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Iraq's Quest for a Social Contract

An Approach to Promoting Social Cohesion and State Resilience

Wolfgang Mühlberger

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Preface

This study sets out to examine state-society relations in Iraq through the conceptual lens of the social contract and also provides a starting point for deriving potential areas of activity for external actors, such as German development cooperation (DC) and technical cooperation (TC). These players could provide support for the re-negotiation of this fraught mesh of relationships. This analysis is founded on a concept of the social contract in which the relationship between the government and those it governs is viewed primarily as a process of negotiation and can be operationalised, for instance, on the basis of the three Ps (participation, provision and protection). As such, the concept is informed both by contemporary approaches and by traditional reflections of French and Anglo-Saxon thinkers, who focus on the restriction of individual freedoms in return for the provision of legal certainty by the state.

This study is divided into three sections. The first section explores weak statehood and the breakdown of society in the heuristic context of the social contract. The role of external actors in Iraq's post-2003 development is then examined in the next section, which takes a closer look at the political system of proportional representation and its socio-political implications. Finally, the third section synthesises the first two by considering how external actors from the development cooperation sector might contribute to the peaceful negotiation of Iraq's dysfunctional social contract. These reflections are made against the systemic backdrop of a rentier state with a hybrid form of governance and take account of the extremely fragile government-society relationship on the one hand, and external interventions, which have largely failed to date, on the other. In this context, the shortcomings of the largely dysfunctional Iraqi social contract become apparent and at the same time provide starting points for its improvement and renegotiation.

Keywords: development cooperation (DC), external actors, financial cooperation (FC), fragile statehood, hybrid governance, post-conflict, social contract, social division, technical cooperation (TC)

Contents

Introduction

Ever since the fateful military invasion of 2003, Iraq has been unable to build robust state institutions in relevant sectors or promote cooperative trends within society. And this is to say nothing of the failure to establish a shared narrative of Iraqi national identity and a common sense of belonging. The combination of weak central authority, social division and a lack of identification with a national project has served to prevent a generally recognised social contract emerging out of the interplay between state and societal representatives, that is, a social contract that the overwhelming majority of the population would not hesitate to accept and, where necessary, actively support. Instead, Iraq's contested social contract exists in what is at times an environment of extreme tension, due to anything from open hostility (protests in October 2019) to military confrontation (from the Islamic State (IS) organisation). At the same time, it is to be expected that, with its sovereignty partially undermined and in the absence of influences from external actors, the unstable state system will have already taken on an entirely different shape.

After 2003, Satrap Paul Bremer, the United States' top administrator in Iraq, established a system of proportional representation within politics and the administration, conceived as a form of externally imposed democratisation. This system has led to a splintering in the national identity and resulted in sectarian groups, ethnic communities (particularly the Kurds, for example), and groups with a politicised identity seeking greater autonomy. In times of considerable violence and uncertainty, this trend was to some extent a pragmatic retreat into dependable, solidary groups. It has also led to a situation whereby almost 20 years on from Operation Iraqi Freedom and the associated radical transformation of the country's entire political and societal system, the Iraq of 2022 plays host to a large number of parallel, divergent and, in some cases, opposing loyalties. These loyalties prevent the political system as a whole from undergoing a sustained period of stabilisation and are unable to contribute to establishing a robust state-society relationship at overall level. From a social contract perspective, and in light of the phases of civil war from 2006 to 2008 and 2014 to 2017, it is worth labouring the Hobbesian analogy of anarchy as a "war of all against all" in order to determine the prevailing situation prior to the establishment of a binding macro-social contract.

Against this highly fragmented and polarised backdrop, the following questions arise: Can external actors contribute in any way to the process of developing a universal and comprehensive social contract, and if so, how? Or could they at least work at micro, local or regional level to improve relations between the heavily Shia-dominated central government and the various, horizontally divergent societal segments? Incidentally, this does not only concern regional actors and Iraq's immediate neighbours, whose particular geopolitical interests can be most effectively realised through social division in the country; it also applies to Western donors and international organisations, whose activities are now strongly concentrated at local (administrative) level.

This study assumes that better state-society relations, and in particular the renegotiation of an Iraqi social contract, will have an essentially stabilising effect; the public confidence ideally engendered in state capacities by such a process serves to boost resilience. This promotes reconciliation between different population groups, which is also conducive to peacebuilding.

