on the nomination of the High Judicial Council. We believe that assigning the matter to the legislative authority may lead to political deals and interference in the personal rather than the objective aspect of the judges. As a result, the Constitution should be amended to limit appointment powers within the High Judicial Council and to eliminate the Council of Representatives' authority to appoint senior members of the judiciary.

Third: Impunity (general amnesty and special amnesty)

Given the inadequacy of the judicial authority's procedures due to the influences exercised thereupon, impunity is rampant, whereby perpetrators of serious crimes escape punishment, either by fleeing outside the country before the relevant procedures start or the offenders are not prosecuted, they are released, or

48 Article 2 of the Charter.

49 The Conference was held in Milan in 1985.

punishment is terminated after their conviction through general or special amnesty.

The legal tool for issuing a general amnesty is legislation, which falls within the jurisdiction of the parliament. General amnesty is not limited to the abolition of the punishment associated with the committed crime only, but it also extends to include the criminal character of the committed act besides the abolishment of any ancillary and complementary penalties and the precautionary measures imposed on the convict in accordance with the original penalty.

By issuing amnesty, the parliament overturns the will of the judicial authority, which is based on the issuance of convictions and punishments against the perpetrators of crimes, which has negative impacts. Even if that amnesty must be issued by the Council of Representatives in consideration of the general circumstance, we recommend adding a constitutional text that requires consultation with the High Judicial Council before it is issued so as to clarify and address its consequences.

The special pardon, meanwhile, is a discretionary power granted to the head of state to exempt whomever he wishes from the penalty in whole or for the remaining period of the inflicted punishment, or to replace it with another lighter penalty. Thus, the president has broad powers to review judicial rulings and to rescind them in whole or in part, or to amend them.

The Constitution granted the President of the Republic, under Article 73(1), the power to issue a special amnesty, based on the recommendation of the Prime Minister, provided that that amnesty is associated with the consent of the victim's family and that it excludes a number of crimes. This jurisdiction leads to an inevitable impact on the rulings of the judiciary and will inexorably lead to impunity, especially if the offender is an influential person or belongs to elite state officials. The case of the son of a senior official, who was convicted of drug trafficking, sparked off great anger and public resentment when a presidential decree was issued for his acquittal, causing the President to retract the pardon order. Therefore, we suggest that the aforementioned text be revoked so as to stop any future attempts at impunity.

Fourth: Weak oversight over the judiciary

Transitioning from a militarized society to a society that is led by civilians requires the existence of institutions in which individuals are represented, their interests defended, and through which they can circumscribe the government should it go too far and violate basic rights and freedoms. These institutions can take the form of trade unions, professional federations or minority rights associations, and others. Through these institutions, society is managed from a civilian perspective. They apply pressure on the government and at times compel it to take certain action, so as not to cross the red lines necessary to preserve the minimum level of individuals' rights or freedoms.

One of the most important of these red lines is the proper administration of justice. According to Justice William Rehnquist, justice is so important that it should not be left to judges alone or even to lawyers. Accordingly, the people should debate and contribute to future planning of their courts.⁵⁰ In India, the Center for Social Justice, a non-governmental organization, has undertaken legal and judicial training for applicants to judicial positions. One of the most important topics was training on the independence of the judiciary.

These organizations contribute to public opinion and highlight government violations of judicial independence. This was evident in the campaign led by the Judges Club in Egypt against referring two judges to disciplinary councils for exposing fraud in the 2005 legislative elections, in which the club led a demonstration and sit-in against these violations.

Possibilities for interference may thus increase where civil society is weak or fails to act. They may also increase where the executive controls the establishment of associations, including through the requirement of prior approval from ministries or disallowing judges to join their membership or from establishing their own organizations. In some cases, the government or elements within the government monopolize segments of civil society, which can be another aggravating factor.

50 William Rehnquist was a member of the US Supreme Court. 'Guide of Promotion of Independence and Integrity of the Judiciary', published by the Arab Judicial Forum, 2003, page 178.

Given that judicial independence appears to depend in part on the existence of a strong and independent civil society, the right to free association must be strengthened through constitutional and legislative reform. This will require a reconsideration of Article 39(1) of the Constitution to clearly indicate that no specific authorization is required to form an association.

Fifth: The lack of professional recruitment of competent judges

Adequate training in accordance with fundamental principles and geographic representation is one of the prerequisites for the appointment of judges. The Human Rights Committee has recommended that due attention be paid to the training of judges to enable them to administer justice swiftly and equitably. The relevant report also focused on the need to continue providing learning opportunities for judges. In the absence of adequate training and sufficient technical knowledge, influencing judges becomes more straightforward.⁵¹

Countries usually apply strict and sophisticated systems for selecting highly qualified judges. In Germany, for example, judges are selected according to a long and competitive system, which consists of the following steps:⁵²

1. An intensive university course lasting three and a half years.
2. At least two years of preparatory training.
3. Written and oral examinations at state level, after completing each of those stages.
4. After passing this exam, students may move on to the preparatory or practical stage of the training, in which they work for fixed periods (usually three months or more) as probationary trainees in a civil court, in the ordinary judiciary, in the criminal courts, the office of the prosecutor, in an administrative body, or at a law firm.

In France, a similar system is followed with the same strict standard. All candidates must complete four years of legal study. Most judges are appointed on the basis of competitive state-level examinations that determine their right to join a four-year program of study at the National Institute of Judges. The

51 'Report of the Repertoire Concerned with the Independence of the Judges and Lawyers', *Ibid*, page 23.

52 'Guide of Promotion of Independence and Integrity of the Judiciary', Arab Judicial Forum, 2003, page 14.

curriculum includes a training period in which the candidate is required to practice the usual functions of judges. Each stage of these functions is evaluated by a trial judge, investigative judge, appellate judge, etc. The institute's faculty supervises and evaluates the training. After completing the study program, a committee decides whether the candidate is qualified to work in the judiciary. The candidates who meet these requirements will be eligible for appointment by the High Judicial Council, which is appointed by the president and overseen by judges.⁵³

In Iraq, judicial training lacks rigor. The Judicial Training Institute, which is affiliated to the High Judicial Council, requires applicants to have a bachelor's degree in law from a private or public university, and to have practiced law for a period of up to three years. Applicants must also have appeared and argued before a court. Admitted applicants study at the Institute for two years, after which they graduate and will be directly assigned to a court. The training curriculum at the Institute is very traditional in its approach, and generally consists of repeating much of what the trainees will already have learned in law school. The training curriculum is not specialized and does not involve any significant practical elements. Trainees are not given any significant guidance on how to manage people in a court room, including situations that involve hardship.

Pursuant to all of the above, judicial training can and should be seriously reconsidered in Iraq. As an initial matter, there should be debate and some measure of consensus on what judges are being trained for – what their general objective should be and what skills they require to achieve that objective. For example, should a judge have as part of their primary role to check against executive overreach? In addition, and pursuant to the above, the Training Institute's curriculum should be overhauled to include modern methods and concerns, and should include training by individuals from outside the judicial profession on matters that are of significant public concern.

53 'Guide of Promotion of Independence and Integrity of the Judiciary', Arab Judicial Forum, 2003, page 14.

Sixth: Absence of internal independence in the judiciary

Internal independence of the judiciary means that judges and their assistants must be free of the influences and pressures from influential judicial figures within the judicial authority itself. Judges require a favorable working environment and should not be subject to outside influence. Iraq's judiciary is hierarchical and has a pyramidal structure. It takes into account the order of the courts from the lowest to the highest, so that the top of the pyramid is fully represented and provided that the relationship between the different levels of the pyramid is based on objective foundations determined by law, without the supreme authority exercising its power on the judges at the lower levels arbitrarily and unprofessionally. Similarly, where a higher court overturns a lower court through cassation or appeal, that decision cannot also lead to the lower court judge (assuming he or she acted in good faith) being sanctioned in any way, because this will inevitably lead to weakening the judge's independence.⁵⁴

The above six points represent the most important challenges facing the judiciary in Iraq. They can be addressed through constitutional or legislative reforms in the interest of establishing an independent and impartial judiciary, that is as immune as possible from external and internal influences and capable of resolving disputes and crises in normal and exceptional circumstances.

2. Federal Supreme Court

Article 89 of the Constitution provides that “[t]he Federal Judicial Authority is comprised of the High Judicial Council, the Federal Supreme Court, the Federal Court of Cassation, the Public Prosecution Authority, the Judiciary Oversight Commission, and other federal courts, that are regulated in accordance with the law.” The manner in which this provision was drafted raises the question as to which of these institutions if any has ultimate authority over the judiciary's internal affairs and whether the Federal Supreme Court is truly independent from the Judicial Council.

⁵⁴ ‘Report of the Repertoire Concerned with the Independence of the Judges and Lawyers’, page 15.

This question was raised in the targeted survey (Annex B, page 215). Only 7% of respondents said that the provision should be amended to clearly indicate that the High Judicial Council is the supreme authority within the judiciary. 34% were in favor of maintaining the text. 30% were of the view that judicial institutions should be completely separate. 21% were in favor of amending the provision to make the Federal Supreme Court the ultimate authority.

To have a better understanding of the relationship between the Federal Supreme Court and the judiciary and the impact of this relationship on its work, the following points should be considered.

First: The Federal Supreme Court's position within the judiciary

Article 89 of the Constitution provides that the Federal Supreme Court is a component of the judiciary. In addition, the High Judicial Council was assigned the management of the affairs of the judicial bodies and oversight of the federal judiciary. It was also granted the jurisdiction to propose the annual budget of the federal judicial authority and to present it to the Parliament for approval, in accordance with Article 91(1)(3).

As a general matter, this appears to run contrary to Article 92(1) of the Federal Supreme Court, according to which the Court enjoys financial and administrative independence: "The Federal Supreme Court is a financially and administratively independent judicial body".

Second: Financial and administrative independence of the court

Pursuant to the above, is the Federal Supreme Court independent from the High Judicial Council and other authorities?

It follows from Article 91(3) of the Constitution that the Federal Supreme Court is not financially independent from the High Judicial Council. On the other hand, the Federal Supreme Court decided that Article 3(2) of the High Judicial Council Law No. 45 of 2017, according to which the High Judicial Council is required to propose the judiciary's annual draft budget, was unconstitutional. The Court reasoned that Article 3(2) was not in conformity with the Constitution, which most commentators have considered to be impossible to justify.⁵⁵

⁵⁵ Judgment No. 19/Federal/Information/2017, dated 11/4/2017, published on the Judicial Authority Website www.iraqfsc.iq, on 27/7/2022.

The Court has been struggling to assert its independence from the High Judicial Council given the Constitution's explicit provisions.

The only proper interpretation of the Constitution's provisions is that the Court is independent from executive and legislative institutions, and not from the other judicial bodies. If the Constitution's drafters truly considered the Court to be fully independent of all institutions, judicial or not, it would not have listed the Court as one of the judiciary's bodies. They would also not have given the High Judicial Council administrative and oversight powers and the power to propose the annual draft budget for the federal judicial authority.

Third: Conflict and chaos within the judiciary

It is a strange thing to imagine that conflicts should occur within the judiciary, except for substantive disputes regarding jurisdiction, a standard legal issue that occurs regularly between courts. Any such disputes can be resolved by legislation by defining their jurisdictions, on the one hand, and setting up committees to undertake the issue of conflicts of jurisdictions. Other than that, disputes or conflicts within the judiciary are not expected to become personal because the courts should be independent, professional, and neutral that should not be party to conflicts. The courts should resolve conflict, whether it occurs between the constitutional institutions of the government or parliament, among ordinary individuals or between the authority and other individuals.

Therefore, the disputes that have taken place between the Federal Supreme Court and the High Judicial Council are highly surprising, simply because they compromised proper principles of the law and resorted to ways that the law did not grant them. This dispute is outlined below:

The High Judicial Council communicated a letter No. (371/Office/2019) dated 17/3/2019 to the Parliament, in which it outlined the ages of the judges of the Federal Supreme Court, following the loud protests and outcry arising from the court rulings, which prompted the Parliament to consider replacing them by others.

This was followed by the challenge brought against the constitutionality of Article 3 of the Federal Supreme Court Law

No. 30 of 2005, which the court decided to repeal and declare unconstitutional, vide its ruling No. 38/Federal/2019, dated 21 May 2019.

This action angered the High Judicial Council, and it issued an appeal against the aforementioned Federal Supreme Court ruling through an objection that was not provided for in Article (224/1) of the revised Code of Civil Procedures No. 83 of 1969. In its ruling No. 63/Federal/2019 of 2/7/2019, the court rejected the council's appeal due to its conflict with the text of Article 94 of the Constitution, which provides that court rulings are mandatory and irrevocable.

Subsequently, the Court nominated Mr Muhammad Rajab al-Kubaisi, a retired judge and a reserve member of the Court, as an original member, and Republican Decree No. 4 dated 20/1/2020 was issued for his appointment, after the retirement of one of its members. The Court defended its position in its Decision No. 15/Federal/2020, dated 26/1/2020.

The President of the High Judicial Council objected to that action and filed a lawsuit before the Karkh Court of First Instance, in which the President of the Federal Supreme Court and the President of the Republic went into dispute. The Karkh Court found in its Decision No. 568/b/2020 dated 9/2/2020 that the above decree was illegal. Then, the President of the Federal Supreme Court and the President of the Republic appealed the ruling of the Court of First Instance before the Federal Court of Cassation, and issued its decision, dismissing the two appeals and ratifying the appealed judgment. It justified this ruling by saying: "... given this constitutional and legislative void, this deficiency cannot be addressed by another legal violation and constitutional error, through the nomination and appointment of the retired judge (Muhammad Rajab Al-Kubaisi) as an original member of the Federal Supreme Court. That action (the nomination and appointment) is thus considered null and void".⁵⁶

56 Decision of the General Commission of the Federal Court of Appeal, No. 4/5/ General Commission/ 2020, dated 17/3/2020, for further details, see Dr. Musadaq Adel Talib: Comment on the Decision of the Decision of the General Commission of the Federal Court of Appeal No. 4/5/ General Commission /2020, published on 17/3/2020. An essay published on the Higher Judicial Council's website <https://www.hjc.iq/sjcouncil-en.php>, consulted on 12/4/2020.

The President of the Republic rescinded the appointment decree by virtue of letter No. (Z W/1/42/1112 dated 16/3/ 2020), although the term “rescindment” refers to illegal decisions, which means that the decree regarding the dispute violates the provisions of the law.

The legal debate between the Federal Supreme Court and the High Judicial Council came to the surface and became more evident in the Court’s changing attitude relating to the same case. The Court annulled the High Judicial Council Law No. 112 of 2012 on the basis that it cancelled what was provided for in Article 3(2) of the draft law sent by the President’s Office. It decided that the High Judicial Council should not have a role in the nomination of the president, vice president and members of the Federal Supreme Court. At that time, the Court’s president was himself the president of the High Judicial Council, and therefore defended the latter’s right to nominate the president, his vice president and the court members. A judgment was issued on the unconstitutionality of Article 3 of the High Judicial Council Law No. 45 of 2017, which grants the Council the power to nominate members of the Federal Supreme Court from among judges due to its conflict with the provisions of the first and second paragraphs of Article 92 of the Constitution, following the separation between the position of the President of the Federal Supreme Court from the President of the High Judicial Council, despite the supremacy of the Constitution over the repealed High Judicial Council Law No. 112 of 2012 and Council Law No. 45 of 2017. This was confirmed in its judgment No. 38/Federal/2019 dated 21/5/ 2019, in which it abolished the text of Article 3 of the Federal Supreme Court Law No. 30 of 2005. Does it stand to reason that the Court’s positions on this issue should change merely because the two positions have been separated?

Fourth: Challenges relating to the court’s composition and legitimacy

Since its establishment, the Federal Supreme Court has been suffering from specific challenges. These problems involve the constitutionality of its formation and the lack of specialization of its judges in constitutional issues.

- The constitutionality of the Court’s establishment: The Federal Supreme Court was formed in accordance with Law No. 30

of 2005, Article 44 of the Law of Administration for the State of Iraq for the Transitional Period issued on 8 March 2004. Article 3 of this law provides that: "The Federal Supreme Court consists of a president and eight members, who are appointed from the Presidency Council, based on a nomination by the High Judicial Council and in consultation with the judicial councils of the regions in accordance with Article 44(E) of the Law of the Administration of the State of Iraq during the Transitional Period".

After the Constitution entered into force, Law No. 30 remained in effect, in accordance with Article 130 of the Constitution, which provides that "the legislation in force shall remain effective, unless it is repealed or revised". What this means is that Court Law No. 30 of 2005 remains in force until it is repealed. If it is amended, the amendment must be in conformity with the Constitution's provisions.

The difficulty however is that Article 92 differs from the Transitional Administrative Law's and the Court Law's provisions. Article 92 provides that the Court's composition should include legal experts and Islamic jurisprudence experts as members of the Court, and requires that this should be regulated by a law issued by a two-thirds majority of the Council of Representatives.⁵⁷ Following the dispute between the Court and the High Judicial Council in 2020, extensive discussions took place within the Council of Representatives to issue the court law referred to in Article 92. However, the political blocs did not agree on the formation and involvement of legal scholars and Islamic jurisprudence experts in addition to other issues. Subsequently, Court Law No. 30 was amended by a simple majority vote. The first revised Court Law No. 25 of 2021 was issued and published in the official gazette of Iraq on 7 June 2021. It provides that the Court's composition should consist of judges only without taking into consideration Article 92's requirements. This puts that amendment's constitutionality into question. As a result, some political blocs have cast doubt on the Court's constitutionality and on

57 Article 92 of the Constitution provides: "First: The Supreme Federal Court is a financially and administratively independent body. Second: The Supreme Federal Court consists of a number of judges and Islamic Jurisprudence experts and law scholars. The number of judges, their selection and function are determined by a law enacted by two-thirds majority of the Parliament".

the constitutionality of its decisions on disputed issues which are not in line with their political interests. This constitutes a serious breach of the Court's independence, given the political pressure that is exercised on them.

- Judges' lack of competence on constitutional issues: Legal jurisprudence in general and constitutional jurisprudence in particular are considered the mainstay of judicial rulings issued by constitutional courts. In some countries, constitutional courts include legal specialists as well as judges. In Egypt, the Supreme Constitutional Court includes present and former law professors who have spent at least eight consecutive years as professors.⁵⁸ The same practice exists in the Emirates.⁵⁹ Article 92 of Iraq's Constitution also follows that approach and provides that law professors and Islamic jurisprudence experts should sit as members of the Federal Supreme Court. However, Court Law No. 25 of 2021 provides that only judges should sit on the Court. This is not in keeping with comparative practice. In the targeted survey, a question was put on this issue (Annex B, page 216). 48% of respondents were in favor of amending Article 92 to make legal experts and Islamic law experts advisors only and not full members, while only 23% were in favor of maintaining the current text, and 16% were of the view that it was necessary to include other specializations. Also noteworthy is the fact that there continues to be significant resistance to the inclusion of Islamic law experts in the Court, while the presence of legal experts is considered necessary because it is at the core of the Federal Supreme Court's work.

As a result of all of the above, the Federal Supreme Court's constitutional framework requires serious reconsideration if challenges to its legitimacy are to be addressed. Its composition should be redressed to bring it in line with comparative practice and with the consensus view within Iraq. In addition, the relevant legislative framework should be redressed to ensure that it is fully in line with the Constitution to end questions about the Court's legitimacy.

58 Article 4 of the Supreme Constitutional Court law No. 48 of 1979.

59 Article 4 of the Supreme Federal Court Law No. 12 of 1973.

D. Fundamental rights

Part Two (Rights and Freedoms) of the Constitution, Articles 14-46, focus on fundamental rights. There are also many references to rights, and in particular, the rights of components, in other parts.⁶⁰ An analysis of the Constitution's provisions indicates that the drafters prioritized state powers over rights and freedoms. As such, it can be said that the Constitution has not followed the liberal approach to rights and freedoms that is followed in the constitutions of stable democracies, and that specific improvements can be made.

1. Group rights

The Constitution provides that all Iraqis are equal, without discrimination due to gender, race, nationality, origin, color, religion, sect, belief, or economic and social opinion.⁶¹ Thus, Iraqis with all their components enjoy all the rights and freedoms stated in Part Two of the Constitution, be it civil, political, economic, social or cultural rights.⁶² On this point, it can be said that the Constitution has followed international standards.

Article 2(2) sets out several minority rights, such as guaranteeing the rights for all individuals of freedom of belief and religious practice for Christians, Yazidis, and Sabeen Mandaeans. These provisions suffer from shortcomings and omissions. Among other things, the Constitution lists some components without mentioning the rest. Groups such as the Shabak, Turkmen and others are not mentioned, which must be addressed in any future constitutional amendment. Article 4 on language rights adopts the same approach – it prioritizes some languages over others, leaving some not even mentioned.

In addition, the Constitution recognizes in Article 3 multiethnicities, faiths and sects, it does not provide any indication about what this means and what consequences might flow.

60 Article 2(1)(b).

61 Article 14.

62 Articles 14-46.

The general opinion survey addressed this point. Respondents were asked how they view Article 3 (according to which Iraq is a country of many nationalities, religions and sects). The highest percentage of respondents (52.0%) were of the view that Article 3 provides an accurate view of Iraqi society, while 22.0% of them said that it contributed to social division and should be revised. 11.0% said it had no effect on the ground, while 7.0% believed that it contributed to societal stability. Thus, the diagnosis of the cultural and social reality of the rights of minorities becomes clear, especially that this article contains a clear reference to discrimination and distinction. That could also be one of the keys to recognize other marginalized groups and granting them specific group rights. It is a double-edge weapon, as the below table shows.

Answer	% of Respondents
Provided a normal description of Iraqi society	52.0%
Contributed to societal stability	7.0%
Has no effect on the ground	11.0%
Contributed to societal division and should be modified	
Contributed to societal division and should be removed	8.0%
Others	2.0%
Total	100.0%

It should be noted that the Federal Supreme Court annulled the sectarian quota system for senior positions. In its decision No. 89/Federal/2019, dated 28/10/2019, the Court ruled that paragraph 6 of Decision 44 of 2008, which was legislated by Parliament, and endorsed by the Presidency Council and published in the Iraqi Official Gazette No. 4102 dated 24/12/2008 was unconstitutional.

The results of the general opinion poll provide some indication as to how this issue is viewed by the general public. The picture is nuanced. 27% of respondents answered that the text on the components of the people leads to guaranteeing their rights, while 25% were in favor of amending the text and replacing it

by the words “the people”. 24% stated that the text entrenches sectarianism, ethnicity and the quota system. Finally, 13.0% of respondents answered that the text threatens Iraq’s national identity.

2. Right to fair trial

The Constitution includes many due process rights, including the inviolability of the home and a prohibition against inspecting other persons’ properties without a court order and in accordance with the law. It also provides for judicial independence and the right to litigation, and the adoption of the principle of criminal legality (no crime or punishment except by a text), in addition to guaranteeing the right to a defense, the presumption of the accused’s innocence, open court sessions, individuality of punishment, non-retroactivity of laws unless it is better for the accused, and the presentation of the investigation papers with the accused to the investigating judge within a period not exceeding 24 hours.⁶³

The Constitution also requires for any form of detention, arrest or interrogation to be carried out pursuant to a court order, and bans all types and forms of torture.⁶⁴

The targeted survey addresses this point. It asks if “you think that the Iraqi Constitution contained the text on the rights and freedoms guaranteed by international conventions and instruments?” The largest group of respondents (44%) indicate that the Constitution includes all the rights and freedoms in conformity with the nature of Iraqi society. The words “in accordance with the nature of Iraqi society” means that the rights are defined by a set of elements like religion, customs, traditions and norms, and that these elements one way or another restrict the implementation of what is stated in international conventions, because these conventions do not take into account the different cultures of other countries. 40% of respondents answered that the Constitution addresses these rights to a limited degree only.