This analysis begins by setting the concept of the social contract in the Iraqi context and explores the current state of the Iraqi political system and society. It is thus possible to present the problem that arises when states become fragile, yet at the same time gain greater institutional autonomy thanks to steady oil revenues, all against the backdrop of a re-traditionalised and segmented society. This illustrates how hybrid governance, exercised in some cases by non-state actors, and the political system of proportional representation are both in operation simultaneously within a highly segmented society. Such a situation tends to present an obstacle

to the renegotiation of the social contract. The question of external support arises primarily in a reconstruction and capacity-development setting, where the opportunities and limitations of such support must be ordered within a state system characterised by recurring cycles of conflict. As experience shows, while there has been some partial success when it comes to state-building, the overall endeavour to establish a unified nation has not proven effective. This is seen particularly clearly in Kurdish efforts to achieve autonomy and in the politicisation of sectarian identities. Building on these two analytical sections, some concluding reflections are provided regarding the aspects of a social contract that best lend themselves to determining how German development cooperation could contribute to consolidating state-society relations.

1 Iraq, the social contract and challenges on the road to a unified state

The first section explores the theory behind the concept of the social contract in order to then frame it in the Iraqi context, where the fragility of the state-society relationship becomes clear. Even if, as can be seen, centralised and rule-of-law structures exist simultaneously, the practice of hybrid governance and the sectarianised proportional representation system collide with a highly segmented society. This situation serves on the one hand to strengthen the widespread wish for the full renegotiation of the social contract, while on the other it tends to pose an obstacle to achieving this in practice, given the prevailing situation whereby reforms face structural rejection and the state is prepared to resort in some cases to extreme forms of repression.

1.1 Normative concept or flexible framework: what is a social contract?

Classic reflections on the concept of the social contract are rather abstract in nature. However, by drawing on some fundamental characteristics, such as the provision of public services and the structure of the population, the concept can also be mapped out in modern socio-political practice. According to Thomas Hobbes and Jean-Jacques Rousseau, this model of political philosophy is indeed sufficiently flexible to be transferred to different historical and contemporary contexts. This makes it possible to explore the respective composition and elaboration of such a hypothetical agreement between the public and their political representatives.

Original concepts of the social contract consider it to be in the public's own interest to subordinate itself to a legal framework and the authority regulating it. After all, the latter is the guarantor of this universally beneficial situation, without which it would not be possible to turn away from the anarchy initially stipulated in the first place. In his model, the English thinker Hobbes consistently assumed the rule of an authoritarian government (monarchy), which would be legitimised by a social contract. However, Rousseau, a pioneering thinker of the French Revolution and the Enlightenment, had already framed the concept in a democratic context. In Rousseau's model, consent to voluntary subordination was conceived of to some extent in participatory terms (Frey and Schmalzried, 2013), thus also assigning a negotiation component to the social contract. In this context, it should be noted that the normativity ascribed to the concept of the social contract is by no means inherent. Rather, it can be explained in terms of its legal dimension.

Modern thinkers, such as the American John Rawls, place the question of justice at the heart of their reflections. Such equity is to be achieved through the implementation of a social contract. The Arab-Islamic world has also been grappling with the issue of justice ever since its birth. After all, the Islamic faith claims to guarantee the principle of justice (Arabic: *ʿAdl*) for its own adherents, either politically through the actions of the Just Ruler or socially through the giving

of alms to the poor and needy. Almsgiving is traditionally financed through *Zakat*, a social tax within the Muslim faith. It should first be pointed out, however, that Sunnis and Shias interpret *Zakat* very differently. Secondly, the concept applies to believing Muslims only and thus does not include the numerous other religious groups in the Middle East, not least in Iraq. In other words, in a context of societal segmentation, such as exists in Iraq, the Islamic concept of justice (*ʿAdl*) is more likely to contribute to deepening existing rifts than to designing and negotiating a social contract that would enjoy equal support from Sunnis, Shias, Kurds and non-Muslim Iraqis.[1]

Given the complexity of this situation and the fact that classic concepts of the social contract have placed the positivist rule of law at the heart of their reflections, it is necessary at this juncture to examine in greater detail the characteristics of the rule of law in Iraq. Chief among these characteristics is its complexity, with its jurisprudence based on Western legal principles, specific Islamic laws (*Sharia*) and the traditional customary law (Arabic: *ʿurf*) all at once. As such, Iraqi citizens find themselves subject to different legal standards depending on the matter in question. This poses an obstacle to the unambiguous formulation of the rule of law.[2] A socially responsible perspective must at least take account of the fact that, while Iraq does have a central rule-of-law system, legal pluralism is the predominant form of jurisprudence in practice. This is especially relevant, for instance, when it comes to the key issue of the reintegration and return of internally displaced persons. It is here that some inconsistencies in legislation hinder the dispute resolution process (Unruh, 2020).

Recent research on social contracts has shed light on two other interesting aspects, which are also significant when it comes to contextualising the concept for Iraq. In his study, Bruner (2014) pointed out that permanent characteristics, such as ethnic and religious affiliation, tend to undermine the formation of a social contract in ethnically and religiously diverse societies, even if cooperative behaviour would be more beneficial. This is especially relevant against the backdrop of the sectarianisation of Iraq[3]. In his study, Moghaddam (2008) highlighted two dimensions of the social contract that he refers to as the logical and the psychological. This is a key approach in fragile contexts, such as that of Iraq, where the frequent lack of public trust in state institutions affords greater relevance to the question of how citizens internally identify with the socio-political project and to whether they are sceptical or even dismissive of it.

Regardless of whether the social contract in question is explicit in nature, that is, it consists of formulated legal texts, or implicit, in other words, it is not codified, it is generally always characterised by rights (often in the form of entitlements) and obligations. This gives rise to expectations on the part of society. For instance, the ability to influence political activities through participation in elections is associated with the expectation that one's own interests will be represented, and this is no different in Iraq. However, numerous surveys indicate that these expectations often remain unfulfilled due to the Iraqi state failing to meet its obligations to provide its citizens with sufficient public goods or only doing so to a very limited extent (see Jaecke & Khalifeh, 2020).

In her studies on reconceptualising the social contract model, researcher McCandless (2018a; 2018b) put forward some fundamental reflections. She formulated a number of specific arguments in the context of peacemaking in particular. Beginning with the assumption that every

1 Since 2003, the Shia Islamist parties have stressed that they will ensure their (faith) community obtains justice within the new Iraq, not least in the form of reparation. This political position intentionally plays on the classic Shia topos of injustice perpetrated against them by Sunnis (Kreile, 2008).

2 The European Union originally invested considerable funding in the establishment of the Iraqi legal system (EUJUST LEX), yet legal proceedings such as those against suspected members of IS reveal considerable deficits (see Taub, 2018).

3 Sectarianisation usually denotes a process of ethno-sectarian actors gaining increasing political and, in some cases, military significance.

contract is based on a shared vision of governance, her concept can be used effectively for heuristic purposes and thus employed as an analytical matrix. The concept is focused on the role of the social contract in fragile regions, including post-conflict areas, and is utilised as a basis for deriving instruments as stabilising factors for endeavours such as peacebuilding and state-building. The particular emphasis in this context is on questions surrounding the quality and inclusivity of political agreements, the capacity of institutions to take effective action, and matters of social cohesion.

Considering the purpose of this analysis, reference should be made here to the practical working definition from the UNDP/NOREF study (2016). According to this definition, a social contract is a more or less permanent process of negotiation, based on an explicit or implicit recognition of state authority by society. In exchange for accepting the restriction of some of their freedoms, citizens are provided with public goods. These include public services and infrastructure, delivered on a redistributive basis (provision), and the guaranteeing, through the rule of law, of human rights, security and property rights (protection).

The approach developed at IDOS by Loewe, Zintl, Furness, Houdret, Trautner and El-Haddad is similar and focuses heavily on the question of the state's obligations under a social contract, especially in the context of the MENA[4] region (see, for example, Loewe et al., 2021; Furness and Trautner, 2020). A third element is also added, namely participation. As such, this approach is referred to as the "three Ps" (provision, protection, participation).[5] While citizens in Iraq have certainly been afforded the opportunity to be involved in political processes since 2003, primarily through voting in elections, this has been insufficient to satisfy voter expectations. Instead, a fundamental tension has arisen between the three dimensions of participation, delegation and representation and has since come to be regarded as a stress test for the state-society relationship. This was clearly visible in the protests that began in October 2019. Demonstrators no longer insisted merely on actual representation, but demanded the complete renegotiation of the social contract along the lines of a transformation of the political system that would see it move away from the prevailing proportional representation model (O'Driscoll et al., 2020).

1.2 From repression to failure: state and society pre- and post-2003

While Iraq under Saddam Hussein was commonly referred to as a fierce state (Ayubi, 1995) and classed as a particularly repressive state system, albeit with very limited societal penetration, the Baath regime was able to build during this period on the achievements of its predecessor Qasim (1958 bis 1963) by establishing a national identity and a central government. Both regimes made it possible to at least stipulate a universal social contract (Farouk-Sluglett & Sluglett, 1991). Nonetheless, it must be stressed that the highly repressive nature of Saddam Hussein's dictatorship and his Baath party means that we can only speak of a genuine social contract in the very broadest of terms. After all, a social contract is based on voluntary subordination to representative political leadership. If active political participation is replaced by the acceptance against one's will of a state authority, and if this authority exercises its domestic power by violent means in some cases (for instance, by repressing those who do not conform to the system or relocating population groups based on their ethnicity or religious affiliation (Babakhan, 2002) or earns an external reputation for waging war (particularly against Iran and Kuwait, and in relation to the tensions with Syrian Baath arch-rival), then the criteria for the existence of a true social contract have not been met. Instead, it gives the impression of an