63 Articles 17(2) and 19.

64 Article 37.

Answers	% of Respondents
Yes, it guarantees all rights and freedoms in line with the nature of Iraqi society	44.0%
Yes, it guarantees all rights and freedoms enshrined in international instruments and conventions	8.0%
It includes them to a limited extent	40.0%
It does not include the rights and freedoms enshrined in international instruments and conventions	5.0%
It restricts the rights and freedoms enshrined in international instruments and conventions	2.0%
Others	1.0%
Total	100.0%

Additionally, the Constitution does not include a number of crucial provisions that can serve to protect the rights of the accused and of the convicted. For example, the Constitution makes no reference to rehabilitative justice adopted by many constitutions and comparative laws. Second, the Constitution does not contain a text that allows for individuals who are wrongly convicted or protected to seek compensation from the courts, in particular individuals whose rights have been violated without legally acceptable evidence. Some constitutions and legal systems and comparative laws grant fair compensation to every citizen whose rights have been violated. The Parliament of Kurdistan Region issued Law No. 15 of 2010 under which detainees and convicted persons are compensated upon acquittal and release. The Iraqi constitution should be amended to follow that example, and specific legislation should be adopted on this issue as well.

Third, Article 45(2) of the Constitution on advancement of tribes and clans has been implemented in a way that transforms criminal accountability into a tribal reconciliation mechanism or payment of blood money in accordance with the law of the strongest. The rights of victims or their relatives are being violated as a result as a means to retaliate against the offender and inflict proper punishment upon him through tribal reconciliation. Article 45(2)'s impact has been overwhelmingly negative and should be

eliminated. Instead, any future amendment should specifically provide that tribal custom cannot violate basic rights in freedom. A possible wording to that effect could include the following: "The state prohibits clan and tribal customs that are inconsistent with human rights and freedoms."

3. Limitation of Rights and the Principle of Proportionality

The Constitution follows international standards for establishing public and private aspects of civic rights and freedoms, in addition to approving many guarantees regarding their proper exercise. Most importantly, Article 46 prohibits any limitation on the exercise of rights except by or in accordance with the law, provided that they do not affect the essence of that right or freedom. Despite the effectiveness of the enshrined guarantee of these rights in the Constitution, facts on the ground clearly establish that human rights and freedoms are continually violated by all legislative and executive bodies in Iraq.

To mitigate these violations, the Constitution entrusts the task of monitoring the constitutionality of laws and relevant regulations to the Supreme Federal Court. The Court has not hesitated to find legislation to be unconstitutional on the basis that they violate basic rights and freedoms.

The Constitution also establishes a High Commission for Human Rights. The Commission is an independent body that is tasked with monitoring human rights violations and proposing appropriate remedies. However, we believe that it would have been more useful to transfer the provisions related to the Commission (its tasks and jurisdictions) from Article 102 to Part Two (Rights and Freedoms), changing its number to Article 47. It is also necessary to address the authority of the Commission's decisions regarding rights and freedoms, and whether they have binding or relative authority.

Although these mechanisms appear at first glance to be adequate for protecting the rights of the accused, a number of improvements can and should be made, including but not limited to the following:

- Article 46 should provide some indication of the types of consequences that could follow when a state institution has violated basic rights.

- The Constitution must expressly provide for the establishment of a “Human Rights Court”, within the section allocated to rights and freedoms.
- Article 46 should be expanded to include greater detail on the types of conditions that must be satisfied in order for a limitation of rights to be justifiable under the Constitution. For example, Tunisia’s 2014 constitution provided that rights could only be limited “for reasons necessary to a civil and democratic state and with the aim of protecting the rights of others, or based on the requirements of public order, national defense, public health or public morals, and provided there is proportionality between these restrictions and the objective sought”. Wording of this type should be adopted to provide parliament and the courts additional guidance on what constitutes a justifiable limitation of what does not.

4. Social and Economic Rights

The Constitution provides for what appears to be generous social and economic rights. However, as noted above, the impact in practice is very limited. Part of the reason for this is that the Constitution and those institutions that are responsible for implementing it, still consider that there is a difference between civil and political rights on the one hand and socioeconomic rights on the other. In particular, state institutions consider socioeconomic rights to be merely aspirational and therefore not directly enforceable by the courts and other state institutions. What this means is that the general population has no avenue for appealing against government decisions to close schools or hospitals to reduce funding for them. This view is outdated, particularly in comparison with other developing countries including South Africa, Colombia and others which have made very significant progress in their attempts to give life to the socioeconomic rights that are included in their constitutions.

As a result, any future constitutional amendment must properly consider the constitutional and legal status of social and economic rights, and clearly consider whether there should be any distinction in the way in which they are protected by state institutions, including by the courts.

Annex A

OPINION POLL ON THE 2005 CONSTITUTION

I. Methodology

To support the evaluation of the 2005 Constitution's overall performance, an opinion poll was carried out to collect data on how Iraqis view the 2005 Constitution. The poll consisted of a questionnaire that contained 17 questions, all of which relate to the report's main themes. The poll surveyed 1,500 respondents, who gave their answers through direct interviews. According to the latest statistics issued by the Ministry of Planning's Central Statistical Organization, Iraq's population is over 40 million. The poll relied on random sampling and its sample is representative in terms of population in each governorate. The survey included male and female citizens aged 18 years and above, and the questionnaire was distributed in all the selected governorates by a team of 20 researchers.

The questionnaire was also translated into Kurdish to ensure that the Kurdish population would be able to participate fully. The survey results highlight variables such as gender, age, economic status, education level, marital status, ethnicity and religion.

II. Demographics

1. Governorates

Table (1)

Governorate	Number	(% of the sample)
Nineveh	136	9.10%
Kirkuk	60	4.00%
Diyala	66	4.40%
Anbar	67	4.50%
Baghdad	342	22.80%
Babil	79	5.30%
Karbala	47	3.10%
Wasit	53	3.50%
Salah al-Din	59	3.90%
Najaf	56	3.70%
Al-Qadisiyah	49	3.30%
Al-Muthanna	30	2.00%
Dhi Qar	79	5.30%
Maysan	41	2.70%
Basrah	109	7.30%
Erbil	78	5.20%
Dohuk	51	3.40%
Sulaymaniyah	98	6.50%
	1500	100.00%

2. Residential environment

Table (2)

Residential environment	Number	(% of the sample)
Urban	1218	81.20%
Rural	282	18.80%
	1500	100.00%

3. Gender

Table (3)

Gender	Number	(% of the sample)
Male	1044	69.60%
Female	456	30.40%
	1500	100.00%

4. Age distribution

Table (4)

Age group	Number	(% of the sample)
18-29 years	499	33.20%
30-39 years	418	27.90%
40-49 years	307	20.50%
50-59 years	197	13.10%
60 years+	79	5.30%
	1500	100.00%

5. Education level

Table (5)

Education level	Number	(% of the sample)
Literate	65	4.30%
Elementary school	74	4.90%
Middle school	115	7.70%
High school or equivalent	174	11.60%
Training institute	15	1.00%
Enrolled at university/institute	218	14.50%
Baccalaureate	513	34.20%
University degree	109	7.30%
Master's degree	153	10.20%
PhD	64	4.30%
	1500	100.00%

6. Employment status

Table (6)

Employment status	Number	(% of the sample)
Government sector	551	36.80%
Military	75	5.00%
Private sector	236	15.70%
Semi-employed	112	7.50%
Retiree	63	4.20%
Full-time homemaker	95	6.30%
Student	222	14.80%
Unemployed	146	9.70%
	1500	100.00%

7. Economic status

Table (7)

Economic status	Number	(%)
Good	437	29.10%
Medium	877	58.50%
Poor	186	12.40%
	1500	100.00%

8. Ethnicity

Table (8)

Ethnicity	Number	(%)
Arab	1182	78.90%
Kurdish	275	18.30%
Turkmen	29	2.00%
Shabak	2	0.10%
Chaldean	8	0.50%
Assyrian	2	0.10%
Armenian	2	0.10%
	1500	100.00%

9. Religion

Table (9)

Religion	Number	(%)
Muslim	1435	95.70%
Christian	41	2.70%
Sabian	9	0.60%
Yazidi	9	0.60%
Prefer not to say	5	0.30%
Other	1	0.10%
	1500	100.00%

III. Results

Q1: Have you read the Constitution?

Table (10)

	Number	(%)
I have read it in full (Skip to question 3)	207	13.8%
I have read some of its provisions (Skip to question 3)	580	38.7%
I have never read it (Continue with question 2)	713	47.5%
Total	1500	100%

This question relates to the level of public interest in and interaction with the Constitution. This is relevant for a number of reasons, including that the survey also measured respondents' interest in amending the Constitution (see for example Question 7 below). 47.5% of respondents stated that they had "never read" the Constitution, while 38.7% stated that they had read some of the Constitution's provisions. That means that nearly nine out of ten respondents have little to no personal and direct knowledge of the Constitution's contents. This provides some indication of how poorly state institutions have performed in their duty to educate citizens about the Constitution, including their rights. These results are correlated with the responses that were given to Question Five (through which respondents were asked if they had ever participated in any Constitution-related seminars and discussions). It also means that respondents' views about the Constitution (given in response to other questions below) are based either on an overall and general view of circumstances in Iraq, or on knowledge that they may have acquired indirectly (e.g. through the media, etc.).

Survey findings by governorate

Table (11)

Governorate	Number	I read it in full	I read some of its provisions	I have never read it	
Nineveh	136	12.5%	39.0%	48.5%	100%
Kirkuk	60	0.0%	13.3%	86.7%	100%
Diyala	66	1.5%	43.9%	54.5%	100%
Anbar	67	11.9%	25.4%	62.7%	100%
Baghdad	342	3.2%	40.4%	56.4%	100%
Babil	79	34.2%	35.4%	30.4%	100%
Karbala	47	23.4%	48.9%	27.7%	100%
Wasit	53	9.4%	43.4%	47.2%	100%
Salah al-Din	59	22.0%	28.8%	49.2%	100%
Najaf	56	17.9%	42.9%	39.3%	100%
Al-Qadisiyah	49	2.0%	44.9%	53.1%	100%
Al-Muthanna	30	3.3%	26.7%	70.0%	100%
Dhi Qar	79	2.5%	65.8%	31.6%	100%
Maysan	41	9.8%	51.2%	39.0%	100%
Basrah	109	34.9%	45.9%	19.3%	100%
Erbil	78	48.7%	23.1%	28.2%	100%
Dohuk	51	13.7%	25.5%	60.8%	100%
Sulaymaniyah	98	13.3%	36.7%	50.0%	100%

Kirkuk governorate recorded the highest percentage (86.7%) of those who answered that they have never read the Constitution, followed by Al-Muthanna (70%), Anbar (62.7%) and Dohuk (60.8%). Respondents in these provinces have different views on the Constitution (including on its provisions and on the circumstances in which it was drafted); however, very large proportions of respondents from those provinces have never seen the Constitution themselves. Similarly, while Dohuk, Kirkuk and Al-Muthanna approved the Constitution by a very wide margin in 2005, many voters in those provinces had never read it. This reinforces the notion that respondents' views on the Constitution are not necessarily connected to any direct knowledge about its contents. This also indicates that more general circumstances (including historical context, local political dynamics, etc.) are likely the reason why many respondents have specific views about the Constitution.

Survey findings by residential environment

Table (12)

Residential environment	I have read it in full	I have read some of its provisions	I have never read it	
Urban	14.4%	39.1%	46.6%	100%
Rural	11.3%	36.9%	51.8%	100%

Survey findings by gender

Table (13)

Gender	I have read it in full	I have read some of its provisions	I have never read it	
Male	15.4%	40.9%	43.7%	100%
Female	10.1%	33.6%	56.4%	100%

Survey findings by age group

Table (14)

Age group	I have read it in full	I have read some of its provisions	I have never read it	
18-29 years	12.0%	32.7%	55.3%	100%
30-39 years	14.1%	39.2%	46.7%	100%
40-49 years	12.7%	40.4%	46.9%	100%
50-59 years	19.3%	45.7%	35.0%	100%
60 years+	13.9%	49.4%	36.7%	100%

Table 14 shows the logical relation between age groups and awareness of the Constitution. Respondents who are between 18-29 years recorded the highest percentages of those who had never read the Constitution (55.3%). This can be partially explained by the fact that members of this age group were either not born yet or were well below voting age at the time of the 2005 referendum. The same trend holds for respondents who were 30-39 years old (46.7%), which also includes a large number of respondents who were underage and therefore could not participate in the referendum. The results also indicate that state institutions have not made adequate efforts to educate the public about their constitutional rights. It is also concerning that such a large proportion of younger respondents would not have read even a part of the Constitution.

In general, the older a respondent is, the more aware of the Constitution he/she is. However, the level of knowledge of the Constitution was not significantly different between the different age groups.

Survey findings by education level

Table (15)

Education level	I have read it in full	I have read some of its provisions	I have never read it	
PhD	37.5%	45.3%	17.2%	100%
Master's degree	29.4%	38.6%	32.0%	100%
Undergraduate degree	22.9%	47.7%	29.4%	100%
University student	9.6%	42.2%	48.2%	100%
High school or equivalent	4.0%	31.6%	64.4%	100%
Middle school	5.2%	33.9%	60.9%	100%
Elementary	6.8%	32.4%	60.8%	100%
Literate	4.6%	16.9%	78.5%	100%
Training institute	6.7%	46.7%	46.7%	100%
Baccalaureate	13.6%	41.3%	45.0%	100%

Table 15 shows a relation between education level and direct interaction with the Constitution: the higher the education level, the more likely a respondent was to have read the Constitution either in full or in part. For example, PhD holders recorded the highest percentage among those who have read the entire Constitution (37.5%), and the lowest among those who have never read it (17.2%). Meanwhile, respondents without any education scored the highest percentage among those who have never read it, and the lowest percentage of awareness of it. This result is as expected: the higher the education level, the more likely a person is to have to have read the Constitution either in part or in full.

Q2: Why have not you read the Constitution?

Table (16)

	Number	(%)
Not interested	302	42.4%
Did not have time	156	21.9%
Did not find someone to explain it for me	255	35.8%
Total	713	100%

This question seeks to determine why a large percentage of the voters had not read the Constitution (47.5%). Taken together, the percentage of respondents who said that they have not had enough time to read the Constitution and who said that they are not interested amount to two-thirds of respondents. This suggests that a major portion of the population is either apathetic or does not link their political, social and economic problems to the Constitution, and are therefore not interested in learning about its contents.

Q3: Did you participate in the 2005 referendum?

Table (17)

	Number	(%)
Yes (Continue with question 4)	472	31.5%
No	651	43.3%
I was underage	377	25.2%
Total	1500	100%

Table 17 shows that a large percentage of respondents (43.3%) did not participate in the 2005 referendum on the Constitution. This percentage does not coincide with official records. In 2005, the Independent High Electoral Commission announced that the participation rate in the referendum was 63%.

Q4: If yes, can you tell us how you voted?

Table (18)

	Number	(%)
Voted in favor	249	52.75%
Voted against	129	27.3%
Prefer not to say	94	19.9%
Total	472	100%

Almost half of the participants in the 2005 referendum approved the Constitution (52.75%). Kirkuk recorded the highest approval rate (92%). As noted in the responses to Question 1, the highest percentage of respondents who said that they had never read the Constitution (86.7%) was also recorded in Kirkuk. This reinforces the observation made earlier that political positions in favor or against the Constitution are not connected to detailed knowledge about the Constitution itself, which is not uncommon in comparative practice.

Among those who voted against the Constitution (27.3%), the highest percentage was recorded in Erbil governorate (61.8%). However, most of the constitutional drafters and politicians interviewed stated that the Kurds had – thanks to their experience – managed to enshrine many of their rights in the Constitution, and that they actively participated in drafting it.

High proportions of respondents in Anbar, Salah al-Din, Diyala and Nineveh stated that they voted against the Constitution. Meanwhile, respondents in the Shia-majority south generally indicated that they voted in favor of the Constitution. This broadly corresponds with the results in the 2005 referendum; however, the sample in some individual provinces is too small (e.g. 41 respondents in Maysan) to draw conclusions.

In addition, very high proportions of respondents preferred not to indicate how they voted in the referendum. The highest proportions were recorded in Qadisiya (68.2%), Najaf (58.8%), Nineveh (58.8%) and Baghdad (51.9%). This is obviously very difficult to explain. In Nineveh, the difficult security environment in recent years may have made some respondents reluctant to

reveal how they voted on the Constitution. In Qadisiya, Najaf and Baghdad, one possible explanation is that since 2005 some respondents have changed their perspective on the Constitution and are therefore unwilling to discuss how they voted in 2005. Another possible explanation is that respondents prefer to keep their personal political choices private, but that does not explain why the rates of respondents in those three provinces is so high in comparison to respondents in the rest of the provinces.

Survey findings by governorate

Table (19)

Governorate	Number	Voted in favor	Voted against	Prefer not to say	
Nineveh	136	17.6%	23.5%	58.8%	100%
Kirkuk	60	92.9%	3.6%	3.6%w	100%
Diyala	66	52.9%	29.4%	17.6%	100%
Anbar	67	37.0%	51.9%	11.1%	100%
Baghdad	342	24.7%	23.4%	51.9%	100%
Babil	79	50.0%	13.6%	36.4%	100%
Karbala	47	50.0%	12.5%	37.5%	100%
Wasit	53	55.0%	15.0%	30.0%	100%
Salah al-Din	59	38.5%	46.2%	15.4%	100%
Najaf	56	35.3%	5.9%	58.8%	100%
Al-Qadisiyah	49	18.2%	13.6%	68.2%	100%
Al-Muthanna	30	25.0%	25.0%	50.0%	100%
Dhi Qar	79	69.7%	6.1%	24.2%	100%
Maysan	41	50.0%	27.8%	22.2%	100%
Basrah	109	36.5%	32.7%	30.8%	100%
Erbil	78	61.8%	30.9%	7.3%	100%
Dohuk	51	87.5%	3.1%	9.4%	100%
Sulaymaniyah	98	64.9%	3.5%	31.6%	100%

Survey findings by ethnicity

Table (20)

Ethnicity	Agreed with the Constitution	Disagreed	Prefer not to say	
Arab	40.3%	23.2%	36.5%	100%
Kurdish	58.3%	25.0%	16.7%	100%
Turkmen	81.8%	0.0%	18.2%	100%
Shabak	0.0%	0.0%	0.0%	0.0%
Chaldean	0.0%	100%	0.0%	100%
Assyrian	0.0%	100%	0.0%	100%
Armenian	50.0%	50.0%	0.0%	100%

Survey findings by gender

Table (21)

Gender	Agreed with the Constitution	Disagreed	Prefer not to say	
Male	47.4%	23.7%	28.8%	100%
Female	42.6%	24.3%	33.1%	100%

Q5: Have you ever participated in any online/in-person seminar/discussion about the Constitution?

Table (22)

	Number	(%)
Yes, frequently	137	9.2%
Yes, rarely	422	28.4%
No	941	62.4%
Total	1500	100%

Table 22 shows that a large majority of respondents (62.4%) have not participated in any activities or discussions on the Constitution. There are several possible reasons for this, including that such activities may not be available in all governorates, districts and sub-districts. Also, even where respondents live in parts of the country where it is possible to participate in such activities, they are not always interested in doing so. Respondents in Kirkuk, which recorded the highest approval rate in favor of the Constitution (92%), also recorded the highest percentage (88.1%) of respondents who did not participate in any seminars or discussions about the Constitution.

Also, the highest rate of participation in those discussions was among people with high education levels, including postgraduates, while the lowest rate was among those with low education level. One reason for this might be the fact that most of these discussions were held in places where people with higher education levels study and work, including universities and government institutions.

Men's participation in most or all of these activities is often slightly higher than women's participation, which might be due to local cultural factors.

Survey findings by governorate

Table (23)

Governorate	Number	Yes, frequently	Yes, rarely	No
Nineveh	136	4.4%	39.7%	55.9%
Kirkuk	60	1.7%	10.2%	88.1%
Diyala	66	1.6%	29.7%	68.8%
Anbar	67	7.5%	32.8%	59.7%
Baghdad	342	9.1%	18.8%	72.1%
Babil	79	26.6%	35.4%	38.0%
Karbala	47	12.8%	44.7%	42.6%
Wasit	53	0.0%	24.5%	75.5%
Salah al-Din	59	6.8%	50.8%	42.4%

Najaf	56	9.1%	40.0%	50.9%
Al-Qadisiyah	49	8.3%	18.8%	72.9%
Al-Muthanna	30	6.7%	20.0%	73.3%
Dhi Qar	79	1.3%	21.5%	77.2%
Maysan	41	7.3%	34.1%	58.5%
Basrah	109	19.4%	45.4%	35.2%
Erbil	78	11.7%	26.0%	62.3%
Dohuk	51	8.2%	18.4%	73.5%
Sulaymaniyah	98	13.5%	19.8%	66.7%

Survey findings by education level

Table (24)

Education level	Yes, frequently	Yes, rarely	No	
PhD	36.5%	39.7%	23.8%	100%
Master's degree	21.1%	39.5%	39.5%	100%
University degree	12.1%	37.4%	50.5%	100%
Enrolled at university/institute	7.8%	34.1%	58.1%	100%
High school or equivalent	4.6%	16.8%	78.6%	100%
Middle school	0.9%	12.4%	86.7%	100%
Elementary	0.0%	16.4%	83.6%	100%
Literate	1.6%	18.8%	79.7%	100%
Training institute	6.7%	6.7%	86.7%	100%
Baccalaureate	8.0%	30.4%	61.6%	100%

Survey findings by gender

Table (25)

Gender	Yes, frequently	Yes, rarely	No	
Male	10.9%	29.7%	59.3%	100%
Female	5.3%	25.3%	69.4%	100%

Q6: Do you think the Constitution was written by Iraqis without foreign interference?

Table (26)

	Number	(%)
Yes	289	19.3%
No	719	47.9%
Undecided	492	32.8%
Total	1500	100%

Table 26 shows that 47.9% of respondents believe that the Constitution was written with foreign interference, while only 19.3% believe that it was written by Iraqis without foreign interference. The fact that 32.8% of respondents are uncertain if there was foreign interference is also relevant here, as they at least think that it is possible that there was foreign interference. Taken together, this means that approximately 80% of respondents either believe that there was foreign interference or that such interference might have occurred.

These results are in conformity with overall levels of trust in the Constitution. More specifically, respondents who believe that foreigners interfered during the drafting process are less likely to trust the Constitution. Thus, the responses to Question 6 are generally in line with the responses to Questions 7 (according to which close to 70% of respondents believe that the Constitution should be amended) and Question 17 (according to which 75.8% of respondents believe that the Constitution is a main or partial driver for corruption).

Survey findings by governorate

Table (27)

Governorate	Number	Yes	No	Undecided
Nineveh	136	8.8%	41.2%	50.0%
Kirkuk	60	25.0%	35.0%	40.0%
Diyala	66	12.1%	63.6%	24.2%
Anbar	67	4.5%	89.6%	6.0%
Baghdad	342	26.0%	43.3%	30.7%
Babil	79	20.3%	59.5%	20.3%
Karbala	47	4.3%	74.5%	21.3%
Wasit	53	17.0%	50.9%	32.1%
Salah al-Din	59	15.3%	52.5%	32.2%
Najaf	56	16.1%	50.0%	33.9%
Al-Qadisiyah	49	20.4%	40.8%	38.8%
Al-Muthanna	30	10.0%	63.3%	26.7%
Dhi Qar	79	40.5%	16.5%	43.0%
Maysan	41	7.3%	58.5%	34.1%
Basrah	109	22.9%	49.5%	27.5%
Erbil	78	11.5%	60.3%	28.2%
Dohuk	51	23.5%	29.4%	47.1%
Sulaymaniyah	98	23.5%	32.7%	43.9%

89.6% of respondents in Anbar stated that some foreign influence was exerted when the Constitution was drafted. Anbar also registered the lowest proportion (by a significant margin) of undecided responses to this question, which suggests a high degree of consensus on this issue in the province. This is in conformity with the fact that a very high proportion of respondents in that province rejected the Constitution in the

referendum. Surprisingly, Karbala came second (74.5%) and Erbil also registered a high rate of respondents who believe that there was foreign influence (60.3%). This means that even where respondents believe that there was foreign interference, they may nevertheless have voted in favor of the Constitution.