4 MENA: Middle East and North Africa

5 Unlike protection and provision, which is afforded by the state, participation is both a state and a civic obligation.

extremely asymmetrical relationship between the state and society, a relationship which does not permit any genuinely participatory negotiation of interests between the state and society and is unable to provide protection to citizens, which is the key feature of such a contract.[6]

However, certain authors (such as Ismael & Ismael, 2015) make reference to the material components of Hussein's rule. They point out that he perpetuated in some way Qasim's approach by allowing the population to share in the country's oil wealth, achieving this using welfare state-style redistribution measures (provision) and thus creating a certain degree of legitimacy for his regime. Thanks to the progressive industrialisation taking place up until the outbreak of the First Gulf War with Iran (1980 to 1988), per-capita income, measured against gross domestic product (GDP), also rose steadily. By 1988, it stood at USD 2944, having fallen from USD 6052 in 1977 (Ismael and Ismael, 2015, p. 237).[7] Over the following decade, which was marked by further conflict (Kuwait) and international sanctions (Gordon, 2012), per-capita income dropped further, despite the reconstruction measures initiated after the end of the war. At the same time, state redistribution capacities shrunk severely (Farouk-Sluglett & Sluglett, 1990).

Additionally, the state mandating of re-traditionalisation and re-Islamisation decreased during this phase. This primarily involved the progressive abandonment of the (state-operated), positivist legal system in favour of alternative systems (tribal and Sharia law) (Kreile, 2008; Poggenburg, 2019; Ismael & Ismael, 2015, p. 233).

For its part, the development characterised by the toppling of the Baath regime and the dismantling of the entire state security apparatus paints a different picture (Kepel, 2004). Although state institutions and a bureaucratic apparatus do exist, many observers and even more Iraqis are wondering where the state actually is[8], given that state institutions have been transformed into useful clientelist tools (Mansour & Khatib, 2021, p. 28). However, a number of circumstances make it clear that the central authority of the Iraqi state exists in de jure, rather than de facto form in certain areas. These include the lack of basic public goods, such as water and electricity, the fact that entire ministries have been taken over by sectarian groups and politicised in the sense of a segmented state capture, and the powerful role of non- or para-state combat units that are involved in providing public security or operate at its expense. This search for the state has also given rise to an Iraqi society which maintains an ambivalent relationship with public institutions and prefers to use informal channels for meeting particular needs such as education and health care. The concept of *ladaula*, which could be translated as a state power vacuum, is often introduced in this context, though it is typically used in reference to non-state actors, such as irregular militias. (Aziz, 2021).

In fact, the Iraqi state now no longer has a central monopoly on power. Between 2014 (capture of Mosul) and 2019 (final hostilities in Baghuz), when terror organisation IS was being defeated, a significant, powerful militia was being established. Known as the Popular Mobilisation Forces

6 The author argues that the loss of two central components of the social contract, namely participation and protection, not only leaves the arrangement highly dysfunctional, but also fundamentally compromises its contractual nature.

7 Other social indicators also underscore the extent of this trend in Iraq: increase in life expectancy to 62.4 years (1980), access to clean drinking water (76%), and school attendance (60%) (Ismael & Ismael, 2015, pp. 235–236).

8 In the relevant literature (e.g. Mansour & Salisbury, 2019), the tendency is to contrast Weber's "Western" model of statehood with an abstract matrix of horizontal and vertical power relations in order to provide an alternative interpretation of the political system in the Middle East. Notwithstanding, it is institutions that remain the benchmark for formal statehood. Consequently, this author considers it more advisable to instead speak of the Middle Eastern political system as being hybrid in nature, characterised by a combination of centralised and informal processes, parallel centres of power, and divergent loyalties. Admittedly, such a quasi-decentralised system is not only unpredictable, but also makes it difficult for external actors to identify relevant and thus potentially effective contacts.

(Al-Hashd al-shabi, PMF), it lay outside of direct state control and was primarily aligned with the Shias. Despite the legalisation of these Popular Mobilisation Units/Forces (PMUs/PMF) in 2018, these units are not controlled by the President, the Prime Minister or the relevant institutions (Ministry of Interior/Ministry of Defence). A decree from 2018 ensures that the PMUs/PMF are paid from Ministry of Defence funding (ICG, 2018). While the units are now formally assigned to the armed forces, they have not been integrated under a central command and control centre. The problem associated with having no central monopoly on power in Iraq (Badawi, 2021; Cambanis et al., 2019) was also illustrated by the United States' targeted strike on Qassim Soleimani ("The Engineer"), Commander of the Iraqi Quds Force, in January 2019, during which Abu Mahdi al-Muhandis, Deputy Commander of the PMF, was also killed. The involvement of irregular combat units in the fight for the state was also evident in the failed attack on Iraqi Prime Minster al-Kadhimi in late 2021.