Survey findings by ethnicity

Table (28)

Ethnicity	Yes	No	Undecided	
Arab	19.0%	49.9%	31.0%	100%
Kurdish	20.7%	41.1%	38.2%	100%
Turkmen	24.1%	37.9%	37.9%	100%
Shabak	0.0%	100%	0.0%	100%
Chaldean	0.0%	25.0%	75.0%	100%
Assyrian	0.0%	50.0%	50.0%	100%
Armenian	0.0%	0.0%	100%	100%

Table 28 shows that the results do not vary significantly based on ethnicity. 19% of Arab respondents (who account for more than 80% of the Iraqi Sunni and Shiite population) were of the view that the Constitution was written without foreign influence, compared to 20.7% of Kurds (who account for 15-20% of the population). 24.1% of Turkmen (a small minority), voted «yes.»

Survey findings by education level

Table (29)

Education level	Yes	No	Undecided	
PhD	23.4%	50.0%	26.6%	100%
Master's degree	23.5%	51.6%	24.8%	100%
University degree	21.1%	45.0%	33.9%	100%

Enrolled at university/institute	16.1%	50.9%	33.0%	100%
High school or equivalent	18.4%	49.4%	32.2%	100%
Middle school	21.7%	41.7%	36.5%	100%
Elementary	14.9%	36.5%	48.6%	100%
Literate	12.3%	50.8%	36.9%	100%
Training institute	26.7%	40.0%	33.3%	100%
Baccalaureate	19.5%	48.3%	32.2%	100%

Q7: Do you think the Constitution needs to be amended?

Table (30)

	Number	(%)
Yes	1020	68.0%
No	202	13.5%
Undecided	278	18.5%
Total	1500	100%

68.0% of respondents believe that the Constitution needs to be amended. This reflects the generally orientation against the Constitution. As noted above, this is despite the fact that a majority of respondents have either never read the Constitution or have limited knowledge of its provisions (see the responses to Question 1). These results should be read in conjunction with the rest of the survey results. For example, the results to Question 17 indicate that 75.8% of respondents believe that the Constitution is at least partially to blame for corruption.

Survey findings by governorate

Table (31)

Governorate	Number	Yes	No	Undecided
Nineveh	136	56.6%	16.9%	26.5%
Kirkuk	60	55.0%	15.0%	30.0%
Diyala	66	66.7%	19.7%	13.6%
Anbar	67	76.1%	16.4%	7.5%
Baghdad	342	75.7%	9.1%	15.2%
Babil	79	79.7%	12.7%	7.6%
Karbala	47	85.1%	4.3%	10.6%
Wasit	53	83.0%	5.7%	11.3%
Salah al-Din	59	50.8%	27.1%	22.0%
Najaf	56	82.1%	1.8%	16.1%
Al-Qadisiyah	49	79.6%	0.0%	20.4%
Al-Muthanna	30	93.3%	0.0%	6.7%
Dhi Qar	79	81.0%	0.0%	19.0%
Maysan	41	82.9%	0.0%	17.1%
Basrah	109	60.6%	24.8%	14.7%
Erbil	78	42.3%	48.7%	9.0%
Dohuk	51	49.0%	9.8%	41.2%
Sulaymaniyah	98	44.9%	13.3%	41.8%

These results are worth considering in some detail. More than 80% of respondents in six different provinces (Karbala, Wasit, Najaf, Muthanna, Dhi Qar and Maysan) are in favor of constitutional amendment. In four provinces (Qadisiya, Muthanna, Dhi Qar, Maysan), not a single respondent favored leaving the Constitution unchanged. It is worth noting that all

six of these provinces are in the predominantly Shia south, which voted heavily in favor of the Constitution in the 2005 referendum. In response to Question 4, large majorities of the same groups of respondents indicated either that they voted in favor of the Constitution or that they preferred not to respond. As noted above, this supports the possibility that many of the respondents have changed their views of the Constitution since 2005.

Overall, support amongst respondents in favor of constitutional amendment is somewhat lower in the western and predominantly Sunni provinces. A bare majority supported constitutional amendment in Nineveh (56.6%) and Salah al-Din (50.8%), although these results are tempered somewhat by the fact that comparatively high numbers of respondents in both provinces are undecided (26.5% and 22% respectively). Respondents in Anbar province were more strongly in favor of constitutional amendment (76.1%). This is consistent with responses to Question 6, according to which much higher proportions of respondents in Anbar province believe that the Constitution was written under foreign influence (89.6%).

Interestingly, percentages were significantly lower in the Kurdish governorates, but large proportions of respondents nevertheless favor amendment (42.3% in Erbil, 49.0% in Dohuk and 44.9% in Sulaymaniyah). Lower support among this group of respondents for constitutional amendment can be explained by the fact that the 2005 Constitution is largely perceived as being beneficial to the Kurdistan Region. However, the fact that very significant proportions of respondents in the Kurdistan Region either favor amendment or are undecided indicate that perceptions are shifting about the 2005 Constitution in the Kurdistan Region as in much of the rest of the country.

Survey findings by residential environment

Table (32)

Residential environment	Yes	No	Undecided	
Urban	67.8%	14.2%	18.0%	100%
Rural	68.8%	10.3%	20.9%	100%

Survey findings by gender

Table (33)

Gender	Yes	No	Undecided	
Male	69.9%	14.4%	15.7%	100%
Female	63.6%	11.4%	25.0%	100%

Survey findings by age group

Table (34)

Age group	Yes	No	Undecided	
18-29 years	70.7%	12.4%	16.8%	100%
30-39 years	69.6%	12.2%	18.2%	100%
40-49 years	63.2%	16.9%	19.9%	100%
50-59 years	65.5%	15.2%	19.3%	100%
60 years+	67.1%	8.9%	24.1%	100%

Survey findings by education level

Table (35)

Education level	Yes	No	Undecided	
PhD	60.9%	23.4%	15.6%	100%
Master's degree	71.9%	19.0%	9.2%	100%
University degree	59.6%	21.1%	19.3%	100%
Enrolled at university/institute	69.3%	10.1%	20.6%	100%
High school or equivalent	74.7%	9.2%	16.1%	100%
Middle school	68.7%	11.3%	20.0%	100%

Elementary	60.8%	8.1%	31.1%	100%
Literate	55.4%	9.2%	35.4%	100%
Training institute	33.3%	26.7%	40.0%	100%
Baccalaureate	70.2%	13.3%	16.6%	100%

Tables 32-35 show that there are no major discrepancies in terms of residential environment, age, gender and education level, although there are some slight variables in terms of education. Generally speaking, the higher the education level, the higher the support for constitutional amendment, although interestingly, support for constitutional amendment amongst PhD holders is lower than for holders of Master's degrees. Generally however, the only segment of the population that does not clearly support constitutional amendment is graduates of training institutes.

Survey findings by employment status

Table (36)

Employment status	Yes	No	Undecided	
Government sector	70.8%	14.7%	14.5%	100%
Military	61.3%	6.7%	32.0%	100%
Private sector	69.5%	18.2%	12.3%	100%
Semi-employed	66.1%	9.8%	24.1%	100%
Retiree	54.0%	15.9%	30.2%	100%
Full-time homemaker	56.8%	5.3%	37.9%	100%
Student	69.8%	9.5%	20.7%	100%
Unemployed	70.5%	17.8%	11.6%	100%

Table 36 shows that government employees and the unemployed recorded equal percentages in this question (70.8% and 70.5%, respectively), and private sector workers also recorded a close percentage (69.5%), then came the irregular workers and military personnel with lower percentages. All the answers show that there is no relation between the employment type and attitude toward the Constitution.

Survey findings by economic status

Table (37)

Economic status	Yes	No	Undecided	
Good	66.4%	15.8%	17.8%	100%
Poor	55.4%	17.7%	26.9%	100%
Medium	71.5%	11.4%	17.1%	100%

Respondents with poor economic status recorded the lowest percentage in support of constitutional amendment (55.4%), followed by those with good economic status (66.4%), while those with medium economic status recorded the highest percentage (71.5%). Thus, there are no significant differences in the responses, which means that there is not a clear relation between economic status and attitude toward the Constitution.

Survey findings by ethnicity

Table (38)

Ethnicity	Yes	No	Undecided	
Arab	72.7%	11.1%	16.2%	100%
Kurdish	48.0%	24.0%	28.0%	100%
Turkmen	69.0%	6.9%	24.1%	100%
Shabak	50.0%	50.0%	0.0%	100%
Chaldean	50.0%	25.0%	25.0%	100%
Assyrian	100%	0.0%	0.0%	100%
Armenian	100%	0.0%	0.0%	100%

Survey findings by religion

Table (39)

Religion	Yes	No	Undecided	
Muslim	68.3%	13.3%	18.4%	100%
Christian	56.1%	19.5%	24.4%	100%
Sabian	77.8%	11.1%	11.1%	100%
Yazidi	44.4%	22.2%	33.3%	100%

Q8: If the Constitution is amended, what system of government do you prefer?

Table (40)

	Number	(%)
Current system (Parliamentary)	325	21.6%
Presidential system (US model)	935	62.4%
Mixed system (French model)	240	16.0%
Total	1500	100%

Table 40 indicates that a very large majority of respondents favor abandoning Iraq's parliamentary system. Only 21.6% of respondents believe that a parliamentary system should be maintained, which is evidence of very significant level of dissatisfaction. Respondents who favor abandoning the current parliamentary system heavily favor adopting a presidential system (62.4%) over a mixed system (16%). These preferences are likely motivated by a desire to move away from incoherent coalition governments and towards greater simplicity and clarity in policy formation and decision making. In addition, some political parties and media outlets have encouraged the view that the current system of government prevents reform, which has impacted citizens' views.

Survey findings by governorate

Table (41)

Governorate	Number	Current system (Parliamentary)	Presidential system (USA model)	Mixed system (France model)
Nineveh	136	15.4%	75.7%	8.8%
Kirkuk	60	40.0%	56.7%	3.3%
Diyala	66	6.1%	68.2%	25.8%
Anbar	67	32.8%	61.2%	6.0%
Baghdad	342	16.7%	68.0%	15.2%
Babil	79	10.1%	82.3%	7.6%
Karbala	47	6.4%	63.8%	29.8%
Wasit	53	11.3%	64.2%	24.5%
Salah al-Din	59	20.3%	61.0%	18.6%
Najaf	56	23.2%	57.1%	19.6%
Al-Qadisiyah	49	8.2%	67.3%	24.5%
Al-Muthanna	30	13.3%	46.7%	40.0%
Dhi Qar	79	12.7%	83.5%	3.8%
Maysan	41	17.1%	65.9%	17.1%
Basrah	109	16.5%	68.8%	14.7%
Erbil	78	43.6%	42.3%	14.1%
Dohuk	51	52.9%	19.6%	27.5%
Sulaymaniyah	98	51.0%	25.5%	23.5%

Table 41 sets out the data per governorate. The highest percentages of respondents who chose the presidential system were in Babil, Dhi Qar and Basrah. The highest percentages of those who wanted to maintain the current system were in Dohuk, Sulaymaniyah and Erbil. Muthanna recorded a relatively high

proportion of respondents (40%) in favor of a mixed system, but that result is an outlier.

Survey findings by residential environment

Table (42)

Residential environment	Current system (Parliamentary)	Presidential system (USA model)	Mixed system (France model)	
Urban	21.7%	62.3%	16.0%	100%
Rural	21.3%	62.8%	16.0%	100%

Survey findings by gender

Table (43)

Gender	Current system (Parliamentary)	Presidential system (USA model)	Mixed system (France model)	
Male	21.3%	63.4%	15.3%	100%
Female	22.4%	60.0%	17.6%	100%

Survey findings by age group

Table (44)

Age group	Current system (Parliamentary)	Presidential system (USA model)	Mixed system (France model)	
18-29 years	19.7%	61.2%	19.1%	100%
30-39 years	22.2%	63.2%	14.6%	100%
40-49 years	19.2%	65.1%	15.6%	100%
50-59 years	24.4%	62.9%	12.7%	100%
60 years+	32.9%	53.2%	13.9%	100%

Survey findings by education level

Table (45)

Education level	Current system (Parliamentary)	Presidential system (USA model)	Mixed system (France model)	
PhD	25.0%	56.3%	18.8%	100%
Master's degree	22.9%	64.1%	13.1%	100%
University degree	22.0%	56.0%	22.0%	100%
Enrolled at university/institute	17.9%	67.4%	14.7%	100%
High school or equivalent	16.8%	71.7%	11.6%	100%
Middle school	25.2%	56.5%	18.3%	100%
Elementary	24.3%	60.8%	14.9%	100%
Literate	32.3%	55.4%	12.3%	100%
Training institute	26.7%	46.7%	26.7%	100%
Baccalaureate	21.2%	61.6%	17.2%	100%

Survey findings by employment status

Table (46)

Employment status	Current system (Parliamentary)	Presidential system (USA model)	Mixed system (France model)	
Government sector	20.2%	62.5%	17.3%	100%
Military	22.7%	60.0%	17.3%	100%
Private sector	18.2%	64.4%	17.4%	100%
Semi-employed	19.6%	70.5%	9.8%	100%

Retiree	34.9%	54.0%	11.1%	100%
Full-time homemaker	26.3%	63.2%	10.5%	100%
Student	20.3%	60.4%	19.4%	100%
Unemployed	26.7%	59.6%	13.7%	100%

Survey findings by economic status

Table (47)

Economic status	Current system (Parliamentary)	Presidential system (USA model)	Mixed system (France model)	
Good	22.9%	60.6%	16.5%	100%
Poor	25.8%	60.8%	13.4%	100%
Medium	20.1%	63.6%	16.3%	100%

Survey findings by ethnicity

Table (48)

Ethnicity	Current system (Parliamentary)	Presidential system (USA model)	Mixed system (France model)	
Arab	16.3%	68.5%	15.2%	100%
Kurdish	42.9%	37.8%	19.3%	100%
Turkmen	41.4%	44.8%	13.8%	100%
Shabak	0.0%	50.0%	50.0%	100%
Chaldean	25.0%	75.0%	0.0%	100%
Assyrian	0.0%	100%	0.0%	100%
Armenian	0.0%	0.0%	100%	100%

Q9: Do you believe that the Constitution has guaranteed your rights and freedoms?

Table (49)

	Number	(%)
To a great extent	106	7.1%
Somewhat	399	26.6%
To a limited extent	372	24.8%
Has not guaranteed them	529	35.3%
Undecided	94	6.3%
Total	1500	100%

Table 49 shows that the highest percentage of respondents (35.3%) believes that the 2005 Constitution has not guaranteed their rights and freedoms. If this is combined with the respondents who believe that the Constitution has only guaranteed rights and freedoms to a limited extent (24.8%), then the total percentage of respondents who are dissatisfied with the Constitution on this point is 60.1%. This is notable given that the Constitution does include a long list of civil, political, social and economic rights. Reference should also be made here to the responses to Question 1, according to which the bulk of respondents have little to no specific knowledge about the Constitution. What this likely means is that respondents' answers to Question 9 reflect not their views about what the Constitution stipulates on paper, but their views about the way in which civil, political, social and economic rights are actually protected and promoted in practice. What this suggests therefore is that respondents generally have a negative view of this issue, and that the Constitution has not had a meaningful impact in that regard.

Table 50 shows that between 30% and 50% of respondents in twelve provinces from all parts of the country believe that the Constitution does not guarantee their rights. 68.4% in Dhi Qar stated that the Constitution guaranteed them to some extent. This is a very high proportion in favor of the Constitution's

performance, but in comparison with the rest of the results, that proportion appears to be an exception.

According to Table 52, females are more likely to believe that the Constitution does not guarantee rights and freedoms (39.7%). Table 53, indicates that younger Iraqis are more likely to believe that the Constitution does not guarantee rights and freedoms (40.7%).

Table 55 (employment status) shows that the highest three percentages of responses stating that the Constitution did not guarantee their rights and freedoms came from those at the bottom of the career ladder (45.5% irregular workers, 45.3% full-time homemakers, and 43.2% unemployed). Table 56 supports these results, as it shows that more than half (57.0%) of the respondents with poor economic status said that the Constitution did not guarantee their rights and freedoms.

Survey findings by governorate

Table (50)

Governorate	Number	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided
Nineveh	136	13.2%	16.9%	14.7%	53.7%	1.5%
Kirkuk	60	8.3%	46.7%	23.3%	18.3%	3.3%
Diyala	66	10.6%	18.2%	36.4%	31.8%	3.0%
Anbar	67	3.0%	37.3%	19.4%	35.8%	4.5%
Baghdad	342	3.5%	18.1%	26.9%	46.2%	5.3%
Babil	79	6.3%	20.3%	24.1%	41.8%	7.6%
Karbala	47	12.8%	38.3%	23.4%	19.1%	6.4%
Wasit	53	0.0%	26.4%	30.2%	30.2%	13.2%
Salah al-Din	59	11.9%	44.1%	18.6%	18.6%	6.8%
Najaf	56	1.8%	14.3%	30.4%	41.1%	12.5%
Al-Qadisiyah	49	6.1%	26.5%	22.4%	36.7%	8.2%

Al-Muthanna	30	6.7%	26.7%	30.0%	33.3%	3.3%
Dhi Qar	79	6.3%	68.4%	25.3%	0.0%	0.0%
Maysan	41	0.0%	19.5%	31.7%	31.7%	17.1%
Basrah	109	14.7%	34.9%	24.8%	20.2%	5.5%
Erbil	78	3.8%	26.9%	11.5%	51.3%	6.4%
Dohuk	51	0.0%	25.5%	23.5%	45.1%	5.9%
Sulaymaniyah	98	14.3%	12.2%	34.7%	24.5%	14.3%

Survey findings by residential environment

Table (51)

Residential environment	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
Urban	7.3%	26.3%	24.4%	35.9%	6.2%	100%
Rural	6.0%	28.0%	26.6%	32.6%	6.7%	100%

Survey findings by gender

Table (52)

Gender	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
Male	8.0%	28.4%	24.9%	33.3%	5.5%	100%
Female	5.0%	22.6%	24.6%	39.7%	8.1%	100%

Survey findings by age group

Table (53)

Age group	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
18-29 years	5.6%	22.2%	24.6%	40.7%	6.8%	100%
30-39 years	5.7%	26.1%	21.5%	39.7%	6.9%	100%
40-49 years	8.5%	34.2%	23.5%	29.6%	4.2%	100%
50-59 years	11.7%	29.4%	29.4%	23.9%	5.6%	100%
60 years+	6.3%	20.3%	36.7%	27.8%	8.9%	100%

Survey findings by education level

Table (54)

Education level	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
PhD	21.9%	35.9%	23.4%	17.2%	1.6%	100%
Master's degree	13.7%	28.8%	25.5%	29.4%	2.6%	100%
University degree	11.9%	38.5%	17.4%	25.7%	6.4%	100%
Enrolled at university/ institute	5.5%	23.4%	22.9%	40.4%	7.8%	100%
High school or equivalent	4.0%	22.4%	22.4%	43.7%	7.5%	100%
Middle school	3.5%	22.6%	20.0%	46.1%	7.8%	100%
Elementary	4.1%	10.8%	27.0%	41.9%	16.2%	100%
Literate	4.6%	16.9%	21.5%	43.1%	13.8%	100%
Training institute	13.3%	13.3%	33.3%	40.0%	0.0%	100%
Baccalaureate	5.3%	29.8%	28.8%	31.8%	4.3%	100%

Survey findings by employment status

Table (55)

Employment status	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
Government sector	9.3%	30.5%	26.7%	29.8%	3.8%	100%
Military	6.7%	33.3%	24.0%	30.7%	5.3%	100%
Private sector	6.4%	29.7%	22.9%	35.6%	5.5%	100%
Semi-employed	7.1%	18.8%	20.5%	45.5%	8.0%	100%
Retiree	6.3%	27.0%	31.7%	30.2%	4.8%	100%
Full-time homemaker	2.1%	15.8%	21.1%	45.3%	15.8%	100%
Student	6.3%	24.3%	24.8%	36.9%	7.7%	100%
Unemployed	4.8%	19.9%	24.0%	43.2%	8.2%	100%

Survey findings by economic status

Table (56)

Economic status	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
Good	11.4%	32.5%	24.9%	25.9%	5.3%	100%
Poor	5.9%	12.4%	17.2%	57.0%	7.5%	100%
Medium	5.1%	26.7%	26.3%	35.3%	6.5%	100%

Survey findings by ethnicity

Table (57)

Ethnicity	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
Arab	7.1%	27.7%	24.5%	35.2%	5.5%	100%
Kurdish	6.5%	21.1%	25.1%	38.9%	8.4%	100%
Turkmen	6.9%	34.5%	27.6%	13.8%	17.2%	100%
Shabak	50.0%	0.0%	50.0%	0.0%	0.0%	100%
Chaldean	12.5%	37.5%	25.0%	25.0%	0.0%	100%
Assyrian	0.0%	50.0%	50.0%	0.0%	0.0%	100%
Armenian	0.0%	0.0%	50.0%	0.0%	50.0%	100%

Q10: Do you think the Constitution has guaranteed your rights to housing, education, healthcare and work?

Table (58)

	Number	(%)
To a great extent	102	6.8%
Somehow	318	21.2%
To a limited extent	417	27.8%
Has not guaranteed them	594	39.6%
Undecided	69	4.6%
Total	1500	100%

Question 10 relates specific to socioeconomic rights (as opposed to civil and political rights). The results here are consistent with the results that are set out under Question 9. Table 58 shows that the highest percentage of respondents (39.6%) believes that the Constitution has not guaranteed their rights to housing,

education and work, while 27.8% said that it has guaranteed these rights to a limited extent. When combined together, the level of dissatisfaction appears to run very high, at 67.4%. As noted above, most respondents have very little knowledge about the Constitution's contents, and are presumably unaware of what the Constitution says about socioeconomic rights. What this means is that respondents generally responded based not on what is theoretically guaranteed but based on actual results in practice, which is a reflection of the political system's willingness and ability to put into practice what the Constitution provides for. Conversely, this also shows that respondents' personal situation is likely to impact their view of the Constitution.

The results also indicate that respondents who are struggling financially are far more likely to believe that the Constitution does not guarantee socioeconomic rights. For example:

Table 63 shows that respondents who did not make it past high school were the most likely to state the Constitution does not guarantee socioeconomic rights (57.4%).

According to Table 65, respondents who were of poor economic status were almost just as likely to state that the Constitution does not guarantee these rights (57.0%). This suggests that those who believe that the Constitution did not guarantee their rights are likely among the same members affected by the failure to provide adequate housing, education, healthcare, and work.

The same applies to employment status. Table 64 shows that respondents who are at the bottom of the career ladder were most likely to state that the Constitution does not guarantee their rights (46.4% irregular workers, 46.3% full-time housewives and 44.5% unemployed). These percentages are consistent with the answers to the previous question, where the same groups mentioned that the Constitution did not guarantee their rights and freedoms.