In light of this fragile statehood, which reveals a hybrid model in key areas, particularly the security sector, it is possible to draw certain conclusions concerning the social contract. The lack of mutual trust between the ethno-sectarian groups within society is reinforced by the loss of confidence in state institutions and raises the legitimate question of whether there is even a conceptual basis for establishing a national social contract under these circumstances. According to Furness and Trautner (2020), there are a number of reasons indicating that there is no such basis. As such, consideration should be given to concluding three separate contracts (for Shias, Sunnis and Kurds).[9] In the most extreme case, there are even alternative models that can be derived for an implicit social contract. However, these models are no less repressive than those of the former Baath regime. One example is the attempt by IS to establish partial territorial rule in Iraq (Revkin & Ahram, 2020). As the northern and north-eastern Kurdish areas have grown increasingly autonomous, a trend towards socio-political independence has emerged, including clearly discernible approaches to achieving a social contract for the region based on a shared narrative and an economic foundation. With the Kurds having also been engaged in fighting against the establishment of the Islamic State of Iraq and the Levant (Daesh), this trend was associated with military authorisation and even led to the holding of an independence referendum. Internal disagreements between the two politically dominant Kurdish clans are currently hindering a further distancing from Baghdad.

The three problem areas outlined here – the search for the state, the fight for the state, and the development of parallel social contracts – reveal two issues. First, Iraq has been through phases of complete, albeit still geographically limited, state failure since 2003. Second, the growing segmentation of society and the political system is a mark of a failing or at least highly dysfunctional social contract. It is also an indicator for assigning the status of failing state (Mühlberger, 2015).

1.3 Reset: societal transformation and changes in civil-military relations

Following the US-led invasion, the Coalition Provisional Authority (CPA) was set up in 2003. Initially, the CPA quashed all options for an Iraqi-led political transition, which had been planned, at an elemental level at least, to involve Iraqi exiles in the United States (e.g. Ahmed Chalabi) (Lake, 2013). The purpose of the CPA under the directorship of Paul Bremer, the United States' former civil administrator in Iraq, was, on the one hand, to implement the planned democratisation of the country on a solid legal basis, utilising a corresponding constitution to this end (McGarry & O'Leary, 2007). On the other hand, the authority was to drive a process of

9 This still leaves open the question as to how these sub-national social contracts would relate to one another within the Iraqi state as a whole.

economic liberalisation with a view to adapting the Iraqi economy internally and externally to the logic of competition and efficiency.

However, in order to transform state-society and civilian-military relations as per the CPA, it was insufficient to merely develop a new political system. To this end, the armed forces were disbanded and the political and administrative system systematically purged of all elements of the Baath system. These steps created a security vacuum, which was quickly filled by non-state actors. Against the backdrop of general elections, it was thus possible to significantly change political relations to the benefit of the Arab Shia group, accounting for some two thirds of the country's population.

However, the new political system took on a, most likely unplanned, dynamism of its own. This was favoured by the system of proportional political and administrative representation (consociationalism) and continues to this day. The specialist literature in the Iraqi context refers to a liberal or semi-consociationalism (Aboultaif, 2019). After all, political identities had to first develop and were not defined as such in advance. Nonetheless, an increasing divergence can be observed of late in the Shia block. The disadvantage of this political formula of power-sharing is that identities ossify into socio-political factors, even though the model also provides for a certain willingness to cooperate on the part of the different actors. Consequently, the violence recurring cyclically in the form of civil war calls into question the stabilising effect of this model. At the same time, however, it could also be the transformation of this system into a means of safeguarding clientelist networks that has contributed to an entrenchment of the fronts (McCulloch, 2014, pp. 502–509).