Survey findings by governorate

Table (59)

Governorate	Number	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided
Nineveh	136	14.0%	21.3%	22.1%	41.9%	0.7%
Kirkuk	60	6.7%	33.3%	36.7%	18.3%	5.0%
Diyala	66	7.6%	27.3%	36.4%	27.3%	1.5%
Anbar	67	9.0%	28.4%	23.9%	37.3%	1.5%
Baghdad	342	2.9%	12.3%	21.9%	58.5%	4.4%
Babil	79	10.1%	22.8%	30.4%	31.6%	5.1%
Karbala	47	12.8%	46.8%	14.9%	23.4%	2.1%
Wasit	53	3.8%	15.1%	28.3%	41.5%	11.3%
Salah al-Din	59	6.8%	25.4%	45.8%	18.6%	3.4%
Najaf	56	7.1%	8.9%	25.0%	51.8%	7.1%
Al-Qadisiyah	49	2.0%	22.4%	22.4%	51.0%	2.0%
Al-Muthanna	30	3.3%	26.7%	20.0%	40.0%	10.0%
Dhi Qar	79	2.5%	35.4%	45.6%	16.5%	0.0%
Maysan	41	0.0%	9.8%	43.9%	34.1%	12.2%
Basrah	109	11.0%	31.2%	33.0%	19.3%	5.5%
Erbil	78	6.4%	24.4%	10.3%	56.4%	2.6%
Dohuk	51	2.0%	21.6%	31.4%	43.1%	2.0%
Sulaymaniyah	98	12.2%	7.1%	32.7%	34.7%	13.3%

Survey findings by residential environment

Table (60)

Residential environment	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
Urban	7.1%	20.8%	27.3%	40.3%	4.5%	100%
Rural	5.3%	23.0%	30.1%	36.5%	5.0%	100%

Survey findings by gender

Table (61)

Gender	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
Male	7.6%	22.2%	26.8%	39.6%	3.8%	100%
Female	5.0%	18.9%	30.0%	39.7%	6.4%	100%

Survey findings by age group

Table (62)

Age group	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
18-29 years	6.0%	19.2%	29.1%	41.1%	4.6%	
30-39 years	5.7%	20.1%	24.4%	45.7%	4.1%	
40-49 years	8.5%	24.1%	29.6%	34.9%	2.9%	
50-59 years	7.6%	23.9%	28.9%	33.0%	6.6%	
60 years+	8.9%	21.5%	27.8%	32.9%	8.9%	

Survey findings by education level

Table (63)

Education level	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
PhD	20.3%	31.3%	23.4%	21.9%	3.1%	100%
Master's degree	11.1%	26.1%	24.2%	37.9%	0.7%	100%
University degree	12.8%	32.1%	23.9%	26.6%	4.6%	100%
Studying at university/institute	5.5%	20.2%	27.1%	45.0%	2.3%	100%
High school or equivalent	6.3%	12.6%	28.7%	45.4%	6.9%	100%
Middle school	1.7%	13.0%	21.7%	57.4%	6.1%	100%
Elementary	2.7%	9.5%	33.8%	40.5%	13.5%	100%
Literate	1.5%	16.9%	20.0%	49.2%	12.3%	100%
Training institute	6.7%	26.7%	20.0%	46.7%	0.0%	100%
Baccalaureate	5.7%	23.4%	32.0%	35.3%	3.7%	100%

Survey findings by employment status

Table (64)

Employment status	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
Government sector	8.5%	25.0%	25.0%	37.4%	4.0%	100%
Military	5.3%	21.3%	37.3%	30.7%	5.3%	100%
Private sector	6.4%	22.9%	27.1%	41.5%	2.1%	100%
Semi-employed	4.5%	13.4%	31.3%	46.4%	4.5%	100%

Retiree	11.1%	19.0%	33.3%	33.3%	3.2%	100%
Full-time homemaker	2.1%	14.7%	24.2%	46.3%	12.6%	100%
Student	7.7%	21.6%	28.8%	38.3%	3.6%	100%
Unemployed	3.4%	14.4%	30.1%	44.5%	7.5%	100%

Survey findings by economic status

Table (65)

Economic status	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
Good	10.5%	28.6%	29.7%	29.1%	2.1%	100%
Poor	4.3%	10.2%	21.0%	57.0%	7.5%	100%
Medium	5.5%	19.8%	28.3%	41.2%	5.2%	100%

Survey findings by ethnicity

Table (66)

Ethnicity	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
Arab	6.9%	22.0%	27.7%	39.5%	3.9%	100%
Kurdish	6.2%	18.2%	26.5%	42.9%	6.2%	100%
Turkmen	6.9%	17.2%	41.4%	17.2%	17.2%	100%
Shabak	50.0%	0.0%	0.0%	50.0%	0.0%	100%
Chaldean	12.5%	25.0%	37.5%	25.0%	0.0%	100%
Assyrian	0.0%	50.0%	0.0%	50.0%	0.0%	100%
Armenian	0.0%	0.0%	50.0%	0.0%	50.0%	100%

Q11: Do you think the Constitution has guaranteed your right to political participation?

Table (67)

	Number	(%)
Yes, to a great extent	142	9.5%
Yes, to a certain extent	395	26.3%
Yes, but to a limited extent	383	25.5%
No, does not guarantee that right	465	31.0%
Undecided	115	7.7%
Total	1500	100%

The highest percentage (31%) believes that the Constitution has not guaranteed their right to political participation, while 26.3% stated that it had guaranteed it to some extent, and 25.5% said that it was guaranteed to a limited extent. This means that more than 80% of respondents maintained that their right to political participation is not sufficiently guaranteed by the Constitution. This is highly concerning, given that Iraq self-identifies as a plural democracy. This should be considered in conjunction with the responses to Question 7, which asked if respondents believed that the Constitution should be amended. The results are not an exact match, but many broadly correlate.

Broken down by geographic area (Table 68), the highest percentage of respondents who believe that their right to participation is not guaranteed was recorded in the Kurdistan Region governorates and the northern governorates, respectively: Erbil recorded the highest percentage (51.3%), followed by Nineveh (50.7%).

Broken down by employment status (Table 73), the unemployed recorded the highest percentage (41.1%) of those who said that the Constitution had not guaranteed their right to political participation.

Survey findings by governorate

Table (68)

Governorate		To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided
Nineveh	136	8.8%	16.2%	20.6%	50.7%	3.7%
Kirkuk	60	13.3%	40.0%	33.3%	5.0%	8.3%
Diyala	66	7.6%	13.6%	48.5%	27.3%	3.0%
Anbar	67	16.4%	19.4%	26.9%	22.4%	14.9%
Baghdad	342	7.9%	23.4%	19.3%	43.3%	6.1%
Babil	79	5.1%	34.2%	24.1%	26.6%	10.1%
Karbala	47	10.6%	42.6%	23.4%	21.3%	2.1%
Wasit	53	5.7%	32.1%	22.6%	28.3%	11.3%
Salah al-Din	59	15.3%	39.0%	30.5%	11.9%	3.4%
Najaf	56	7.1%	21.4%	35.7%	25.0%	10.7%
Al-Qadisiyah	49	6.1%	24.5%	32.7%	30.6%	6.1%
Al-Muthanna	30	3.3%	33.3%	23.3%	30.0%	10.0%
Dhi Qar	79	24.1%	51.9%	22.8%	1.3%	0.0%
Maysan	41	2.4%	17.1%	29.3%	29.3%	22.0%
Basrah	109	8.3%	34.9%	37.6%	11.0%	8.3%
Erbil	78	7.7%	25.6%	10.3%	51.3%	5.1%
Dohuk	51	5.9%	13.7%	31.4%	39.2%	9.8%
Sulaymaniyah	98	12.2%	13.3%	21.4%	36.7%	16.3%

Survey findings by residential environment

Table (69)

Residential environment	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided
Urban	9.6%	26.2%	24.7%	31.6%	7.9%
Rural	8.9%	27.0%	29.1%	28.4%	6.7%

Survey findings by gender

Table (70)

Gender	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided
Male	10.7%	28.1%	25.2%	29.9%	6.1%
Female	6.6%	22.4%	26.3%	33.6%	11.2%

Survey findings by age group

Table (71)

Age group	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided
18-29 years	7.2%	25.5%	25.1%	32.9%	9.4%
30-39 years	9.3%	24.6%	25.8%	34.0%	6.2%
40-49 years	11.4%	28.0%	24.1%	29.0%	7.5%
50-59 years	13.2%	33.0%	24.9%	23.4%	5.6%
60 years+	7.6%	17.7%	34.2%	30.4%	10.1%

Survey findings by education level

Table (72)

Education level	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
PhD	21.9%	28.1%	28.1%	18.8%	3.1%	100%
Master's degree	9.8%	29.4%	28.1%	25.5%	7.2%	100%
University degree	15.6%	28.4%	26.6%	22.0%	7.3%	100%
Enrolled at university/institute	7.3%	23.4%	26.6%	38.5%	4.1%	100%
High school or equivalent	7.5%	23.6%	24.7%	32.8%	11.5%	100%
Middle school	6.1%	23.5%	21.7%	40.9%	7.8%	100%
Elementary	8.1%	21.6%	21.6%	33.8%	14.9%	100%
Literate	1.5%	16.9%	24.6%	38.5%	18.5%	100%
Training institute	6.7%	13.3%	26.7%	46.7%	6.7%	100%
Baccalaureate	10.1%	29.8%	25.5%	28.3%	6.2%	100%

Survey findings by employment status

Table (73)

Employment status	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
Government sector	12.5%	28.9%	24.0%	28.1%	6.5%	100%
Military	8.0%	26.7%	33.3%	25.3%	6.7%	100%
Private sector	8.5%	33.5%	23.7%	28.4%	5.9%	100%
Semi-employed	9.8%	23.2%	22.3%	33.9%	10.7%	100%

Retiree	11.1%	15.9%	34.9%	31.7%	6.3%	100%
Full-time homemaker	5.3%	20.0%	26.3%	31.6%	16.8%	100%
Student	8.6%	23.0%	27.5%	34.2%	6.8%	100%
Unemployed	3.4%	21.2%	25.3%	41.1%	8.9%	100%

Survey findings by economic status

Table (74)

Economic status	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
Good	12.8%	32.0%	24.9%	24.0%	6.2%	100%
Poor	4.3%	14.5%	23.1%	46.8%	11.3%	100%
Medium	8.9%	26.0%	26.3%	31.1%	7.6%	100%

Survey findings by ethnicity

Table (75)

Ethnicity	To a great extent	Somehow	To a limited extent	Has not guaranteed them	Undecided	
Arab	9.6%	27.9%	25.5%	30.1%	6.9%	100%
Kurdish	8.4%	18.9%	24.4%	37.5%	10.9%	100%
Turkmen	13.8%	27.6%	34.5%	13.8%	10.3%	100%
Shabak	0.0%	50.0%	0.0%	50.0%	0.0%	100%
Chaldean	12.5%	25.0%	50.0%	12.5%	0.0%	100%
Assyrian	0.0%	50.0%	50.0%	0.0%	0.0%	100%
Armenian	0.0%	50.0%	0.0%	0.0%	50.0%	100%

Q12: If you believe that the state has failed to guarantee rights and freedoms, what do you think is the reason?

Table (76)

	Number	(%)
Inadequacies in the Constitution itself	306	20.4%
Failures in implementing the Constitution	625	41.7%
Absence of adequate legislation to enforce the Constitution	522	34.8%
Other	47	3.1%
Total	1500	100%

This table shows that 41.7% of respondents answered, "Failures in implementing the Constitution," compared to 20.4% who answered, "Inadequacies in the Constitution itself," while 34.8% stated that the reason is the absence of adequate implementing regulations. This means that the majority of respondents do not see the Constitution as the problem itself, but rather the absence of laws that guarantee the enforcement of the rights and freedoms included in it. These results may be in contradiction with some of the responses above. For example, in response to Question 7, a clear majority of respondents stated that the Constitution should be amended (68%). And yet, an even larger majority of respondents (76.5%) believes that if their rights are not being guaranteed, it is more the result of implementation issues than the text of the Constitution itself. The explanation may be that respondents who are in favor of constitutional amendment are not necessarily motivated by their own personal rights and freedoms. Another possible explanation may be that respondents who believe that the failure to guarantee rights is more related to implementation issues may nevertheless believe that constitutional amendment will improve the protection of basic rights.

Survey findings by governorate

Table (77)

Governorate	Inadequacies in the Constitution itself	Failures in implementing the Constitution	Absence of adequate legislation to enforce the constitutional provisions	
Nineveh	17.8%	40.0%	42.2%	100%
Kirkuk	20.0%	30.0%	50.0%	100%
Diyala	7.8%	42.2%	50.0%	100%
Anbar	62.5%	34.4%	3.1%	100%
Baghdad	22.5%	53.5%	24.0%	100%
Babil	20.8%	43.1%	36.1%	100%
Karbala	8.7%	56.5%	34.8%	100%
Wasit	11.3%	35.8%	52.8%	100%
Salah al-Din	10.3%	37.9%	51.7%	100%
Najaf	18.4%	57.1%	24.5%	100%
Al-Qadisiyah	17.0%	57.4%	25.5%	100%
Al-Muthanna	7.7%	57.7%	34.6%	100%
Dhi Qar	7.6%	49.4%	43.0%	100%
Maysan	23.1%	53.8%	23.1%	100%
Basrah	14.8%	47.2%	38.0%	100%
Erbil	61.5%	33.3%	5.1%	100%
Dohuk	15.7%	13.7%	70.6%	100%
Sulaymaniyah	14.7%	16.8%	68.4%	100%

Table 77 shows that responses in most governorates are broadly the same, with the exception of Erbil and Anbar, where more than 60% of respondents identified inadequacies in the Constitution itself as the main flaw. This percentage can be expected in Anbar, but is more surprising for Erbil, the governorate that has arguably

benefitted the most from the Constitution and that voted in favor of it in highest numbers. Erbil and Anbar are outliers in comparison with the rest of the provinces, where opinions in the remaining governorates were somewhat similar (i.e. respondents who believe that the Constitution is to blame range from 7% to 22%).

Survey findings by residential environment

Table (78)

Residential environment	Inadequacies in the Constitution itself	Failure in implementing the Constitution	Absence of adequate legislation to enforce the constitutional provisions	
Urban	20.9%	42.9%	36.2%	100%
Rural	21.6%	43.6%	34.8%	100%

Survey findings by gender

Table (79)

Gender	Inadequacies in the Constitution itself	Failures in implementing the Constitution	Absence of adequate legislation to enforce the constitutional provisions	
Male	22.1%	43.1%	34.8%	100%
Female	18.8%	42.8%	38.5%	100%

Survey findings by age group

Table (80)

Age group	Inadequacies in the Constitution itself	Failures in implementing the Constitution	Absence of adequate legislation to enforce the constitutional provisions	
18-29 years	18.8%	47.4%	33.8%	100%
30-39 years	23.2%	44.8%	32.0%	100%
40-49 years	20.3%	39.0%	40.7%	100%
50-59 years	23.6%	34.6%	41.9%	100%
60 years+	20.8%	42.9%	36.4%	100%

Survey findings by education level

Table (81)

Education level	Inadequacies in the Constitution itself	Failure in implementing the Constitution	Absence of adequate legislation to enforce the constitutional provisions	
PhD	17.5%	38.1%	44.4%	100%
Master's degree	22.7%	43.3%	34.0%	100%
University degree	21.4%	41.7%	36.9%	100%
Enrolled at university/institute	23.5%	46.0%	30.5%	100%
High school or equivalent	22.6%	36.6%	40.9%	100%
Middle school	17.9%	46.4%	35.7%	100%
Elementary	25.4%	28.2%	46.5%	100%
Literate	19.0%	34.9%	46.0%	100%
Training institute	7.1%	28.6%	64.3%	100%
Baccalaureate	20.2%	47.4%	32.4%	100%

Survey findings by employment status

Table (82)

Employment status	Inadequacies in the Constitution itself	Failure in implementing the Constitution	Absence of adequate legislation to enforce the constitutional provisions	
Government sector	18.8%	46.6%	34.6%	100%
Military	16.2%	31.1%	52.7%	100%
Private sector	23.7%	41.8%	34.5%	100%
Semi-employed	24.1%	35.2%	40.7%	100%

Retiree	16.1%	48.4%	35.5%	100%
Full-time homemaker	21.6%	42.0%	36.4%	100%
Student	16.4%	51.2%	32.4%	100%
Unemployed	34.0%	29.9%	36.1%	100%

Survey findings by economic status:

Table (83)

Economic status	Inadequacies in the Constitution itself	Failure in implementing the Constitution	Absence of adequate legislation to enforce the constitutional provisions	
Good	21.7%	44.0%	34.3%	100%
Poor	30.7%	27.3%	42.0%	100%
Medium	18.7%	45.8%	35.5%	100%

Survey findings by ethnicity

Table (84)

Ethnicity	Inadequacies in the Constitution itself	Failure in implementing the Constitution	Absence of adequate legislation to enforce the constitutional provisions	
Arab	19.6%	47.5%	32.9%	100%
Kurdish	27.7%	26.9%	45.4%	100%
Turkmen	21.4%	25.0%	53.6%	100%
Shabak	0.0%	50.0%	50.0%	100%
Chaldean	25.0%	0.0%	75.0%	100%
Assyrian	0.0%	50.0%	50.0%	100%
Armenian	0.0%	50.0%	50.0%	100%

Q13: The Constitution makes reference to the “components of the Iraqi people.” Should that expression be maintained?

Table (85)

	Number	(%)
Yes it should be maintained	352	23.5%
No, only the word “people” should be used	638	42.5%
No difference	366	24.4%
Undecided	144	9.6%
Total	1500	100%

This question helps measure the harmony among the country’s populations and how much they believe in a unified Iraqi citizenry – “the people,” so to speak – without any type of component-based division or concept of a second identity.

Nearly half of respondents (42.5%) were of the view that the word “people” should be used rather than “components,” which is a significant proportion. However, most of the remaining respondents (47.9%) either support maintaining the use of the term “components” or do not consider that a change of term would make a difference (implicitly meaning that they do not oppose its use in the Constitution).

Survey findings by residential environment

Table (86)

Residential environment	Prefer maintaining it	Prefer using the word “people” only	No difference	Undecided	100%
Urban	24.5%	42.5%	24.0%	8.9%	100%
Rural	18.8%	42.6%	26.2%	12.4%	100%

Survey findings by governorate

Table (87)

Governorate	Number	Prefer maintaining it	Prefer using the word 'people' only	No difference	Undecided	
Nineveh	136	14.0%	24.3%	53.7%	8.1%	100%
Kirkuk	60	53.3%	15.0%	25.0%	6.7%	100%
Diyala	66	12.1%	69.7%	12.1%	6.1%	100%
Anbar	67	6.0%	55.2%	34.3%	4.5%	100%
Baghdad	342	11.1%	53.8%	28.4%	6.7%	100%
Babil	79	29.1%	36.7%	24.1%	10.1%	100%
Karbala	47	17.0%	68.1%	6.4%	8.5%	100%
Wasit	53	15.1%	47.2%	17.0%	20.8%	100%
Salah al-Din	59	15.3%	49.2%	23.7%	11.9%	100%
Najaf	56	7.1%	66.1%	14.3%	12.5%	100%
Al-Qadisiyah	49	12.2%	46.9%	26.5%	14.3%	100%
Al-Muthanna	30	16.7%	36.7%	30.0%	16.7%	100%
Dhi Qar	79	20.3%	59.5%	5.1%	15.2%	100%
Maysan	41	22.0%	39.0%	19.5%	19.5%	100%
Basrah	109	20.2%	42.2%	27.5%	10.1%	100%
Erbil	78	52.6%	19.2%	11.5%	16.7%	100%
Dohuk	51	60.8%	17.6%	15.7%	5.9%	100%
Sulaymaniyah	98	70.4%	10.2%	16.3%	3.1%	100%

The high percentages of respondents in Erbil, Dohuk, Sulaymaniyah and Kirkuk who prefer to keep referring to “components” in the Constitution (70.4%, 60.8%, 52.6% and 53.3%, respectively) are consistent with the fact that the majority of the population in these governorates are members of an ethnic minority. The implication is that respondents from those areas broadly suppose the constitutional recognition of group rights. Arab governorates recorded were far less enthusiastic about the term “components” (12.1% in Diyala, 11.1% in Baghdad, 7.1% in Najaf, etc.).

Survey findings by gender

Table (88)

Gender	Prefer maintaining it	Prefer using the word 'people' only	No difference	Undecided	
Male	24.3%	44.0%	22.9%	8.8%	100%
Female	21.5%	39.3%	27.9%	11.4%	100%

Table 88 indicates close similarity in opinions between men and women, with the majority supporting the reference to “the people” only.

Survey findings by age group

Table (89)

Age group	Prefer maintaining it	Prefer using the word 'people' only	No difference	Undecided	
18-29 years	20.6%	42.7%	24.6%	12.0%	100%
30-39 years	22.2%	44.0%	24.6%	9.1%	100%
40-49 years	24.4%	41.0%	25.4%	9.1%	100%
50-59 years	30.5%	41.1%	21.3%	7.1%	100%
60 years+	26.6%	43.0%	25.3%	5.1%	100%

Survey findings by education level

Table (90)

Education level	Prefer maintaining it	Prefer using the word 'people' only	No difference	Undecided	
PhD	25.0%	53.1%	15.6%	6.3%	100%
Master's degree	23.5%	45.8%	23.5%	7.2%	100%
University degree	20.2%	49.5%	23.9%	6.4%	100%
Enrolled at university/institute	24.3%	38.5%	28.0%	9.2%	100%
High school or equivalent	23.0%	41.4%	27.6%	8.0%	100%
Middle school	20.9%	42.6%	20.0%	16.5%	100%
Elementary	25.7%	36.5%	24.3%	13.5%	100%
Literate	33.8%	13.8%	33.8%	18.5%	100%
Training institute	40.0%	13.3%	26.7%	20.0%	100%
Baccalaureate	22.2%	46.2%	23.0%	8.6%	100%

Survey findings by employment status

Table (91)

Employment status	Prefer maintaining it	Prefer using the word 'people' only	No difference	Undecided	
Government sector	20.1%	47.7%	24.0%	8.2%	100%
Military	33.3%	37.3%	22.7%	6.7%	100%
Private sector	22.9%	50.0%	21.2%	5.9%	100%

Semi-employed	28.6%	33.0%	24.1%	14.3%	100%
Retiree	25.4%	44.4%	25.4%	4.8%	100%
Full-time homemaker	23.2%	28.4%	32.6%	15.8%	100%
Student	27.0%	35.1%	25.7%	12.2%	100%
Unemployed	21.9%	40.4%	24.7%	13.0%	100%

Survey findings by economic status

Table (92)

Economic status	Prefer maintaining it	Prefer using the word 'people' only	No difference	Undecided	
Good	30.0%	41.2%	21.5%	7.3%	100%
Poor	26.3%	32.8%	25.8%	15.1%	100%
Medium	19.6%	45.3%	25.5%	9.6%	100%

Survey findings by ethnicity

Table (93)

Ethnicity	Prefer maintaining it	Prefer using the word 'people' only	No difference	Undecided	
Arab	15.1%	48.6%	26.3%	10.0%	100%
Kurdish	56.7%	18.5%	16.4%	8.4%	100%
Turkmen	41.4%	20.7%	31.0%	6.9%	100%
Shabak	0.0%	100%	0.0%	0.0%	100%
Chaldean	62.5%	37.5%	0.0%	0.0%	100%
Assyrian	0.0%	100%	0.0%	0.0%	100%
Armenian	0.0%	0.0%	50.0%	50.0%	100%

This table shows respondents from large ethnic groups (56.7% of the Kurds and 41.4% of the Turkmen) prefer to maintain the term “components.” Arab respondents (the dominant ethnic group) were much more heavily in favor of using the word “people.”

Survey findings by religion

Table (94)

Religion	Prefer maintaining it	Prefer using the word “people” only	No difference	Undecided	
Muslim	22.8%	42.8%	24.5%	9.9%	100%
Christian	39.0%	29.3%	26.8%	4.9%	100%
Sabian	66.7%	33.3%	0.0%	0.0%	100%
Yazidi	33.3%	33.3%	33.3%	0.0%	100%

Q14: The Constitution discusses the possibility that other regions may be formed. Do you support that possibility?

Table (95)

	Number	(%)
I support the formation of regions	453	30.2%
I do not support the formation of regions	849	56.6%
Undecided	198	13.2%
Total	1500	100%

In many ways, Question 14 is related to Question 13. In Iraq, federalism and regionalism are often considered one of the means through which group rights are protected. It is therefore not entirely surprising therefore that 30.2% of respondents stated that they support the formation of regions, while 23.5% of respondents consider that the term “components” should be

maintained in the Constitution. The two results do not correlate exactly but they broadly indicate the same level of support. Similarly, there is far greater support among respondents from the Kurdistan Region and Kirkuk for region formation than in the rest of the country (Table 96). Once again, the level of support for maintaining the term “components” among respondents from the Kurdistan Region and Kirkuk is slightly lower but nevertheless it remains much higher than for respondents from the rest of the country.

It should be noted that the results in Erbil, Dohuk, and Sulaymaniyah are somewhat unique in the sense that the residents of those provinces already live in a federal region. What this means is that respondents from those provinces were essentially being asked whether they supported the formation of regions in parts of the country that they do not live in. Conversely, respondents in the rest of the country are likely to have considered the situations of their own provinces first when responding to the question.

It is also unclear from the results if respondents in Kirkuk were expressing a preference to join the existing Kurdistan Region, if they favored established a new region in Kirkuk or if they considered the question generally. At the very least one can say that the reasoning of different respondents is likely to be diverse.

For respondents in the rest of the country, a clear majority expressed opposition to region formation, but there was nevertheless a significant minority of opinion in favor, including in Anbar (53.7%), Basra (38.5%), Salah al-Din (40.7%), Maysan (34.1%), etc. Respondents who support region formation in these parts of the country are also likely to have been motivated by a combination of factors, including a sense of marginalization from centralized institutions in Baghdad, as well as an attraction to perceived progress in service delivery in the Kurdistan Region.

Survey findings by governorate

Table (96)

Governorate	I support the formation of regions	I reject the formation of regions	Undecided	
Nineveh	26.5%	66.9%	6.6%	100%
Kirkuk	61.7%	30.0%	8.3%	100%
Diyala	10.6%	57.6%	31.8%	100%
Anbar	53.7%	40.3%	6.0%	100%
Baghdad	7.0%	84.5%	8.5%	100%
Babil	6.3%	72.2%	21.5%	100%
Karbala	12.8%	68.1%	19.1%	100%
Wasit	17.0%	66.0%	17.0%	100%
Salah al-Din	40.7%	42.4%	16.9%	100%
Najaf	25.0%	57.1%	17.9%	100%
Al-Qadisiyah	18.4%	55.1%	26.5%	100%
Al-Muthanna	6.7%	63.3%	30.0%	100%
Dhi Qar	22.8%	73.4%	3.8%	100%
Maysan	34.1%	53.7%	12.2%	100%
Basrah	38.5%	48.6%	12.8%	100%
Erbil	73.1%	10.3%	16.7%	100%
Dohuk	68.6%	17.6%	13.7%	100%
Sulaymaniyah	79.6%	9.2%	11.2%	100%

Outside of the Kurdistan Region and Kirkuk, a majority of respondents in virtually all provinces are not in favor of region formation. The only governorate in which a majority of respondents appear to support the formation of a region is Anbar (53.7%). However, it should also be noted that a very high proportion of

respondents were not in favor of forming a region (40.3%) and that there was only a very small proportion that is undecided (6.0%). This suggests that the question of region formation is a polarizing issue in Anbar, and that there are strong political dynamics that are pulling in opposite directions on this issue. The question also appears to be highly polarizing in Salah al-Din, where 40.7% support the formation of a region and an almost equal proportion (42.4%) were not in favor. Relatively high proportions of respondents in Basrah and in Maysan were also in favor of region formation, although in both cases they remained a clear minority. In the remaining provinces, comparatively smaller proportions of respondents favored region formation. The lowest proportion of respondents that were in favor are in Baghdad (7.0%) and Babel (6.3%).

The quality of service delivery appears to be a factor for respondents, but local political dynamics appears to be the most important factor in determining the level of support for region formation. For example, Dhi Qar and Muthanna are two of the poorest provinces in the country, but respondents in both provinces are largely opposed to region formation (with 73.4% and 63.3% respectively not in favor of region formation).

Q15: What is the best way to choose the governor?

Table (97)

	Number	(%)
The governor should be directly elected	1052	70.7%
The governor should be appointed by the Council of Ministers	166	11.2%
The governor should be appointed by the Council of Representatives	81	5.4%
The governor should be elected by the Governorate Council	106	7.1%
Undecided	83	5.6%
Other	12	80.0%
Total	1500	100%

Table 97 reflects the importance of choosing governors by elections. 70.7% of respondents think that governors should be directly elected. Meanwhile, only 7.1% favored the arrangement that is provided for in the Constitution («elected by the Governorate Council»). This strongly indicates that the federal arrangement as provided for in the Constitution is not in line with popular preferences.

Respondents were also generally unfavorable to having governors elected by the Council of Representatives. This strongly suggests that the public is suspicious of partisan interventions and quotas, possibly because party politics are associated with corruption.

Table 98 shows that respondents in Karbala were most favorable to directly elected governors (87.2%), followed by Babil (84.4%), Al-Muthanna (82.8%), and Maysan (82.1%). On the other hand, Salah al-Din recorded the lowest percentage (27.1%). Once again, it is very possible that the results are also a reflection of local political dynamics.

Survey findings by governorate

Table (98)

Governorate	Number	Directly elected by the people	Appointed by the Council of Ministers	Appointed by the Council of Representatives	Elected by the Governorate Council	Undecided	
Nineveh	136	77.2%	7.4%	4.4%	7.4%	3.7%	100%
Kirkuk	60	71.7%	5.0%	3.3%	18.3%	1.7%	100%
Diyala	66	58.5%	6.2%	10.8%	15.4%	9.2%	100%
Anbar	67	56.7%	29.9%	3.0%	7.5%	3.0%	100%
Baghdad	342	76.9%	11.7%	2.1%	3.3%	6.0%	100%
Babil	79	84.8%	2.5%	3.8%	0.0%	8.9%	100%
Karbala	47	87.2%	8.5%	0.0%	0.0%	4.3%	100%
Wasit	53	67.9%	20.8%	1.9%	1.9%	7.5%	100%
Salah al-Din	59	27.1%	37.3%	13.6%	11.9%	10.2%	100%
Najaf	56	78.6%	1.8%	0.0%	8.9%	10.7%	100%
Al-Qadisiyah	49	71.4%	10.2%	0.0%	8.2%	10.2%	100%

Al-Muthanna	30	82.8%	6.9%	0.0%	6.9%	3.4%	100%
Dhi Qar	79	68.4%	8.9%	22.8%	0.0%	0.0%	100%
Maysan	41	82.1%	10.3%	2.6%	5.1%	0.0%	100%
Basrah	109	56.0%	17.4%	16.5%	6.4%	3.7%	100%
Erbil	78	76.9%	10.3%	3.8%	6.4%	2.6%	100%
Dohuk	51	70.6%	0.0%	7.8%	17.6%	3.9%	100%
Sulaymaniyah	98	66.3%	5.1%	1.0%	17.3%	10.2%	100%

Survey findings by residential environment

Table (99)

Residential environment	Directly elected by the people	Appointed by the Council of Ministers	Appointed by the Council of Representatives	Elected by the Governorate Council	Undecided	
Urban	71.7%	11.3%	5.0%	7.0%	5.0%	100%
Rural	66.4%	10.7%	7.1%	7.5%	8.2%	100%

Q16: Which of the following issues has, in your opinion, the greatest impact on the country's problems? (Multiple answers were allowed)

Table (100)

	Number	(%)
The Constitution	379	15.1%
The quota system	913	36.3%
The consensual approach to government formation	556	22.1%
Foreign intervention	664	26.4%
Total	2512	100%

The results to Question 16 should be examined closely. Respondents were less likely to believe that the Constitution was to blame for the country's difficulties than other factors, but it should be noted that the quota system and consensual approach to government formation are parts of the political system provided for in the Constitution. The quota system is not provided for in the Constitution, but is suggested in various places, and is considered to be an essential characteristic of the political system. The consensual approach to government formation is also not formally provided for in the Constitution, but is the direct consequence of the Constitution's wording on government formation and of the way in which the relevant provisions have been interpreted by the Federal Supreme Court.

Q17: Do you think the Constitution was a driver of financial and administrative corruption?

Table (101)

	Number	(%)
Yes	533	35.5%
Yes, to some extent	605	40.3%
No	362	24.1%
Total	1500	100%

Table 101 shows a very large majority of respondents consider that the Constitution was one of the causes of corruption in Iraq. Altogether 75.8% of respondents consider that the Constitution either was a driver for corruption or was a driver to some extent. This should be read in conjunction with the results to Question 7, according to which 68% of respondents believe that the Constitution should be amended. Once again, the results are not identical, but they do correlate to a significant extent.

Geographically, there is no clear pattern or distinction between the results. Results did vary from province to province, but there is not a clear discernable pattern. Table 102 indicates that respondents in Dhi Qar (96.2%), Anbar (94%), and Ninevah (93.4%) were the most likely to respond that the Constitution was a cause of corruption, where the majorities in agreement

were overwhelmingly high. Results were generally the same in most of the rest provinces, including in Sulaymaniyah (88.8%), Erbil (83.3%) and Dohuk (86.3%). Respondents in Diyala (31.8%), Muthanna (30%) and Qadisiya (26.5%) were most likely to believe that the Constitution was not connected to corruption.

Survey findings by governorate

Table (102)

Governorate	Yes	Yes, to some extent	No	
Nineveh	26.5%	66.9%	6.6%	100%
Kirkuk	61.7%	30.0%	8.3%	100%
Diyala	10.6%	57.6%	31.8%	100%
Anbar	53.7%	40.3%	6.0%	100%
Baghdad	7.0%	84.5%	8.5%	100%
Babil	6.3%	72.2%	21.5%	100%
Karbala	12.8%	68.1%	19.1%	100%
Wasit	17.0%	66.0%	17.0%	100%
Salah al-Din	40.7%	42.4%	16.9%	100%
Najaf	25.0%	57.1%	17.9%	100%
Al-Qadisiyah	18.4%	55.1%	26.5%	100%
Al-Muthanna	6.7%	63.3%	30.0%	100%
Dhi Qar	22.8%	73.4%	3.8%	100%
Maysan	34.1%	53.7%	12.2%	100%
Basrah	38.5%	48.6%	12.8%	100%
Erbil	73.1%	10.3%	16.7%	100%
Dohuk	68.6%	17.6%	13.7%	100%
Sulaymaniyah	79.6%	9.2%	11.2%	100%

Survey findings by education level

Table (103)

Education level	Yes	Yes, to some extent	No	
PhD	35.9%	37.5%	26.6%	100%
Master's degree	34.0%	45.8%	20.3%	100%
University degree	38.5%	39.4%	22.0%	100%
Enrolled at university/institute	33.9%	37.2%	28.9%	100%
High school or equivalent	43.1%	36.2%	20.7%	100%
Middle school	35.7%	38.3%	26.1%	100%
Elementary	50.0%	36.5%	13.5%	100%
Literate	46.2%	44.6%	9.2%	100%
Training institute	33.3%	33.3%	33.3%	100%
Baccalaureate	30.0%	42.7%	27.3%	100%

Survey findings by employment status

Table (104)

Employment status	Yes	Yes, to some extent	No	
Government sector	34.3%	40.1%	25.6%	100%
Military	33.3%	45.3%	21.3%	100%
Private sector	33.1%	41.5%	25.4%	100%
Semi-employed	36.6%	45.5%	17.9%	100%
Retiree	33.3%	41.3%	25.4%	100%
Full-time homemaker	46.3%	36.8%	16.8%	100%
Student	31.5%	38.7%	29.7%	100%
Unemployed	44.5%	37.0%	18.5%	100%

Annex B

TARGETED SURVEY ON THE 2005 CONSTITUTION

I. Methodology

In addition to the general poll set out above, this survey targeted a much smaller segment of the population. The questions were directed to 100 individuals, including leading academics, lawyers, state officials, and others. The target group was surveyed in person and a variety of demographic data was collected about them (education level, job position, etc.) by field researchers of Rewaq Baghdad Center for Public Policy. Rewaq's Survey Department carefully selected respondents according to predetermined criteria. The target group included males and females, and the questionnaire was distributed in ten Iraqi governorates (Baghdad, Najaf, Basrah, Anbar, Erbil, Duhok and Sulaymaniyah, Babil, Dhi Qar, Mosul) that were covered by a team of 12 researchers, according to the non-probability sampling methodology, considering population weight and social diversity.

The questionnaire, which included 27 key questions that addressed the report's objectives and core themes, was translated into Kurdish to ensure adequate coverage of the Kurdistan Region. The demographic questions included variables relating to gender, age group, economic status, education level, marital status, nationality, and religion.

II. Personal Data

1. Place of Residence: Governorate

Table (1)

Governorate	Number
Baghdad	23
Mosul	15
Najaf	12
Anbar	5
Dhi Qar	5
Babel	5
Kurdistan Region	20 distributed
Basrah	15
Total	100

The above table shows that the respondents who participated in the survey are based in ten governorates, including governorates in the Kurdistan Region. 23% of respondents were based in Baghdad, the highest proportion from any single province, followed by 20% in the Kurdistan Region governorates, then Mosul, Basrah (15% each) and Najaf (12%).

2. Gender

Table (2)

Gender	Percentage
Male	87.0%
Female	13.0%
Total	100.0%

The above table shows an enormous difference in participation between males and females, as over two-thirds of the sample were males (87.0%), while females accounted for less than a quarter (13.0%). There are several reasons for this, including the absence of many women working in the specialties required for the sample. The result is that the targeted poll relied essentially on males.

3. Age Group

Table (3)

Age Group	Percentage
18- 29 years	3.0%
30- 39 years	18.0%
40-49 years	39.0%
50-59 years	29.0%
60 years+	11.0%
Total	100.0%

Table 3 shows that the highest participation percentage was by the 40-49 age group (39.0%), followed by the 50-59 age group (29%). This may be attributed to the education level of the chosen category, as the higher degree holders represented the highest percentage of the study sample (see Table 4).

4. Education level

Table (4)

Education level	Percentage
Doctorate Degree	57.0%
Master's Degree	20.0%
Bachelor's Degree	23.0%
Total	100.0%

Table 4 shows that over two-thirds of the sample are holders of higher degrees (Master's or Ph.D.). Ph.D. holders made up more than half of the sample (57.0%), and Master's holders made up 20.0%. The fact that this group of respondents is more involved in the public discussion on the Constitution provides us with a different perspective on the Constitution's performance and its needs.

5. Employment Status

Table (5)

Employment Status	Percentage
Government sector	72.0%
Military	0.0%
Private sector	21.0%
Retired	7.0%
Total	100.0%

The above table shows that nearly two-thirds of the sample (72.0%) work in the government sector. This is reflected in one way or another in other basic data, such as education level and age group, because the questionnaire is directed to those in high-level positions specialized in constitution-related areas, including university professors. The percentage of workers in the private sector followed with (21.0%), then retirees (7.0%). No military personnel took part in the survey.

III. Results

1. State religion

Question 1.

The Constitution provides: "Islam is the official religion of the State and is a foundation source of legislation." Which of the following statements best represents your opinion?

Table (6)

Answer	% of Respondents
It is important and emphasizes the country's Islamic identity	36.0%
It is important, but needs to be amended to reflect religious pluralism	35.0%
It does not have any practical impact	8.0%
It should be deleted	6.0%
It should be deleted. The drafters should not have included it	4.0%
Other	11.0%
Total	100%

These answers show that most respondents consider that the reference to Islam is important. However, only 36%, just over a third, support maintaining that provision without amendment. This suggests that there is likely strong support in the country in favor of amending the provision. Meanwhile, only 16% do not support the provision.

Question 2.

Are rights and freedoms that are provided for in the Constitution satisfactory and reassuring for minorities in Iraq?

Table (7)

Answer	% of Respondents
They are extremely satisfactory and reassuring	30.0%
They are satisfactory and reassuring	44.0%
They are slightly satisfactory and reassuring	13.0%
They are unsatisfactory	11.0%
Other	2.0%
Total	100.0%

The above table shows that, when combined together, nearly three quarters of respondents believe that the Constitution is protective of minority rights. These results should also be juxtaposed with Questions 9 and 10 in the general survey (Annex 1), in which the results were nearly inversed (with more than 60% expressed significant dissatisfaction with the protection of rights). This conforms with the views of respondents who chose "other" (only 2.0%), who emphasized in their interviews that the problem lies in practice. Amongst other things, they stated that implementing legislation is either absent or is not implemented. The interviews with members of the constitution drafting and amendment committees and politicians also supported this. They indicated that the constitutional rights and freedoms are excellent and significantly guarantee many of these rights, but the problem is the lack of related enforcement laws on the one hand, and the lack of political and constitutional awareness among Iraqis on the other.

Question 3.

What do you think about Article 3 (“Iraq is a country of multiple nationalities, religions, and sects”)?

Table (8)

Answer	% of Respondents
It constitutes an accurate description of Iraqi society	52.0%
It contributes to societal stability	7.0%
It has no effect on the ground	11.0%
It contributes to societal divisions and should be modified	22.0%
It contributes to societal division and should be removed	8.0%
Other	2.0%
Total	100.0%

The above question focuses on Iraq’s cultural and social reality. The results indicate that more than half the respondents (52.0%) confirmed that the article constitutes an accurate description of Iraqi society. These results should be juxtaposed with Question 13 in the general survey, in which 42.5% of respondents indicated that the word “components” should be abandoned in favor of the word “people.” For more on this, see the discussion under Question 4 below.

Question 4.

The use of the phrase “the components of the Iraqi people” in the Constitution...

Table (9)

Answer	% of Respondents
Guarantees components' rights	27.0%
Leads to the perpetuation of sectarianism, nationalism, and quotas	24.0%
Threatens Iraq's national identity	13.0%
Has no impact	11.0%
Should be amended and replaced with the phrase “the public”	25.0%
Total	100.0%

These results are related to the answers that were given to Question 3. Both relate to the use of the term “components.” The results indicate that there is a very significant disparity between the proportion of respondents who support the use of the term “components” and the rest. Only 27% support maintaining it in its current form (or 38% if we include the 11% who think that it makes no difference), whereas 62% either believe that it should be replaced or view the use of the term negatively.

The responses that were given to Question 3 should be distinguished from these results. The wording that Question 3 refers to is descriptive and does not have any operative or legal weight. The term “components” is different – in Iraq's political system, “components” are given either explicit or implicit rights. On occasion, these rights have been viewed negatively (as confirmed by the responses that were given to Question 13 in the general survey). The results to Question 4 above clearly demonstrate that very many respondents believe that the wording either contributes to sectarianism or that it threatens national unity. The results above are also broadly in conformity with the answers that were given to Question 13 in the general survey.

2. Freedoms

Question 5.

Does the Constitution include the rights and freedoms that are enshrined in international instruments and conventions?

Table (10)

Answer	% of Respondents
Yes, it guarantees all rights and freedoms in line with the nature of Iraqi society	44.0%
Yes, it guarantees all rights and freedoms enshrined in international instruments and conventions	8.0%
It includes them to a limited extent	40.0%
It does not include the rights and freedoms enshrined in international instruments and conventions	5.0%
It restricts the rights and freedoms enshrined in international instruments and conventions	2.0%
Other	1.0%
Total	100.0%

The above table shows how the surveyed group perceives the rights and freedoms that are set out in the Constitution. Clearly only a small percentage of respondents believe that the Constitution is fully in line with international instruments. The highest percentage (44.0%) stated that the Constitution guarantees full rights and freedoms in line with the nature of the Iraqi society. The phrase "in line with the nature of the Iraqi society" means that factors such as religion, customs, and traditions shape the definition of the Constitution's rights, and that those interpretations limit, in one way or another, the application of the rights stated in international conventions. That category of respondents therefore appears to believe that whatever differences exist between the Constitution and international instruments is justified, given the particularity of Iraqi society.

3. Tribes

Question 6.

Article 45(2) of the Constitution includes the phrase “The State shall seek the advancement of Iraqi clans and tribes, shall attend to their affairs in a manner that is consistent with religion and the law, and shall uphold their noble human values in a way that contributes to the development of society. The State shall prohibit tribal traditions that are in contradiction with human rights.”

Which of the following statements best represents your opinion?

Table (11)

Answer	% of Respondents
The provision is in conformity with the nature and customs of Iraqi society	24.0%
The provision undermines state authority	49.0%
The provision entrenches societal division	14.0%
The provision contributes to enhancing community security	0.0%
The provision contributes to destabilizing community security	13.0%
Total	100.0%

Table 11 demonstrates the opinions regarding principles like the authority of the state and the issue of multiple loyalties (e.g., to the clan, to the nation, etc.).

Nearly half of respondents (49.0%) believe that this phrase undermines, limits, and derogates the state authority, while a smaller percentage (24.0%) believe that it fits the nature and norms of Iraqi society. The responses “entrenched societal division” and “contributed to destabilizing community security,” combined, accounted for 27.0%, while not a single respondent appears to believe that Article 45(2) “contributes to enhancing community security.” As a result, respondents overwhelmingly perceive clan relations in a negative light and likely believe that the wording should be amended or eliminated altogether.

4. Parliament

Question 7.

Article 49(1) provides: “The Council of Representatives shall consist of a number of members, at a ratio of one seat per 100,000 Iraqi persons representing the entire Iraqi people.” What do you think of this way to determine the number of MPs?

Table (12)

Answer	% of Respondents
I agree with this ratio	35.0%
The ratio should be increased	0.0%
The ratio should be decreased	19.0%
The Constitution should set a fixed number of MPs	36.0%
Other	10.0%
Total	100.0%

Concerning the number and representation of the Council of Representatives members, the most favored options included maintaining a ratio of one seat per 100,000 Iraqi persons (35%), and determining a fixed number of the Council of Representatives members (36%), while reducing this percentage scored only 19%, and increasing it scored zero percent.

Question 8.

Article 60(1) says: "Draft laws shall be presented by the President of the Republic and the Council of Ministers." Which of the following statements best represents your opinion regarding the President of the Republic?

Table (13)

Answer	% of Respondents
The provision should remain unchanged	54.0%
The President may present draft laws to the Council of Ministers	22.0%
The President should not have this power	24.0%
Total	100.0%

The highest percentage of respondents (54%) are of the view that the provision should remain unchanged, and only 22% are of the view that the President should have the right to submit draft laws to the Council of Ministers.

Question 9.

Article 61(5) provides: The Council of Representatives is responsible for: "Approving the appointment of ambassadors and those with special grades, the Iraqi Army Chief of Staff, his assistants, those of the rank of division commander and above, and the director of the intelligence service." Which of the following statements best expresses your opinion of this provision?

Table (14)

Answer	% of Respondents
The provision ensures political balance and stability	35.0%
The provision leads to the politicization of the state and its governance structure	34.0%
The provision leads to imbalance between the legislature and the executive	22.0%
Other	9.0%
Total	100.0%

Article 61(5) is one of the Constitution's essential pillars. It provides the Council of Representatives with overwhelming control of all major appointments and (combined with other elements of the constitutional and political system) has led to a divvying up of positions between major political parties. The above table shows approximately 56% of respondents view this arrangement negatively, and that approximately only a third view it positively.