Troubled state-society relations

Ever since the eruption of the Gulf Wars and the 2003 invasion, the relationship between state and society in Iraq has shifted along several axes. On the one hand, the state has gradually abandoned its role as a key actor known previously for state-building, nation-building, repression and redistribution. On the other, societal segmentation has intensified since 2003, being reflected in the politicisation of sectarian and ethnic affiliations. A process referred to as Shia-centric state-building (Haddad, 2016) plays a particular role in this context. It describes the crystallisation of a central power role for Shia-Islamist actors, a development that has some of its origins in a hegemonic concept of a constitutive people on the part of Shia-Islamist political actors. The idea places the Arab Shias in Iraq at the heart of the nation. According to the author Haddad (2016, pp. 5–6), this concerns convictions so deep rooted and politically charged that it would take generations to change the resulting mentality[10]. Combined with the observable state capture, this relative predominance on the part of the Shias has led to a reduction in the capacity of state institutions to promote the common good. The limited available resources serve a primarily, if not exclusively, clientelist logic, and are thus distributed according to utilitarian considerations. Public goods, such as water, electricity and security are therefore barely provided any longer by the central state. It is necessary to take particular account of this issue when creating distribution-theory approaches and corresponding reform proposals that are intended to ensure the fair and impartial distribution of resources.

Empirically delineating the state-society relationship is another challenge. However, the decisive factor in this context is demographic trends, which are characterised by a marked predominance of younger age groups. Particularly noteworthy is the large number of young people born after 2003 who have been socialised during this phase of instability.

10 Consequently, Haddad also concludes that: "Dreams of a sect-blind Iraqi state based on citizenship will likely remain dreams for the time being" (2016, p. 19).

A survey-based study on societal tensions in Iraq concludes that the loss of trust between society and the state is the primary cause of the dissatisfaction that has spilled over into massive anti-government protests since October 2019 (Jaecke & Khalifeh, 2020). This protest movement arose in the relatively quiet phase around 2009/10, when numerous civil-society groups came together to remind the state of its obligations and demand the provision of services (public goods). The perceived extent of foreign influence on government affairs proved to be a particular thorn in the side of demonstrators, who criticised the prevalence of corruption and rejected the political role of the military and the high unemployment level. Accordingly, their key demands included the disarmament of non-state organisations, an independent judiciary to combat corruption, and promotion of the private sector to create employment prospects. A comparative analysis of slogans on social media and the survey results of the study revealed that demands were also being made for adequate political representation. This was expressed in calls for early elections. However, the criticism associated with the unrest was not only directed at government failures, but also in many cases expressed anti-traditionalist feeling by taking aim at tribal and religious dignitaries. This trend also illustrates the loss of trust on two fronts: first, within this heavily segmented society, and second, between citizens and institutions. As such, confidence-building measures are a top priority (Jaecke & Khalifeh, 2020, pp. 1–4).

Developments within society are also of particular interest, especially in those parts of society in which non-governmental organisations (NGOs) are established, for instance. A recent empirical study by the Brookings Institution examined the development of NGOs in central Iraq, tracing donor-dependent development paths in the process (Alshamary, 2022). Certain cities (such as al-Hillah) have seen the emergence of an NGO landscape heavily focused on international donors. By contrast, in other urban centres, such as Karbala, the emphasis is placed more heavily on local networks.[11] There is also a noticeable nationwide phenomenon of ghost organisations, a result, so it would seem, of the commercialisation of the NGO sector. In such cases, NGOs are only actively operated for as long as they can attract funding from a specific donor. Once the funding has dried up, the organisations become nothing more than empty shells. And yet, it is precisely because of their assumption of a positive correlation between civil society and democracy that foreign donors have thus far been motivated to pay special attention and allocate particularly high levels of funding to this sector. However, NGOs in fragile, post-conflict environments can exert even more pressure on already weakened state institutions by pushing a particular expectation that the state itself cannot fulfil. This may even have a detrimental impact on efforts to build trust in official institutions.

The situation is no less complex with regard to civil and military relations, which constitute an important layer in the relationship between the state and society in fragile and conflict-ridden countries especially. A study by Frey (2019) highlighted the key role played by the Iraqi security sector under Saddam Hussein as a guarantor of incomes and an element of social mobility. Yet the externally driven dissolution of this state patronage removed a key element of resource provision from the state as of 2003, and at the same time the ability to ensure the security of citizens through a central institution. Additionally, the disbanding of the military security apparatus, the systematic purge of the Baath system as a whole from the country's administration and the associated mass dismissals of loyal citizens not only created a security vacuum, but also triggered a crisis of purpose. The consequences went as far as the establishment of various precursor levels of the IS organisation (AQI/Al-Qaeda in Iraq, ISI/Islamic State in Iraq). However, this traditional patronage in the security sector took on a new shape in state dealings with armed non-state actors, such as the numerous militias. These militia nonetheless do not form part of a centrally controlled national narrative of Iraqi unity, but rather in many cases represent particular sectarian interests or are even influenced by Iran (Watkins, 2021).