Question 10.

Article 61(6) provides:

"A. Questioning the President of the Republic, based on a petition with cause, by an absolute majority of the members of the Council of Representatives.

B. Relieving the President of the Republic by an absolute majority of the Council of Representatives after being convicted by the Federal Supreme Court in one of the following cases:

1. Perjury of the constitutional oath
2. Violating the Constitution
3. High treason"

What do you think of this mechanism of questioning and relieving the President?

Table (15)

Answer	% of Respondents
The mechanism is clear and commensurate with the role of the President	42.0%
The mechanism is too general and needs more detail	28.0%
The mechanism is not clear and needs to be modified	30.0%
Total	100.0%

This provision received significant attention on more than one occasion in recent years after the president was involved in political disputes. Questions emerged as to whether and how he could be removed. At the time, some political forces favored removing the president but were unable to do so, which raised questions as to whether the provision should be amended. Respondents were divided on this issue, but generally only 30% were of the view that the provision should be reconsidered in its entirety, which suggests that the current arrangement enjoys some support.

Question 11.

Article 61(7): Do you think the mechanism of questioning, interpellating, and withdrawal of confidence from the Prime Minister and from ministers is sufficient to monitor the executive's performance?

Table (16)

Answer	% of Respondents
It is sufficient	42.0%
It is leads to ministerial and political instability	15.0%
It is balanced	17.0%
It is insufficient and does not lead to sufficient oversight on the executive	26.0%
Total	100.0%

Table 16 shows that the highest percentage (42%) were of the view that the provision is sufficient to monitor the executive, while only 26% were of the view that the provision is insufficient to ensure effective oversight. The result is that a clear majority of respondents support maintaining this provision unchanged.

Question 12.

Article 63(2): What do you think of the phrase “immunity of members of the Council of Representatives” in the Constitution?

Table (17)

Answer	% of Respondents
It leads to imbalance between the legislative and executive powers	11.0%
It is necessary for parliamentary oversight to be exercised	59.0%
It should be amended to allow MPs to exercise better oversight	15.0%
Other	15.0%
Total	100.0%

Parliamentary immunity has been the focus of significant attention since 2005, with many considering that it is too protective of MPs and has allowed for many to abuse their position. It is notable therefore that 59% of respondents consider that current arrangements are necessary to ensure effective oversight. The rest of the responses are almost equally distributed between the remaining three responses.

Question 13.

Article 64(1): “The Council of Representatives may be dissolved by an absolute majority of the number of its members, or upon the request of one-third of its members by the Prime Minister with the consent of the President of the Republic. The Council shall not be dissolved during the period in which the Prime Minister is being interpellated.” Do you think the Constitution has achieved balance between the legislature and the executive regarding dissolution of parliament and the withdrawal of confidence from the government?

Table (18)

Answer	% of Respondents
It violates the balance between the two powers	24.0%
It achieves balance between the two powers	39.0%
It privileges the executive over the legislature	11.0%
It privileges the legislature over the executive	26.0%
Total	100.0%

The highest percentage of respondents (39%) believed that Article 64(1) achieves balance between the legislative and executive powers, while 26% were of the view that it privileges the legislature, and 11% were of the view that it privileges the executive. 24% believed this article violates the principle of balance between the two powers.

Since 2005, there has been vigorous debate as to whether Iraq's parliamentary system provides too much authority to the parliament, and whether the Constitution's arrangements have impaired Iraq's ability to develop and stabilize. The results to this question suggest that respondents generally believe that the system as it currently exists should be maintained. Only 24% of respondents believe that it should be amended, while the rest appear to believe that it should be maintained, even though they are not in full agreement as to the system's precise nature.

These results should be juxtaposed with the results to Question 8 in the general poll (Annex 1), according to which only 21.6% of respondents in that survey are in favor of maintaining a parliamentary system. This shows that there is a clear difference of opinion between the two groups of respondents on this issue. In addition, Table 45 shows that 56.3% of PhD holders (out of a total of 64 PhD holders who participated in the general poll) were in favor of adopting an American presidential system (see page 158). That result is broadly in line with the general population's

views on this issue, and is clearly different to the views that were expressed by the respondents who were targeted in this survey. This means that the primary factor that causes respondents to favor a parliamentary system over a more presidential system is not education or other factors, but it is rather those with greater involvement in the national debate on politics who are more likely to favor maintaining the current parliamentary system.

Question 14.

Article 65: What are your thoughts on whether the Federation Council should be formed?

Table (19)

Answer	% of Respondents
The Federation Council is necessary for the federal system's stability	46.0%
The Federation Council would lead to more political division	9.0%
The Federation Council would weaken the state's sovereign positions	11.0%
The Federation Council would contribute to political stability, as it represents all components	5.0%
The Federation Council would be nominal and ineffective	29.0%
Total	100.0%

The highest percentage of respondents (46%) stated that the article on the establishment of the Federation Council is necessary for the stability of the federal system, while those opposing it were divided between believing that the Council leads to more division (9%), believing that it will weaken the sovereign positions of the state (11%), and believing that it will be nominal and ineffective (29%).

5. The Executive

Question 15.

Article 69(2): “The provisions for nomination to the office of one or more Vice Presidents of the Republic shall be regulated by law.” Which of the following statements best represents your opinion?

Table (20)

Answer	% of Respondents
I agree with the current provision	11.0%
Only one Vice President should be nominated	43.0%
More than one Vice President should be nominated to increase representation of Iraq's components	8.0%
The position of Vice President should be abolished	38.0%
Total	100.0%

Table 20 shows that the elites see the current provision as in need of amendment, as the highest percentage (43%) supported nominating one vice president, and 38% saw the need to abolish the position altogether, while only 11% support the current provision and only 8% wish to have more than one vice president.

6. Powers of the President of the Republic

Question 16.

Regarding the powers of the President of the Republic in the Constitution, which of the following opinions is the closest to yours?

Table (21)

Answer	% of Respondents
The president's powers should remain as originally provided for in the Constitution	43.0%
The president's powers should be reduced, as they are not commensurate with the President's role	18.0%

The president's powers should be increased in line with the President's role	39.0%
Total	100.0%

The answers to this question reflect the respondents' desire to strengthen the President's powers. The highest percentage of respondents (43%) supported keeping the powers provided in the Constitution, and 39% supported increasing these powers, while only 18% supported the option of reducing them.

Question 17.

Article 76(1): "The President of the Republic shall charge the nominee of the largest Council of Representatives bloc with the formation of the Council of Ministers within fifteen days from the date of the election of the President of the Republic." Which of the following statements is closest to your opinion?

Table (22)

Answer	% of Respondents
The provision should remain unchanged	9.0%
Additional wording should be included to explain the meaning of "the largest bloc"	20.0%
Additional wording should be included to specify that the "largest bloc" is the largest bloc as announced by the Electoral Commission	48.0%
Additional wording should be included to specify that the "largest bloc" is the largest parliamentary bloc that is formed after the elections	10.0%
Additional wording should be included to specify that the "largest bloc" is the largest parliamentary bloc that is formed in the Council of Representatives	8.0%
Other	5.0%
Total	100.0%

Unlike some of the previous questions, this question has many options. The question and the answers that were given reflect the respondents' involvement with the political process and their views. It also relates to a problem that the Iraqi state has faced since 2010, when the Federal Supreme Court interpreted "the largest bloc" as the bloc formed in the Council of Representatives. The highest percentage (48%) were of the view that the largest bloc is the largest bloc as announced by the Commission, 20% were of the view that provisions should be added to explain the provision, while only 9% stated that the existing provision should be maintained and 10% supported were of the view that the largest bloc is whichever will have been formed in the Council of Representatives. The different preferences expressed reflect the current political confusion surrounding the article and its resulting societal consequences.

7. Judiciary

Question 18.

Article 89: "The federal judicial power is comprised of the High Judicial Council, the Federal Supreme Court, the Federal Court of Cassation, the Public Prosecution Department, the Judiciary Oversight Commission, and other federal courts that are regulated in accordance with the law." In your opinion, was the Constitution clear about which institution has ultimate authority within the judiciary?

Table (23)

Answer	% of Respondents
The provision is clear, and no amendment is required	34.0%
The provision should be amended to clarify that the High Judicial Council is the ultimate authority within the judiciary	7.0%
The provision should be amended to clarify that the Federal Supreme Court is the ultimate authority within the judiciary	21.0%
The provision should be amended to completely separate the two institutions	30.0%
Other	8.0%
Total	100.0%

This question is specialized and is consistent with the legal specialization of the respondents. The lowest percentage (only 7%) called for amending the phrase in favor of granting the High Judicial Council precedence over other judicial institutions, while the highest percentage (34%) supported keeping the provision unchanged. The option of complete separation between the two institutions received 30%, and the percentage of those who favor amending it in favor of making the Federal Supreme Court supreme was 21%.

Question 19.

Article 92(2): "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." What do you think of this provision's content?

Table (24)

Answer	% of Respondents
This provision should not be amended	23.0%
This provision should be amended to grant the Federal Supreme Court other powers	16.0%
This provision should be amended to grant experts in Islamic law and legal scholars an advisory role only	48.0%
Other	13.0%
Total	100.0%

The highest percentage of respondents (48%) supported amending the article so that legal scholars and experts in Islamic jurisprudence assume an advisory role, while only 23% preferred maintaining the existing provision, and 16% saw the need to add other powers. Noteworthy here is the objection to the membership of Islamic jurisprudence experts in the Court.

8. Powers of the Federal Government

Question 20.

What is your view on the allocation of responsibilities between the Federal Government and the regions and governorates?

Table (25)

Answer	% of Respondents
It has contributed to weakening federal authority	40.0%
It has contributed to strengthening decentralization and the federal system	20.0%
It has contributed to solving problems between the center and the Kurdistan Region and strengthened national unity	8.0%
It has exacerbated problems between the center and the Kurdistan Region	32.0%
Total	100%

Regarding this question, the highest percentages of answers, aggregated from options one and four, fed into almost one idea: the current distribution of powers in part led to the weakness of the state administration and its failure to adequately succeed. 40% of the respondents said that this distribution has weakened federal authority, and 32% said that it exacerbated the problems between the center and Kurdistan Region. Both answers mean that the distribution was not in the state administration's favor.

Only 8% of the respondents supported the distribution of powers between the federal authorities and Kurdistan Region and the governorates, which represents a trend far away from the administrative and political reality; most governorates, and even the central government, resort to the Federal Court to solve these problems and disputes.

Based on the analysis of the above tables, most respondents appear to support amending the Constitution's federal arrangements. To the respondents, maintaining these arrangements without amendment would negatively affect the

political process, and would impair the effort to strengthen governance, similar to what was achieved in the other parliamentary systems that inspired Iraq's Constitution.

Question 21.

What is your view on the Constitution's arrangements on oil and gas management (Article 112)?

Table (26)

Answer	% of Respondents
Oil and gas should be exclusively managed by the federal government	55.0%
Article 112 should be amended to include current and future oil and gas fields	14.0%
Article 112 should be maintained because it guarantees fair distribution of oil and gas between the federal government, the Kurdistan Region and the governorates	10.0%
Article 112 should be amended because it has caused disputes and disagreements between the federal government, the Kurdistan Region and the governorates	21.0%
Total	100%

55% of the answers supported making the management of oil and gas an exclusive federal power, 21% were in favor of amending the existing provision because it has caused disputes and conflict between Baghdad and the Kurdistan Region, and 14% supported amending it to include current and future oil and gas fields (one of the ambiguities in the Constitution). This distribution of responses suggests that 35% of respondents are in favor of amending this provision. Only 10% supported maintaining the provision because it guarantees fair distribution of oil and gas between the Region and the governorates. In summary, the answers show the desire for amendment toward making oil and gas management an exclusive power of the federal government, which received the support of more than half the respondents.

9. The Formation of Regions

Question 22.

What do you think of the Constitution's arrangements on region formation?

Table (27)

Answer	% of Respondents
The arrangement should remain unchanged	47.0%
The federal system should be abolished and Iraq should be established as a united country	21.0%
The Kurdistan Region should be maintained as the only region and no additional regions should be formed	18.0%
Other	14.0%
Total	100%

Table 27 shows that nearly half the respondents (47%) were in favor of maintaining the current provision unchanged, while 21% were in favor of abolishing the federal system altogether and making Iraq a more centralized country. 18% were in favor of maintaining the Kurdistan region as the only federal region and that no new regions should be formed. The latter category of responses could feasibly be added to the responses that prefer maintaining the current arrangement unchanged (47%). The result is that a clear majority of respondents appear to support maintaining the current arrangement.

The "other" answers amounted to 14% of respondents, between supporters and opponents of the formation of new regions, and focused on the following:

(1) Forming administrative regions with carefully considered powers, providing more realistic conditions for their establishment, making each governorate a region by amending its constitutional competencies and powers, and giving the center a greater role. This option was supported by half of the 14% of respondents in the "other" category.

(2) Some respondents were in favor of eliminating the provision and regulating the legal status of the Kurdistan Region so as not to allow it to secede, while others strongly supported amending the provision such that five governorates (rather than three) would be entitled to veto specific arrangements. Some respondents were in favor of amending the provision to make the issue smoother, and stop being a source of fear among citizens of losing the national identity.

This result should be compared with the results to Question 14 of the general poll (page 186). From the results, it appears that there is a mixture of views in both groups of respondents. 30.2% of respondents in the general poll and 47% of respondents in the targeted poll appear to support maintaining the Constitution's current arrangements and therefore either favor or do not object to the formation of additional regions. What this means is that in both surveys (particularly the general poll), a bare majority of respondents support either curbing the federal system or abolishing it altogether. This confirms that support for federalism extends beyond the Kurdistan Region.

Question 23.

Article 121(4): "Offices for the regions and governorates shall be established in embassies and diplomatic missions, in order to follow cultural, social, and developmental affairs." What do you think of establishing offices for the regions and governorates in embassies and diplomatic missions?

Table (28)

Answer	% of Respondents
The provision should remain unchanged, as it is an acceptable right for the regions and governorates	22.0%
Diplomatic representation should be restricted to the federal government only	42.0%
The provision should be removed as it undermines the unity of the country's foreign policy	36.0%
Total	100%

Table 28 shows that 42% of the respondents supported limiting diplomatic representation to the federal government only, while 36% demanded the abolition of the text because it violates the unity of the country's foreign policy. These two options' objectives are closely aligned, meaning that 78% of the respondents support limiting foreign policy to the federal authority. 22% supported keeping the text because it is an acceptable right for the regions and governorates.

Question 24.

Article 122(3): "The governor, who is elected by the Governorate Council, is deemed the highest executive official in the governorate to exercise his powers authorized by the Council."

What do you think of the Constitution's arrangement for selecting governors?

Table (29)

Answer	% of Respondents
The current arrangement should be maintained	28.0%
The governor should be directly elected by the people	51.0%
The governor should be appointed by the Council of Ministers	10.0%
The governor is appointed by the Council of Ministers and approved by the Council of Representatives	11.0%
Total	100%

Table 29 shows that more than half the respondents (51%) supported electing the governor directly by the people, while 28% said that the mechanism mentioned in the Constitution should be kept. The remaining two responses ("appointed by the Council of Ministers" and "appointed by the Council of Ministers and approved by the Council of Representatives") were nearly identical (10% and 11%, respectively). The respondents undoubtedly viewed the choice of governor directly elected by the people as more favorable. Also, in the general questionnaire, responses to Question 15 (Table 97) indicated that 1,052

respondents (70.7%) supported directly electing the governor, while only 106 participants (7.1%) were in favor of maintaining the current Constitution (elected by the Governorate Council). This demonstrates the strong support for amending the Constitution, potentially because of a general impression that the current system contributes to corruption.

Question 25.

Article 124(1): “Baghdad in its municipal borders is the capital of the Republic of Iraq and shall constitute, in its administrative borders, the governorate of Baghdad.” What do you think of the provision according to which Baghdad in its municipal borders is defined as the capital?

Table (30)

Answer	% of Respondents
The provision should remain unchanged	48.0%
Baghdad in its administrative borders should be defined as the capital of Iraq	47.0%
Other	5.0%
Total	100%

Respondents were divided between keeping the relevant provision unchanged (48%) and considering Baghdad, with its administrative borders, the capital of Iraq (47%). The open answers (5%) ranged between amending the text, “Baghdad in its municipal borders only,” and believing that the text is redundant, especially if the provision on region formation is eliminated. Some respondents also considered that a distinction should be drawn between the capital, Baghdad, and the governorate of Baghdad, as set forth in the Constitution.

10. Amendment and transitional provisions

Question 26.

Article 126 (Constitution Amendment): What do you think of the existing mechanism to amend the Constitution?

Table (31)

Answer	% of Respondents
The provision should remain unchanged	31.0%
The provision should be amended to make the Constitution more flexible and amendable with less complicated procedures	51.0%
The provision should be amended to make the Constitution flexible and amendable by consensus of Iraq's components	13.0%
Other	5.0%
Total	100%

Table 31 shows that 51% of respondents are in favor of amending the Constitution to make it more flexible and amendable with less complicated procedures, while 31% were in favor of maintaining the Constitution's current arrangements, and 13% supported amending the text so that the Constitution is more flexible and amendable by consensus of Iraq's components. This means that a clear majority of respondents supported amending the Constitution's amendment rules. The open answers (5%) were distributed as follows:

1. The provision according to which three governorates may veto any initiative to amend the Constitution should be deleted.
2. Amend the provision so that it no longer become necessary to obtain the region's approval when amending its powers.
3. Amend the provision so that it is no longer necessary to organize a referendum to amend the Constitution.
4. Amend the provision to remove any contradictions between Articles 126 and 142.

Question 27.

Transitional Provisions (Articles 132-143): Should the Constitution's transitional provisions remain unchanged?

Table (32)

Answer	% of Respondents
The transitional provisions should remain unchanged	26.0%
The transitional provisions should be removed because they are no longer needed	31.0%
The transitional provisions should be amended	41.0%
Other	2.0%
Total	100%

The response rate was similar, as 41% of respondents were in favor of amending the transitional provisions, 31% supported canceling them because they are no longer needed and 26% supported keeping these provisions unchanged. Taken together these results show that 67% favor maintaining the transitional provisions in some form.

Annex C

CHRONOLOGY OF IRAQ'S MODERN CONSTITUTIONAL HISTORY

Date	Event
2003	
28/1/2003	United States President George Bush states that the United States is prepared to invade Iraq, even without authorization from the United Nations.
19/3/2003	United States President George Bush declares war on Iraq.
9/4/2003	American forces advance on Baghdad. A statue of Saddam Hussein is destroyed in the middle of Baghdad. In the days that follow, Kurdish fighters and American forces take control of the northern cities of Kirkuk and Mosul, and massive looting occurs in Baghdad and other Iraqi cities.
4/2003	The United States draws up a list of 55 wanted individuals from the then defunct Baathist regime. Former Iraqi Deputy Prime Minister Tariq Aziz is arrested.
1/5/2003	The United States announces the end of major combat operations.
12/5/2003	Diplomat Paul Bremer is appointed civilian governor of Iraq.
22/5/2003	The United Nations Security Council passes a resolution supporting the United States-led administration and lifting economic sanctions. Paul Bremer dissolves the Ba'ath Party and many of the former regime's institutions.
26/6/2003	Ayatollah Ali al-Sistani issues a statement on the need to hold general elections and to grant all Iraqi citizens the right to vote to choose their representatives in a transitional legislative assembly responsible for drafting a permanent constitution. The statement also specifies that the draft constitution must be put to referendum.
7/2003	The Coalition Provision Authority establishes the Governing Council, which is made up of 25 Iraqi political figures who are selected on a sectarian basis.
8/2003	Bomb attack on the Jordanian Embassy in Baghdad kills 11; attack on United Nations headquarters in Baghdad kills 22, including the United Nations special representative; Ali Hassan al-Majid, Saddam Hussein's cousin, also known as "Chemical Ali," is arrested.

9/8/2003	Armed resistance against United States occupation forces intensifies. The number of United States service members killed rises to 255 since the end of combat announced at the beginning of May.
19/8/2003	Suicide bombing destroys the United Nations mission headquarters in Baghdad, killing 24, including United Nations envoy Sergio Vieira de Mello.
29/8/2003	Shiite cleric Ayatollah Mohammed Baqir al-Hakim dies in an explosion in Najaf that kills about 80 people.
10/2003	The United Nations Security Council passes a resolution legitimizing the United States occupation of Iraq and confirming the swift transfer of power to Iraqis. Dozens are killed in explosions in Baghdad, including an attack on the Red Cross office.
11/2003	The Coalition Provisional Authority begins to formulate an interim constitution for Iraq, which later becomes the Transitional Administrative Law. A small number of Iraqi and American officials participate in the initial stages of the drafting process. Eventually, the discussions are expanded to include senior American officials and Iraqi political leaders.
11/2003	Security continues to deteriorate, six months after the United States president declares an end to military operations in Iraq. By November, the number of American casualties in Iraq exceeds the number killed during the war, with 105 Coalition troops killed in one month.
14/12/2003	Saddam Hussein arrested in Salah al-Din Governorate.

2004

2/2004	The Transitional Administrative Law is adopted. It provides for the election of a transitional legislative assembly by January 2005, which will be responsible for drafting a permanent constitution by August 2005. It also provides that a referendum should take place on the final draft on 15 October 2005.
1/2/2004	More than 100 people are killed in Erbil in twin attacks on the offices of the main Kurdish parties.
3/2004	The Governing Council approves an interim constitution after lengthy negotiations and sharp differences over the role of Islam and Kurdish demands for autonomy.

3/3/2004	Organized attacks on Shiite Muslim gatherings during Ashura commemorations in Karbala, killing more than 80 people.
4/4/2004	Extensive United States attack on Fallujah after the killing of four United States security contractors. Marine forces fail to enter the city. The battle ends after both the Marines and the people of Fallujah suffer heavy losses.
5/4/2004	Militias belonging to Muqtada al-Sadr launch attacks on Coalition forces, amid reports of hundreds of deaths in fighting against the United States Army, which surrounds the city of Fallujah, and leaked photos of violations against Iraqi prisoners by United States forces. Governing Council President Izz al-Din al-Salim is killed in an explosion outside Coalition headquarters in Baghdad.
22/4/2022	Washington announces that some hundreds of thousands of members of the Ba'ath Party who lost their jobs can return to them.
30/4/2004	The Abu Ghraib Prison scandal erupts after media outlets publish photos showing widespread abuses of Iraqi inmates.
17/5/2004	Transitional Governing Council President for the month of May, Izz al-Din al-Salim, is killed in an explosion.
27/5/2004	A truce is reached between forces loyal to Muqtada al-Sadr and the United States Army, ending weeks of fighting between the two sides.
1/6/2004	Governing Council candidates Iyad Allawi and Ghazi al-Yawar take the oath of office, respectively as Interim Prime Minister and Interim President.
6/2004	The United States restores sovereignty to the interim Iraqi government led by Iyad Allawi.
16/6/2004	The United States National Commission on Terrorist Attacks Upon the United States says that it has found no credible evidence that Iraq and Al-Qaeda cooperated in the 11 September 2001 attacks.
9/7/2004	A United States Senate Intelligence Committee report released by the Democratic and Republican Parties harshly criticizes the intelligence used to justify the invasion of Iraq.

15/7/2004	In a press conference, United Nations Secretary-General Kofi Annan describes the war in Iraq as illegal.
17/7/2004	The United Kingdom Butler Report says that the intelligence relied on to launch the war was exaggerated.
28/7/2004	About 70 people are killed in a car bombing in Baquba.
8/2004	Fighting erupts in Najaf between United States-led forces and Shiite militias belonging to Muqtada al-Sadr.
11/2004	Major United States-led attack on militants in the city of Fallujah.
25/10/2004	Hundreds of tons of high-powered explosives disappear from a military complex in Al-Qaqa.
8/11/2004	New United States attack on Fallujah destroys the city. United States forces are accused of using internationally banned weapons, including depleted uranium shells and phosphorus bombs.
19/12/2004	Car bomb attacks in Najaf and Karbala kill more than 60 people.

2005

4/1/2005	Assassination of the governor of Baghdad.
30/1/2005	The first post-war general elections are organized. The National Transitional Assembly is elected under the Transitional Administrative Law, with the primary objective of drafting a constitution to be approved by a referendum to be held in October 2005. Election day is one of the most violent days, with more than 200 attacks.
22/2/2005	The United Iraqi Alliance wins 48% of the votes (versus 26% for the Kurds) and chooses Ibrahim al-Jaafari as Prime Minister.
28/2/2005	At least 114 people are killed in a car bomb explosion in the city of Hilla, south of Baghdad, in the worst incident since the United States-led invasion.

17/3/2005	The Federal Supreme Court is established under Law No. 30 of 2005. Medhat Mahmoud is appointed chief justice of the Court and head of the High Judicial Council.
4/2005	The House of Representatives elects Jalal Talabani president and Ibrahim al-Jaafari prime minister amid escalating violence.
12/4/2005	The White House officially announces that inspections in Iraq have ended without finding weapons of mass destruction.
10/5/2005	A constitution drafting committee is formed to draft a constitution to be put to a referendum in October 2005. The committee is made up of 55 members led by Sheikh Humam Hamoudi. Eventually, the committee is expanded to include 15 members representing components that boycotted the elections in January 2005. According to the Transitional Administrative Law, the drafting process must end by 15 August 2005, meaning that the committee has just three months to complete the constitution. Car bomb explosions, bombings, and shootings increase. Relevant authorities report that the death toll in May was 672—higher than in April, when 364 people were killed.
6/2005	Masoud Barzani is sworn in as President of Iraqi Kurdistan.
7/7/2005	Al-Qaeda announces the killing of Egyptian ambassador Ihab al-Sharif.
21/7/2005	Al-Qaeda kidnaps two Algerian diplomats in Baghdad, who they kill a few days later.
15/8/2005	The deadline for completing the draft constitution passes without agreement on the final text. The constitution drafting committee is dissolved, and negotiations continue in the so-called “political kitchen.”
13/10/2005	Senior politicians continue to negotiate the constitution until the last moment.
15/10/2005	Referendum on the constitution takes place.
25/10/2005	The electoral committee announces the adoption of the new constitution with the support of 79% of the votes.

19/11/2005	American soldiers kill 24 civilians, including women and children, in the town of Haditha in retaliation for the killing of a United States marine.
12/2005	Iraqis vote in the general elections to create the first full-term Iraqi government and first House of Representatives since the United States-led invasion.
2/12/2005	Ten marines are killed in a bomb blast in Fallujah.

2006

22/2/2006	Bomb blast causes severe damage to Al-Askari shrine in Samarra, provoking sectarian attacks that kill hundreds over the course of a few days. The attacks spread to include most parts of Iraq, especially Baghdad. Sectarian attacks continue through 2006 and 2007, and statistics estimate that tens of thousands of civilians are killed.
15/3/2006	Saddam Hussein testifies for the first time during his trial in the so-called Dujail case.
21/3/2006	Discovery of dozens of bodies in Baghdad, most of them tortured and executed.
22/4/2006	Political groups agree to appoint Nouri al-Maliki head of the Dawa party and of the government after four months of disputes. Jalal Talabani, who was re-elected as President of Iraq, charges him with forming a new government to end the months-long political stalemate.
6/5/2006	More than 100 people are killed in acts of violence.
7/6/2006	The head of Al-Qaeda in Iraq, Musab al-Zarqawi, is killed in an airstrike.
25/7/2006	The United States announces the transfer of additional United States forces from Baghdad to counter the state of insecurity, chaos, and sectarian fighting.
15/8/2006	The Iraqi Ministry of Health and the Baghdad Morgue report nearly 3,500 civilians killed in July.
11/10/2006	The House of Representatives passes a law allowing the governorates to merge together to form federal regions.

12/2006	The Iraq Study Group says it has made recommendations to United States President George Bush on the future of politics in Iraq, describing the situation as dangerous and getting worse.
22/12/2006	The number of civilians killed in October reaches a record high (3,700), the highest since the beginning of the occupation.
23/12/2006	More than 200 people are killed in car bombings that rock Sadr City in Baghdad, followed by the killing of dozens in attacks targeting Sunni mosques in Baghdad and Baquba.
31/12/2006	Saddam Hussein is executed.

2007

1/2007	United States President George Bush announces a new Iraqi strategy that involves sending thousands of new United States troops to Iraq with the goal of enhancing security in Baghdad. The United Nations says that more than 34,000 civilians were killed in acts of violence during 2006, which is three times the number announced by the Iraqi government.
26/2/2007	The Iraqi government approves a draft law that calls for the distribution of oil revenues to all governorates according to population and allows the governorates to negotiate petroleum contracts with foreign companies.
2/2007	More than 130 people are killed in a bombing in the Sadriya market in Baghdad, the worst explosion since 2003.
4/2007	Explosions in Baghdad kill nearly 200 people in the worst single-day violence since the beginning of a United States-led security operation in Baghdad in February.
12/4/2007	Eight people, including two MP's, are killed in a suicide bombing targeting the House of Representatives in the Green Zone.
18/4/2007	More than 200 people are killed in attacks in Baghdad, including approximately 140 in Sadr City. Shiite and Kurdish leaders form an alliance with the goal of supporting al-Maliki's government, but they fail to convince Sunnis to join.

8/2007	A truck bomb and bombs target two Yazidi Kurdish villages, killing of at least 250 people in the worst single act of violence since 2003.
1/8/2007	Ministers of the Sunni Accordance Front resign from the Nouri al-Maliki government.
12/2007	British forces hand over security tasks in Basra Governorate to Iraqi forces, putting an end to nearly five years of British military presence in southern Iraq.

2008

1/2008	The House of Representatives issues legislation allowing former officials of certain ranks in the dissolved Ba'ath Party to return to public employment.
1/2/2008	About 70 people are killed in a suicide bombing in a market east of Baghdad.
24/2/2008	A suicide bombing kills more than 50 Shiite pilgrims on their way to the shrine of Imam Hussein in Karbala.
3/2008	Iranian President Mahmoud Ahmadinejad visits Iraq. Iraqi Prime Minister Nouri al-Maliki orders a confrontation with Shiite militias in Basra, leading to clashes with Muqtada al-Sadr's Mahdi Army that kills hundreds.
23/3/2008	A bombing in Baghdad brings the number of United States troops killed in Baghdad to 4,000.
25/3/2008	An Iraqi military campaign is launched, with United States and British support, against Madhi Army positions in Basra. Fighting spreads to Sadr City in Baghdad.
31/3/2008	Muqtada al-Sadr orders the end of fighting in return for amnesty for his supporters and the release of detainees not convicted of crimes.
24/4/2008	The Tawafuq coalition decides to return to the government, and its leader, Adnan al-Dulaimi, cites the amnesty law and the campaign against Shiite militias among the reasons.

20/5/2008	Iraqi forces enter Sadr City and engage in battles against members of the Mahdi Army who were supposed to evacuate the area under a prior agreement with the government.
17/6/2008	More than 60 people are killed in a bus bombing in a crowded Baghdad market. The United States Army blames a Shiite military commander for the attack.
19/7/2008	The House of Representatives approves the appointment of six ministers, all of them from the Tawafuq coalition that had been boycotting the Maliki government for a full year.
14/8/2008	Nearly 500 minority Yazidis are killed in two truck bomb explosions in the towns of al-Qahtaniyah and al-Jazirah in northern Iraq, the single worst act of violence to date.
9/2008	United States forces hand over security tasks in Anbar Governorate in western Iraq, a stronghold for insurgents and Al-Qaeda, to the Iraqi government. The House of Representatives issues a law on the election of governorate councils. The ongoing controversy continues over the status of the city of Kirkuk, whose sovereignty the Kurds and Sunnis have been disputing, until local elections can be held in other places.
1/10/2008	The Iraqi government takes charge of the Sahwa force, which numbers more than 50,000 armed men.
7/10/2008	Iraq and the United States reach a draft security agreement that sets the end of 2011 as the last date for the withdrawal of United States forces. The Iraqi government requests that amendments be made to the agreement.
16/11/2008	The Iraqi government approves an agreement, later approved by the House of Representative and the Presidency Council, regulating the presence of United States forces until the date of their withdrawal at the end of 2011, and setting the summer of 2009 as the last date for their departure from the cities.

2009

31/1/2009	Local elections to establish governorate councils take place without significant violence. Iraqi government forces take over security duties in the heavily guarded and fortified Green Zone. They are also given broader authority over foreign forces in Iraq. Al-Maliki welcomes this step, saying it reflects "Iraq's sovereignty" over its territory.
3/2/2009	More than 20 Sunni tribal sheikhs are killed in a suicide attack.
3/2/2009	The number of United States troops killed in 2008 falls to 314, compared to 904 in 2007, with a total of 4,221 United States troops killed since 2003 (Asharq Al-Awsat, London).
13/2/2009	More than 30 Shiite pilgrims are killed in a suicide bombing in Baghdad.
14/2/2009	A Pentagon report notes that Iraqi citizens remain focused on services, business, health, and electricity, and not on security (Los Angeles Times, Los Angeles).
20/2/2009	The Independent High Electoral Commission announces the final results of the elections for Iraq's 14 governorates, and Nouri al-Maliki's State of Law coalition sweeps most of the governorate councils.
22/2/2009	Prime Minister Nouri al-Maliki renews his call to change the constitution to preserve the unity of Iraq, while the Independent High Electoral Commission announces the failure of a campaign to gather the signatures needed to hold a referendum on changing the oil-rich Basra Governorate into a region.
26/2/2009	The House of Representatives lifts immunity from Mohammed al-Dayni after his involvement in the 2007 bombing of the House of Representatives.
27/2/2009	The President of Iraqi Kurdistan refuses to hold the upcoming parliamentary elections in the region under the supervision of the Independent High Electoral Commission in Iraq.

3/2009	The 2005 Constitution Review Committee is formed. The Committee includes political representatives and technical experts. The Committee reaches agreement on important changes to the Constitution at the end of 2009 and submits a report to the Presidency of the House of Representatives. The Presidency does not act on the report and fails to proceed with the review of the constitution.
7/3/2009	The House of Representatives approves the general budget law of 2009, after reducing it by 7%.
23/3/2009	Iraqi Minister of Interior Jawad Bolani confirms the dismissal of 62,000 police officers accused of corruption and sectarian violence.
3/2009	United States President Barack Obama announces the withdrawal of most United States forces from Iraq by the end of August 2010. About 50,000 of a total of 142,000 United States troops will remain in Iraq until 2011 in order to train Iraqi forces and protect American interests, provided they leave by the end of 2011.
9/4/2009	At the invitation of Muqtada al-Sadr, tens of thousands of Iraqis demonstrate in Fardos Square on the anniversary of the fall of the Ba'athist regime, and al-Sadr demands the exit of all United States forces from Iraq.
20/4/2009	Iraqi Islamic Party candidate Ayad al-Samarrai is elected Speaker of the House of Representatives.
23/4/2009	Report of the United Nations Assistance Mission for Iraq on disputed regions recommends that the Iraqi government preserve the unity of the oil-rich Kirkuk Governorate.
23-24/4/2009	More than 140 people are killed in suicide bombings in Baghdad, two of them near the Shrine of Imam Musa al-Kadhim.
25/4/2009	Sixty people are killed in twin suicide bombings in al-Kadhimiya amid fears of the return of sectarianism.
30/4/2009	Three car bombings kill 41 and wound 63 in Sadr City.
2009/5/1	British forces officially end their combat mission in Iraq.

31/5/2009	After he is accused of administrative and financial corruption, Iraqi security forces arrest the resigned Iraqi Minister of Commerce, Abdul Falah al-Sudany, at Baghdad airport as he attempts to depart for Dubai.
13/6/2009	Leader of the Iraqi Tawafuq coalition in the House of Representatives, MP Harith al-Obaidi, is assassinated in Baghdad after delivering a Friday sermon in which he condemned the arbitrary arrest and torture of detainees and called on the Iraqi authorities to release those not proven guilty.
21/6/2009	A car bombing near a Shiite mosque in Kirkuk kills 56 and wounds 16, ten days before the withdrawal of United States forces from Iraqi cities.
25/6/2009	The Kurdistan regional parliament ratifies the draft constitution for the region, which calls for annexing the disputed Kirkuk area to the region in preparation for putting the constitution to a public referendum on 25 July 2009, in conjunction with the region's general elections. The constitution stipulates that Iraqi Kurdistan shall be a federal region within the federal state of Iraq.
30/6/2009	United States forces withdraw from Iraqi cities. 130,000 troops who have occupied Iraq for six years are redeployed. Iraqis celebrate what they call the restoration of sovereignty.
13/7/2009	Iraqi authorities take strict security measures around churches in Baghdad after a series of explosions targeting churches and killing at least four people.
13/8/2009	The Central Organization for Statistics in the Iraqi Ministry of Planning confirms that about 23% of Iraqis live under the poverty line, and states that the number is expected to double.
18/8/2009	The government postpones the census that is scheduled for the first week of October 2009, for reasons related to demographic changes in several areas.
25/8/2009	Announcement in Baghdad of the formation of the National Iraqi Alliance to run in the upcoming parliamentary elections without the participation of the Dawa Party led by Prime Minister Nouri al-Maliki.
3/9/2009	The head of the Integrity Commission announces the arrest of Deputy Minister of Transport Adnan al-Obaidli, who is caught taking a bribe of USD 100,000 out of USD 500,000 paid by security companies working at the airport, in exchange for facilitating the renewal of their contracts.

17/9/2009	The Kurdistan Regional Parliament selects Barham Salih as President of the Kurdistan Regional Government.
1/10/2009	Iraqi Prime Minister Nouri al-Maliki announces the formation of the State of Law coalition to run in the upcoming parliamentary elections against the National Iraqi Alliance led by Ammar al-Hakim, the head of the Islamic Supreme Council and the Sadrist movement.
15/10/2009	The Iraqi Ministry of Human Rights estimates that about 85,000 Iraqis were killed and 147,000 wounded in 2004 and 2005.
26/10/2009	Two suicide bombings targeting the Ministry of Justice and Baghdad Governorate buildings kill 145 civilians and wound more than 700.
4/11/2009	Suspicious of corruption taint licensing operations due to the failure to publish contracts concluded by the Iraqi government, represented by the Ministry of Oil with international corporations, for more than 10 years, and the lack of transparency continues.
9/11/2009	The House of Representatives passes the general parliamentary election law by a majority of 141 out of 275 votes.
24/11/2009	The House of Representatives passes an amendment to the election law in preparation for submission to the Presidency for ratification. Among the new amendments is the addition of 2.8% for each governorate, given that the constitution stipulates one representative for every 100,000 citizens.
7/12/2009	The House of Representatives passes a second amendment to the parliamentary election law.
9/12/2009	Five explosions targeting the Ministry of Interior, Ministry of Finance, and the Kharkh Court rock Baghdad, killing 127 and injuring about 450.

2010

1/2010	Muqtada al-Sadr returns after four years of voluntary exile in Iran. Controversy intensifies when candidates with supposed ties to the dissolved Ba'ath Party are prohibited from running in the parliamentary elections in March. A court later lifts the ban, which leads to the postponement of election campaigns.
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11/1/2010	A law amending House of Representatives Law No. 50 of 2007 is issued after the first and second veto.
15/1/2010	The Electoral Commission bars 499 candidates from running because of their alleged links to the Ba'ath Party.
26/1/2010	The House of Representatives approves the 2010 general budget of IQD 84.7 trillion (USD 72.5 billion), with a deficit of IQD 22.9 trillion (USD 19.6 billion).
1/2/2010	The Federal General Budget Law for the Republic of Iraq is issued for fiscal year 2010.
1/3/2010	The first amendment of Independent High Electoral Commission Law No. 11 of 2007 is issued.
7/3/2010	Iraqis vote in the second parliamentary elections since the beginning of the occupation, accompanied by attacks that kill more than 40 people.
26-27/3/2010	The Electoral Commission announces that former Prime Minister Iyad Allawi's list outperforms Nouri al-Maliki's list by two seats. Al-Maliki challenges the results, and the beginning of a political crisis in Iraq hinders the formation of a new government.
26/3/2010	The Federal Supreme Court issues a ruling on the interpretation of Article 76(1) of the constitution, ruling that the term "the largest bloc in the House of Representatives" means the largest parliamentary bloc. This interpretation gives a clear advantage to Nouri al-Maliki's efforts to remain in office.
4/4/2010	Suicide bombings, including two that target the Egyptian consulate and the Iranian embassy, kill more than 40 people in Baghdad.
23/4/2010	More than 80 people are killed in bombings targeting Shiite mosques in Baghdad.
26/4/2010	Annulment of the results of 52 candidates in the legislative elections that took place in March, the majority of whom belong to the Iraqiya List.

5/5/2010	The National Alliance led by Ammar al-Hakim and the State of Law coalition led by Nouri al-Maliki join forces under the name "National Coalition," and, with other small groups, they form a bloc of 159 representatives in order to form a government.
10/5/2010	More than 80 people are killed in various attacks in Baghdad Governorate.
14/5/2010	After recounting 11,298 ballot boxes, the Electoral Commission announces that no evidence of fraud or tampering has been shown.
14/6/2010	Inauguration of the new House of Representatives.
8/7/2010	More than 60 people are killed in explosions targeting Shiite pilgrims.
7/8/2010	Law on the Independent Public Commission for Human Rights in Iraqi Kurdistan is issued.
31/8/2010	United States President Barack Obama announces the end of the United States' combat mission in Iraq.
31/10/2010	Gunmen take dozens of hostages in Our Lady of Deliverance Church in Baghdad, and more than 50 hostages are killed during a rescue attempt. The interim Iraqi government declares a state of emergency in the country for 60 days in all parts of Iraq except the Kurdistan region.
11/11/2010	Osama al-Nujaifi of the Iraqiya List is elected Speaker of the House of Representatives with 227 of a total of 295 votes. His election represents the first step toward implementing an agreement that ended eight months of stalemate in Iraq. The Iraqiya List is given the position of Speaker of parliament, and the National Coalition the position of Prime Minister. Nouri al-Maliki remains prime minister, and the Kurds retain the Presidency of the Republic.
10/12/2010	Agreement authorizing the mayor of Baghdad to contract directly with foreign specialized companies to implement the Baghdad municipality's support plan, in Cabinet Resolution No. 302 of 2010, and the plan for the Arab summit conference, by the single offer method, with the exception of the instructions for implementing government contracts for 2008 and the federal budget for 2010. The mayor was also authorized to transfer and disburse an amount from the operational and investment budget in coordination with the Ministry of Finance.

2010/12/15	The United Nations Security Council ends 19 years of economic and political sanctions imposed on Iraq after Saddam Hussein's regime invaded Kuwait in 1990.
2010/12/21	The House of Representatives approves a new government with Nouri al-Maliki returning as prime minister after reaching a power-sharing agreement known as the Erbil Agreement. According to the Agreement, Nouri al-Maliki remains Prime Minister, and a new body referred to as the Supreme Strategic Policy Council is to be formed and will be led by Iyad Allawi. The council is not formed thereafter, which sets off a new political crisis.

2011

2/2011	Oil exports from Iraqi Kurdistan resume amid a lengthy dispute between the region and the central government in Baghdad regarding which party has the right to make oil contracts with foreign companies.
4/2011	Peaceful demonstrations take place in several cities, such as Basra, Ramadi, and near the southern city of al-Diwaniyah, after Prime Minister Nouri al-Maliki announces he has given up half his salary of USD 30,000 monthly and confirms that he will only remain in power for two terms. The Iraqi police open fire to disperse hundreds of demonstrators protesting against the lack of drinking water and electricity near the city of Al-Diwaniyah on Thursday, wounding three people.
7/8/2011	Minister of Electricity Raad Shalal is dismissed amid charges of signing fake contracts worth hundreds of millions of dollars.
8/2011	<p>Al-Diwaniyah Governorate Council asks for an interpretation of Article 121(4) of the Constitution (relating to the opening of liaison offices for governorates in Iraq's embassies abroad) pursuant to Case No. 49/ Federal/2011.</p> <p>An appeal is lodged with the Federal Court by the Presidency of the Basra Court of Appeals to determine whether the Spirit Beverages Law No. 3 of 1931 is in conformity with Articles 1 and 2(1) of the Constitution.</p> <p>Escalating violence takes the lives of more than 40 people in one day in coordinated attacks in various parts of Iraq.</p>
9/9/2011	Resignation of the head of the Integrity Commission, Rahim al-Uqaili, who stated that .

27/10 to 12/12/2011	The governorate councils of Salah al-Din and Dyala decide to transform their two governorates as federal regions.
17- 18/11/2011	The Iraqiya List decides to boycott parliamentary sessions and accuses Nouri al-Maliki of being unable to achieve national partnership. Al-Maliki asks his MPs to withdraw confidence from his deputy, Saleh al-Mutlaq, after the latter called al-Maliki a dictator.
19- 21/11/2011	Confessions by Vice President Tariq al-Hashemi's bodyguards are televised. In the confessions, the guards say that they were involved in terrorist acts. An arrest warrant against is issued for al-Hashemi, who denies the charges, saying they are politicized and that the confessions were extracted under torture.
12 /2011	The United States completes the withdrawal of its troops from Iraq. Sunni MPs boycott the House of Representatives and the Cabinet.

2012

2012	Attacks target Shiite areas, sparking fears of a new sectarian conflict. The attacks kill 200 people in January, more than 160 in June, 113 in one day in July, more than 70 in August, 62 in September, and at least 35 before and during the Ashura commemorations in November.
26/1/2012	Asa'ib Ahl al-Haq, an offshoot of the Mahdi Army, announces it is renouncing armed action and that it has entered the political process.
2/2012	A controversy erupts on whether the extent of the President of the Republic's ability to object to laws and prevent their adoption (Articles 61, 73, 138, and 60).
20/3/2012	Approximately 50 people are killed in bombings in various cities. Iraqi officials consider the attacks an attempt to scuttle the Arab summit.
4/2012	Challenge to some provisions of Personal Status Law No. 188 of 1959, especially Article 52, based on Article 2(1) of the Constitution, on the pretext that some provisions of the law whose constitutionality is being challenged differ from the provisions of Article 2 of the constitution, especially Paragraph 1, which indicates that it is not permissible to enact a law that conflicts with the constants of Islam. The court rejects the challenge.

4/2012	Oil exports from Iraqi Kurdistan are halted amid a dispute with the central government in Baghdad over the right to enter in to agreements with foreign companies.
6/2012	Controversy erupts on the relationship between the central government and the Kurdistan Region. A judicial claim is brought on the extent to which the regional judiciary is subordinate to the federal judiciary's authority, and on the management of oil and gas, based on Articles 110, 111, and 112 of the Constitution.
7/2012	Attempt to enact the Iraqi information crimes law. The law also contradicts many provisions of the constitution, including Article 38, which obliges the state to ensure freedom of expression and opinion by various means; Article 40, which guarantees freedom of postal, phone, and electronic communication and correspondence; and Article 46, which prevents the restriction of any of the freedoms provided in the constitution.
8/2012	Oil exports from Iraqi Kurdistan come to a halt.
9/2012	President of the Republic Jalal Talabani has a stroke and is transferred to Germany for treatment. For months, Sunni Iraqis organize mass demonstrations in various parts of Iraq, protesting what they describe as marginalization at the hands of the Shiite-controlled government.
12/2012	Thousands of Iraqis participate in demonstrations calling for reforms of the anti-terrorism law and the release of illegal detainees.