11 For Karbala, it is presumed that this Shia religious centre has well-endowed religious foundations.

In the new context of a political landscape marked by numerous political parties and changing alliances, the nature of clientelism has shifted in the sense that parties and their leaders now compete for state resources to finance their own clientele by furnishing them with jobs and contracts. One unique feature in this context is that the successful political parties typically also have an armed wing. Consequently, it is certainly possible to identify a certain degree of militarisation of the political arena (Mansour & Khatib, 2021, pp. 11–12). This most likely also explains why political parties tend to respond violently to unrest rather than entering into dialogue with demonstrators or even implementing their own reform pledges (Hussein, 2021).

Against this backdrop, we can speak of an overall phenomenon of militarised sectarianism which, in addition to weakening and challenging the state's central monopoly on power, gives rise to considerable tensions between Iraqi citizens on the one hand and armed organisations typically representing particular interests on the other.[12] It is thus a key priority, not least from a social contract perspective, to disarm the militia or to transform them into impartial guardians of state power and guarantors of individual security in line with the concept of provision through their integration into the official security apparatus. After all, the security sector also has its fair share of exclusionary tendencies that serve to promote conflict. For instance, many authors believe that the systematic exclusion of Sunni Arabs and Turkmens has contributed on the whole to weakening the security sector and rendering it more dysfunctional and hybridised (Al-Marashi, 2021).

Concluding thoughts on section one

How does this complex situation affect the assessment of the Iraqi social contract? With the country having experienced a military invasion followed by two phases of civil war within the space of two decades, it is difficult to speak of a properly functioning social contract. Additionally, the level of external influence exerted upon political actors and the security apparatus severely restricts state sovereignty. As such, the weak institutions can hardly serve as credible bearers of a common national narrative. Under such circumstances, it is also not possible for a solid agreement to emerge that reflects state and institutional obligations on the one hand and societal expectations on the other. It is therefore unsurprising that a prolonged period of protest broke out in October 2019. The protagonists called in some cases for complete system change, that is, the comprehensive renegotiation and reformulation of the social contract. In theory, we might thus expect external actors that have committed to improving state-society relations (Building for Peace, 2021) to encounter a broad field of activity when they attempt to strengthen social cohesion and regain lost trust. In practice, however, there are many influential actors that benefit from the hybrid status quo and are at best sceptical of change if not entirely opposed to it.

2 External actors in Iraq: the potential and limitations of intervention

The second part of this analysis focuses on categorising external attempts to establish the Iraqi political system and an Iraqi nation. It emerges that, while the post-2003 political reorganisation process has created a relatively stable political system based on proportional representation, there has been a failure to develop and realise the concept of an Iraqi nation. This can be seen in the ongoing conflict between Baghdad and the Kurdish government and in the recurrence of civil war, including the recent armed conflict between terror organisation IS and the Iraqi state.

12 Particular tensions can arise here, depending on the region. In Salaheddin, traditionally a Sunni majority region, considerable tensions exist with Shia militia, who have remained in the area after recapturing it from Daesh (IS) (Saleem, 2021).

The Shia dominance that has emerged within the political arena and the capture of institutions to serve particular clientelist interests have proven especially problematic.

2.1 Trapped in a vicious cycle of regime change, civil war and reconstruction

Following the establishment of the ethno-sectarian political system in the 2005 constitution, Iraq has experienced phases of extreme violence that have in turn triggered humanitarian emergencies and waves of internally displaced persons and created a need for reconciliation strategies and reconstruction initiatives (McGarry & O'Leary, 2007). All of these areas along the humanitarian-development-peacebuilding (HDP) nexus have seen and continue to see the significant involvement of various external actors as well as local Iraqi NGOs.[13]

If we accept that the system change introduced by the CPA in 2003 was based on false assumptions and relied on problematic Iraqi contacts, then the state-building project can be considered a relative failure at least.[14] Manipulation of the ethno-sectarian lines that arose as a result of the new political system of proportional representation exacerbated the loss of public confidence in state institutions. This created a vicious cycle, which could once again erupt in violence, something which might in the worst-case scenario strengthen the IS organisation once more (O'Driscoll & Fazil, 2020). At the same time, the numerous militias, many of them Shia, use this threat scenario to prevent their own disarmament (Watkins & Hasan, 2020). This also helps to explain Iran's ongoing external influence, which goes beyond its close interconnectedness with a number of Shia-Islamist actors in the political arena. Indeed, there is growing discontentment among an increasing number of groups within society over Iran's role and its influence on political life and the security sector. This has been expressed very clearly in the protests that have taken place since October 2019. These demonstrations mobilised people on the basis of an ideal concept of Iraqi national identity and the demand for the de-sectarianisation of the political system.