2013

25/2/2013	The Federal Supreme Court issues Decision No. 1/Federal/2013, in which it finds that it lacks jurisdiction to consider the validity of an administrative resolution referring the Central Bank Governorate to a parliamentary investigation committee.
4/2013	Iraqi forces storm a square where 100 anti-government demonstrators are staging a sit-in in the city of Hawija in Kirkuk Governorate, killing more than 50 and provoking rage and clashes in other municipalities. Acts of violence escalate in Iraq, approaching the levels recorded in 2008. In July, Iraq is described as being in the midst of an actual civil war.

14/4/2013	After carrying out a string of bombings nearby, unknown gunmen storm the Ministry of Justice building in the Allawi district in the middle of Baghdad, killing 30 and wounding 50 more.
19/4/2013	Thirty people were killed and 60 others injured when two explosive devices exploded inside the popular Dubai Café in Al-Amiriya.
6/2013	<p>A campaign of protests is launched in Baghdad and some governorates, calling for the elimination of pensions for members of the House of Representatives, National Assembly, interim National Council, and others who have been granted high pensions as an exception to the conditions of service and age for all workers.</p> <p>The Federal Supreme Court issues Ruling No. 79/Federal/2013 on the unconstitutionality of Articles 3 and 4 of the House of Representatives Law No. 50 of 2007 (abolished) regarding the provisions for retirement of members of the House of Representatives and its Presidency, as they violate Article 60 of the constitution.</p>
16/9/2013	<p>Federal Supreme Court Ruling No. 87/Federal/2013, dated 16/9/2013, on the unconstitutionality of the High Judicial Council Law No. 112 of 2012, says that the House of Representatives made substantive changes to the draft High Judicial Council Law that violate the provisions of the constitution in both form and substance.</p> <p>Federal Supreme Court Ruling No. 64/Federal/2013 is issued, ruling that Law No. 8 of 2013—specifying the term of the President of the Republic, the Speaker of the House of Representatives, and the Prime Minister—is unconstitutional because it was not presented as a draft law by the President of the Republic or the Cabinet.</p> <p>Federal Supreme Court Ruling No. 82/Federal/2013 is issued, ruling that Resolution No. 84 of 2012 of the Maysan Governorate Council—imposing a fee on all passports issued in the governorate—is unconstitutional because it conflicts with the exclusive powers of the federal authorities.</p> <p>Federal Supreme Court Ruling No. 104/Federal/2013 and Ruling No. 109/Federal/2013 are issued, upholding the constitutionality of the transfer process between the sections and chapters of the federal general budget by the House of Representatives.</p>
10/2013	The Iraqi government sets parliamentary elections for April 2014. It also announces that the month of October saw the worst wave of violence since April 2008, with over 900 dead.
11/2013	Fugitive Iraqi Vice President Tariq al-Hashemi is sentenced to death for murder. Al-Hashemi had fled to Turkey after being accused of running death squads.

6/11/2013	<p>Federal Supreme Court Ruling No. 90/Federal/2013 is issued, upholding the constitutionality of the House of Representatives' decision to form a committee to investigate the budget of Salah al-Din Governorate.</p> <p>Federal Supreme Court Ruling No. 30/Federal/2013 is issued, ruling that the Cabinet shall set the date for elections based on a proposal from the Independent High Electoral Commission and that the decision to postpone elections in the governorates of Anbar and Nineveh was issued for security reasons.</p> <p>Federal Supreme Court Ruling No. 24/Federal/2013 is issued, upholding the unconstitutionality of Article 23 of the law on governorates and districts and aspects pertaining to dividing public positions in Kirkuk Governorate among the socioeconomic components that are present in the governorate.</p> <p>Federal Supreme Court Ruling No. 19/Federal/2013 is issued, upholding the unconstitutionality of the Salaries and Appropriations of the Presidency of the Republic Law No. 6 of 2011, because it was adopted without respecting the procedures that are set out in the Constitution.</p> <p>Federal Supreme Court Ruling No. 31/Federal/2013 is issued, upholding the unconstitutionality of the Salaries and Appropriations of the House of Representatives Law No. 28 of 2011, because it was adopted without respecting thr the procedures that are set out in the Constitution.</p>
12/11/2013	<p>Federal Supreme Court Ruling No. 78/Federal/2013 is issued, in which the court found that the parliament's questioning of the minister of electricity was valid. The court finds that it has jurisdiction over the formal aspects of interrogating the minister, and that the substantive aspects lie in the House of Representatives and its members.</p>
12/2013	<p>Bombings targeting churches during Christmas kill at least 35 people in Baghdad.</p>

2014

4/2014	<p>National parliamentary elections are held, and the State of Law coalition led by Nouri al-Maliki is the biggest parliamentary bloc. Prominent political forces object to his return for a third term as Prime Minister. The debate over his candidacy for a third term ultimately ends with the invasion of ISIS in June 2014.</p>
6/2014	<p>ISIS occupies large parts of Iraqi territory, including Nineveh Governorate and large parts of Salah al-Din and Anbar Governorates. The invasion is partly ascribed to al-Maliki's mismanagement of the security forces. Haider al-Abadi is ultimately elected as Prime Minister, even though al-Maliki won the elections.</p>

In response to ISIS's invasion, new military and paramilitary units, known as the Popular Mobilization Forces (al-Hashd al-Shaabi), are integrated into the armed forces. Some of these units existed before 2014 and operated unofficially in Iraq, while other units are created specifically after the invasion of ISIS.

2015

2015	In 2015, a large area of Iraqi territory remains under the control of ISIS, while the new government faces numerous challenges, including displaced persons and administrative corruption. Iraq wages an intense security campaign with the help of the Global Coalition to Defeat ISIS, forcing the organization to withdraw from 40% of the regions it controlled, most notably Ramadi, Tikrit, and Mount Sinjar in the north.
29/1/2015	The House of Representatives approves the 2015 budget of IQD 119 trillion (USD 105 billion). The approval becomes possible after relations between Baghdad and Erbil improve.
17/5/2015	ISIS takes full control of Ramadi, the capital of Anbar Governorate, after the local police and army forces withdraw.
16/7/2015	Mostly peaceful popular demonstrations call for improvement in the supply of electricity. The protests later extend to most Iraqi governorates.
31/7/2015	Protests in Tahrir Square in Baghdad call for improvements in basic services, particularly electricity; for Minister of Electricity Qasim al-Fahdawi to be held accountable or to resign; and for a reduction in the salaries of officials, ministers, MP's, and special grades.
9/8/2015	Prime Minister Haider al-Abadi announces several reforms to meet demonstrators' demands in many governorates. Al-Abadi's decision comes after residents of Baghdad and seven governorates in central and southern Iraq protest for nearly two weeks against the lack of services and to demand that corrupt officials be referred to the judiciary. The Shiite religious authority, Ali al-Sistani, joins the protest and demands that the government make bolder and more courageous reforms.
2/11/2015	The House of Representatives issues a decision preventing executive and judicial authorities from usurping the House's legislative powers in a step that observers see as a restriction on the reforms adopted by Prime Minister Haider al-Abadi.

2016

2016	Fighting with ISIS intensifies, including operations to recover Ramadi in February and Fallujah in June. Operations to free Mosul begin in October. As of 11 November, the fighting displaces more than 45,000 Iraqis. Credible allegations spread of extrajudicial executions, torture, enforced disappearance of detainees, and mutilation of corpses by government forces during the Fallujah operation. ISIS executes hundreds in and around Mosul.
2/2016	Baghdad is ranked the worst city in the world, according to a report by the United States company, Mercer, that evaluated 230 cities worldwide. Many respond by accusing the country's political class of corruption.
3/2016	The Minister of Planning Salman al-Jumaili tenders his resignation to give Prime Minister Haider al-Abadi the opportunity and flexibility to proceed with reforms without submitting to bids and pressure.
27/3/2016	Supporters of Muqtada al-Sadr storm the Green Zone in Baghdad, while he begins a sit-in alone in a tent, and his supporters continue to demonstrate outside the Green Zone.
4/2016	Months after the sit-in, Muqtada al-Sadr's supporters storm the House of Representatives inside the Green Zone. Baghdad declares a state of emergency. Due to the lack of a quorum, the House of Representatives fails to hold a parliamentary session scheduled to complete voting on the remaining Cabinet members in Prime Minister Haider al-Abadi's government.
14/4/2016	The Iraqi Army announces the full liberation of the city of Hit in western Iraq from ISIS.
10/5/2016	The government holds its first post-crisis meeting after demonstrators stormed the House of Representatives, declares its unequivocal rejection of this aggression, and reviews the measures taken to protect the House of Representatives and state institutions to prevent the type of event from recurring.
6/2016	Governor of Anbar Suhaib al-Rawi is dismissed by 18 of 30 member votes, after being accused of involvement in financial and other types violations.
26/6/2016	Prime Minister Haider al-Abadi announces the full liberation of the city of Fallujah.

7/2016	The Joint Operations Command in Iraq announces the full liberation of the northwestern city of Sharqat in Salah al-Din Governorate from ISIS.
27/8/2016	Prime Minister Haider al-Abadi announces the full liberation of the Khalidiya Island area in eastern Anbar Governorate from ISIS.
9/2016	A claim is brought before the Federal Supreme Court on the basis that Amnesty Law No. 27 of 2016, on crimes of financial and administrative corruption. The case involves the Integrity Commission's objection to the Amnesty Law's inclusion of crimes of corruption as a constitutional violation after the House of Representatives added these crimes of corruption to the law, contrary to the draft submitted by the government.
10/2016	New controversy on the issue of banning the import and sale of alcoholic beverages of all kinds following the adoption of the 2016 Municipal Import Law. Opponents to the ban argue that it is inconsistent with Article 2 of the Constitution.
11/2016	Iraq warns Turkey against a "regional war" following what it calls Ankara's "provocative" statements with regard to keeping Turkish forces in Nineveh Governorate, 30 kilometres from Mosul.
11/2016	The Central Investigative Court issues a warrant for the arrest of former Governor of Nineveh Atheel al-Najafi, who is charged with "collaboration with a foreign country."
11/2016	Prime Minister Haider al-Abadi announces the launch of the operation to liberate Mosul.
11/2016	The presidency of the republic, the prime minister and the speaker of parliament decide to postpone the local elections scheduled that are scheduled for the upcoming year of 2017 until 2018 to coincide with the parliamentary elections. The decision to postpone is taken due to prevailing circumstances, including the fact that increasing numbers of Iraqis have been displaced during 2015 and 2016.
12/2016	The House of Representatives approves the 2017 budget of USD 85 billion. The Iraqi Army announces that various Iraqi forces have managed to liberate 361 villages from ISIS control since the launch of the operation to liberate the city of Mosul on 17 October.

2017

1/5/2017	Establishment of the first Yazidi political party under the name "Freedom and Democracy Party."
25/9/2017	The Kurdistan Regional Government organizes a referendum on independence without seeking approval from the federal government and announces that 93% of voters support independence. The federal government in Baghdad and all regional governments reject the results. Iraqi forces launch military operations to regain control over territories until then controlled by the Kurdistan Regional Government. The Iraqi government closes its airspace above the Kurdistan region, forcing all travellers to the Erbil and Sulaymaniyah airports to travel through Baghdad.
15/10/2017	Prime Minister Haider al-Abadi announces the beginning of operations to impose law and order in regions controlled by Kurdish Peshmerga forces in Kirkuk and the Nineveh Plain.

2018

1/2018	The International Organization for Migration reveals that 3.22 million displaced persons returned to their homes by the end of 2017, in conjunction with Iraqi authorities' announcement of ISIS's expulsion from all Iraqi territories.
3/2018	After a six-month ban, Prime Minister Haider al-Abadi decides to reopen Erbil and Sulaymaniyah airports in Kurdistan to international flights, after the Kurdistan Regional Government agrees to subject the airports to Baghdad's authority.
5/2018	The Sadrist movement wins a plurality in the parliamentary elections. Candidates from the Popular Mobilization Forces, and an alliance of pro-Iranian factions, enter parliament for the first time.
13/5/2018	The High Electoral Commission states that the participation rate in the parliamentary elections is 45.2% of a total of 24.5 million voters who cast their votes to choose their representatives in the House of Representatives. This rate is the lowest since Saddam Hussein regime's came to an end. The rate was 79% in the 2005 elections, 62.4% in the 2010 elections, and 60% in the 2014 elections. Observers attribute Iraqis' reluctance to vote in the first parliamentary elections since the expulsion of ISIS to their refusal to renew confidence in the political class, whom they accuse of 15 years of corruption and broken promises.

8/7/2018	Demonstrations break out in the oil-rich southern Iraqi governorates, protesting unemployment, deteriorating services, spreading corruption, and lack of services, after thousands are poisoned by polluted water. The demonstrations spread to other southern cities and then to Baghdad. Demonstrators attack the Iranian consulate in Basra, Shia Islamist political parties' headquarters, and government buildings in the governorate. Over the course of two weeks, 14 people are killed in several cities, according to an official from the Iraqi Human Rights Commission.
15/9/2018	Former Governor of Anbar Mohammed al-Halbousi is elected Speaker of the House of Representatives. He is supported by the Fatah bloc led by Hadi al-Ameri, who is close to Iran.
2/10/2018	The House of Representatives elects the Kurdish candidate most acceptable to Baghdad, Barham Salih, as President of the Republic, an honorary position reserved for the Kurds since 2005. For the first time, there is fierce competition between the two poles of Kurdish politics.
10/2018	President of the Republic Barham Salih tasks Adel Abdul Mahdi with forming a new government.
25/10/2018	The new House of Representatives grants confidence to part of the government proposed by incoming Prime Minister Adel Abdul Mahdi, with a majority of MPs approving 14 ministers, including the ministers of foreign affairs, finance, and oil. However, confidence is not granted to major portfolios such as interior and defense.

2019

5/2019	Authorities apply laws and regulations to limit freedom of expression.
1/10/2019	A protest movement against corruption, unemployment, and failing public services begins. Demonstrators demand the overthrow of the regime. Protests take place in the capital of Baghdad and southern cities, and, though peaceful, they are met with a violent response that kills 257 people in the first month. 600 people are killed, 30,000 are injured and dozens of activists are kidnapped by the security forces in their efforts to quell the protests.
11/2019	In response to popular demands for reform, the House of Representatives, the Presidency of the Republic, and Prime Minister each form constitutional review committees. Eventually, there is agreement on several important reforms, but after the protests end, the committees are largely ignored and no steps are taken to reform the Constitution.

30/11/2019	Prime Minister Adel Abdel Mehdi tenders his resignation after the popular protests.
26/12/2019	President of the Republic Barham Salih threatens to resign after the House of Representatives approves the nomination of Asaad al-Eidani for Prime Minister. In an open letter, President Salih says that the constitution does not give him the right to choose or reject the appointment of the prime minister, but he is obligated to ensure the country's unity and integrity. President Salih writes that if he appoints al-Eidani as Prime Minister he would be in violation of the constitution and so therefore preferred to submit his resignation. The main political blocs in the House of Representatives ultimately respond by withdrawing al-Eidani's candidacy for prime minister.

2020

1/2020	<p>Demonstrations continue in Iraq, and many activists and journalists are kidnapped and killed.</p> <p>The Coronavirus pandemic reaches Iraq. Minimal health services are offered to citizens amid deteriorating Ministry of Health institutions and hospitals, despite the huge budget allocations to this sector.</p> <p>The United Nations Assistance Mission for Iraq (UNAMI) publishes a report evaluating the criminal justice system, based on independent observation of 794 criminal trials, 619 of which are for men, women, and children charged under Iraq's dangerously broad antiterrorism law. Human Rights Watch confirms the lack of respect for basic standards of fairness for trials in terrorism-related cases.</p>
3/1/2020	Escalation between Iran and the United States peaks with the killing of Qasem Soleimani (the commander of the Quds Force in the Iranian Revolutionary Guard Corps and Iran's policy architect in the Middle East) and Abu Mahdi al-Muhandis (the Deputy Chairman of the Iraqi Popular Mobilization Forces) in a United States air strike in Baghdad.
8/1/2020	Iran responds by launching missiles at bases housing United States forces in Iraq.
20/1/2020	<p>Republic Decree No. 4 of 2020 is issued, appointing Judge Mohammed Rajab al-Kubaisi an original member of the federal court. The High Judicial Council objects on the basis that the judge is retired and has lost his judicial status.</p> <p>The Kharkh Court of First Instance issues Ruling 569/B/2020, based on a case brought by the President of the High Judicial Council and his employer, rescinding the republican decree through which al-Kubaisi was appointed.</p>

26/1/2020	The Federal Supreme Court issues Ruling 15/Federal/2020, upholding the validity of Judge Mohammed Rajab al-Kubaisi's membership on the court.
16/3/2020	The Presidency of the Republic withdraws Republic Decree No. 4 of 2020, pursuant to Judge al-Kubaisi's request to be returned to retirement.
9/4/2020	Mustafa al-Kazimi is tasked with forming an inclusive government.
7/5/2020	The House of Representatives ratifies the government program of Mustafa al-Kazimi and his ministers, with the exception of justice, commerce, and migration, and delays the ministries of oil and foreign affairs.
5/2020	Prime Minister Mustafa al-Kazimi forms a committee to investigate the killing of demonstrators, but it does not announce any results until the end of 2020. Security forces in Iraqi Kurdistan arrest dozens who were planning to participate in protests against the government's delay in paying government salaries, an ongoing issue since 2015.
8/2020	Security forces belonging to the Kurdistan Regional Government beat and arbitrarily detain demonstrators and journalists during protests by security personnel in the region calling for payment of their salaries.
9/11/2020	The House of Representatives election law is issued, adopting a system of multiple small districts for the first time, non-transferable voting, ascension of the winner of the most votes, and the formation of a board of commissioners of judges and advisors of the State Council. Failure to approve the budget due to the unstable political environment and the change of government.
12/2020	Nearly 30,000 Iraqis who fled Iraq between 2014 and 2017—including some who joined ISIS as it withdrew from Iraqi territory—are detained in and around al-Hawl camp in northeastern Syria. In 2019, the Iraqi government debated plans to repatriate, transfer, and detain these families and others believed to be affiliated with ISIS in a planned collective manner in Iraq, but has not yet approved the plan. As of late 2020, the government has not taken any further steps regarding Iraqis detained in northeastern Syria.

2021

1/2021	An agreement is reached between political forces and the government to hold early elections on 6 June. A decision is eventually taken to postpone the elections until 10 October.
3/2021	Pope Francis's historical visit to five Iraqi governorates attracts broad political and popular interest.
18/3/2021	The House of Representatives adopts Law 25 of 2021, the first amendment of the Federal Supreme Court law, with the composition of the court remaining in violation of Article 92 of the Constitution.
31/3/2021	The House of Representatives votes to dissolve itself conditionally. The dissolution takes place later, on 7/10/2021, on the condition that elections be held on 10/10/2021.
24-25/4/2021	Fires in Ibn al-Khatib Hospital in Baghdad and al-Hussein Teaching Hospital in Dhi Qar kill dozens of patients.
10/10/2021	The first early elections are held (in the fifth parliamentary election process since 2003), followed by appeals and widespread debate lasting more than two and a half months, until the Federal Supreme Court settles the dispute on 27 December by dismissing all the appeals and ratifying the election results.
12/2021	Global Coalition forces leave Iraq on 31 December, according to a prior agreement between Baghdad and Washington.

2022

9/1/2022	The House of Representatives convenes its new session and elects Mohammed al-Halbousi speaker, Hakim al-Zamli first deputy speaker, and Shakha Wan Abdullah, second deputy. Complainants bring claims to the Federal Supreme Court that the session was unconstitutional.
13/1/2022	The Federal Supreme Court issues Injunction 1 and 2/Federal/Injunction/2022, temporarily suspending the work of the elected Presidency of the House of Representatives pending the outcome of the issue of the constitutionality of the first session.

22/1/2022	The House of Representatives opens up nominations for the position of President of the Republic.
25/1/2022	The Federal Supreme Court issues Ruling 5 and 6/Federal/2022, upholding the constitutionality of the first session of the House of Representatives, dismissing the appeal, and cancelling Temporary Order 1 and 2/Federal/Temporary Order/2022.
8/2/2022	The House of Representatives again opens up nominations for the position of President of the Republic for a period of three days.
13/2/2022	The Federal Supreme Court issues its Explanatory Ruling No. 24/ Federal/2022, allowing the President of the Republic to continue to perform his duties until a new President of the Republic is elected, despite the fact that his term ended with the end of the term of House of Representatives.
15/2/2022	The Federal Court rules that the decision to accept the nomination of Hoshyar Zebari for the Presidency of the Republic is unconstitutional because he had been sacked by parliament when he was a minister for violating the requirement of good reputation and conduct, a new principle established by the court on the consequences of withdrawal of confidence, according to its Ruling No. 17/Federal/2022.
1/3/2022	The Federal Supreme Court issues its Ruling No. 23 and Unified 25/ Federal/2022, ruling that is unconstitutional for the Presidency of the House of Representatives to decide to open nominations for the position of President of the Republic because there is no text giving the Presidency of the House this authority. The Presidency of the House must present the decision to open nominations for the position of President of the Republic to the House of Representatives for a one-time vote, provided that the President of the Republic is elected within a short time period that accords with the will of the constitutional legislator and the supreme interest of the people.
26/3/2022	The House of Representatives fails to achieve the necessary quorum to convene a session to elect the President of the Republic.
30/3/2022	The House of Representatives fails again to achieve the necessary quorum to convene a session to elect the President of the Republic.

30/5/2022	The judicial council in Iraqi Kurdistan issues a statement condemning the Federal Supreme Court's finding that the oil and gas law in the region is unconstitutional. The council states that it does not recognize the existence of the Federal Supreme Court because the current court is not formed according to the Constitution, even though the judicial council in Iraqi Kurdistan had previously nominated a judge for membership on the court in its first and second formations.
12/6/2022	At the invitation of Muqtada al-Sadr, representatives from the Sadrist bloc (73 MPs, including the First Deputy to the Speaker of the House of Representatives) submit their resignations to the Speaker of the House, who accepts the resignations.
23/6/2022	An extraordinary session of the House of Representatives is held during the legislative break to elect replacements for the resigned MPs.
2022/9-8	After the Coordination Framework submits its candidate for the position of Prime Minister, members of the Sadrist movement occupy the House of Representatives building to prevent it from electing the Framework candidate. Members of the movement spread out throughout other parts of the Green Zone, including the Republican Palace. Armed clashes erupt inside the Green Zone between supporters of the Sadrist movement and supporters of the Coordination Framework, and dozens of gunmen and demonstrators are killed. The clashes end when Muqtada al-Sadr orders all .Sadrists to withdraw from the Green Zone

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The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization that works to support and strengthen democratic institutions and processes around the world, to develop sustainable, effective and legitimate democracies. International IDEA has 34 member states, all of which are democracies. It has regional offices in Europe, Latin America and the Caribbean, Asia and the Pacific and Africa and West Asia. The organization is headquartered in Stockholm, Sweden.

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In 2016, International IDEA supported South African organisations in their efforts to evaluate the performance of their 1996 constitution, 20 years after it initially came into force. That evaluation was based on a specific methodology that involved the development of evaluation criteria that are universal to all constitutions and that are specific to the specific country context. Since then, International IDEA has applied the same methodology in a range of countries, including but not limited to the Philippines, Panama, Thailand and others.

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Rewaq Baghdad is an independent think tank that presents ideas, studies and research to Iraqi specialists and decision makers. It carries out its mission by building knowledge that is not based on ideology or theory. Rewaq Baghdad believes in the importance of being open to all political groups and knowledge elites in its effort to communicate new visions and perspectives on how the state institutions should be developed.

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