However, in order to better understand the current socio-political situation, the cyclical outbreak of civil-war-like conflict and the ongoing desolate state of infrastructure in Iraq, it is necessary to travel back briefly to the 1990s. At that time, the country was confronted with an unprecedented military campaign as a result of its occupation of Kuwait. The 43-day aerial bombardment in particular, designed to force the retreat of Iraqi troops from Kuwait, practically destroyed Iraq's entire civilian infrastructure, setting the country back decades in its development.[15] This was followed by more than ten years in which the far-reaching negative consequences of a particularly strict embargo were felt in the area of public services and health care (Gordon, 2012). Despite the establishment of a contingency mechanism (Oil-for-Food Programme) to allow the sanctions to be officially circumvented on humanitarian grounds, it is believed that the embargo alone led to the deaths of half a million children.

The regime change of 2003, in combination with the systematic dissolution of the Baath system, then placed the entire political and administrative system on a new footing. This gave rise to a new form of power-sharing, which has been repeatedly renegotiated, yet there has been no

13 Just recently, for example, the University of Mosul Central Library was rebuilt with German funding, having been deliberately destroyed by the IS organisation. International donor conferences are also held at regular intervals, even though Iraq is one of the countries with the world's most profitable fossil fuel reserves.

14 Interview with a former, high-ranking member of the United Nations Assistance Mission for Iraq (UNAMI).

15 "The air war ruined roads and bridges, communications, the energy grid, water sources as well as almost all state facilities within Iraq leading to a break between Iraqi citizens and the public services associated with a modern society." (Ismael & Ismael, 2015, p. 238)

lasting stabilisation to date. Instead, fragile statehood and contrary notions of the sovereign and of external influence, particularly by the regime in Tehran, are feeding a vicious cycle of corruption, polarisation and violence. Additionally, numerous observers consider the established system of proportional representation to be so entrenched that it is incapable of being reformed. In their assessment, the best that can be realistically expected is to take small steps towards improving state-society relations (Fazil, 2021). Instead of tilting at windmills, it would thus appear pragmatic to define, problem areas and starting points for positive change, based on an analysis of needs. Applying the analytical lens of the social contract, this should make it possible to improve relations between society and the state/the government.

2.2 Debates on state-building, peacebuilding measures and proportional representation

The Iraq intervention, which is also measured in terms of its declared intent to achieve democratisation and economic liberalisation, has provoked several academic and conceptual debates on account of its consequences. These seek to critically address the following issues: (a) externally initiated state-building, (b) the stabilising contribution of peacebuilding, and (c) proportional political representation (consociationalism). The issue of liberal peacebuilding is also addressed in this context at meta level (Chandler & Sisk, 2013). These debates either dismiss this approach (out of hand) as incapable of creating peace through state-building (Hameiri, 2014) or are critical of the goal of bringing about democratisation through *external* influence full stop (Jahn, 2007).

On the specific matter of state-building, reflections start from US plans for the democratisation and implementation of a new order in Iraq (Lake, 2013) to then concluding that a Shia-dominated model of state-building has been established (Haddad, 2016). In Lake's analysis (2013), local opposition to the occupying power has transformed the original objective of introducing democracy and the free market economy into a counter-insurgency (COIN) approach. This was also based to some extent on the provision of essential services in order to counteract the real and perceived problems through the supply of public goods and thus deprive the insurgency of its material base. According to Lake, there was additionally a series of false premises upon which the United States' policy concerning the CPA, Paul Bremer and certain Iraqi exiles leaned. One of these was the underestimation of the extent of infrastructural destruction (even though the United States bore primary military responsibility for this). The same applies to the failure to anticipate violent conflict between sectarian groups, as well as the assumption that the security apparatus was relatively intact (Lake 2013, pp. 295–296).

In his study, published by Chatham House at the height of terror organisation IS' expansion (January 2016), Fanar Haddad concludes that post-2003 state-building has developed into a Shia hegemony project at overall level. According to Haddad, this process is characterised by the systematic mismanagement of communal plurality[16], as a result of which large groups call into question the legitimacy of the state itself.

One key element in these debates is the question of the extent to which capacity development in the form of building functioning institutions can contribute to the creation of legitimacy (institutionalist approach). However, in the case of Iraq, it is not possible to empirically test this theory. After all, state capture by ethno-sectarian groups has ultimately failed to lead to the establishment of any impartial state institutions whatsoever. As such, growing consideration is being given to ways of improving governance that look beyond institutions. The OECD Development Assistance Committee (DAC) offered some initial thoughts on a social contract

16 Interestingly, the author comes to this conclusion while ignoring entirely the near 80-year Sunni dominance of Iraq's political governance system up until 2003. (Author's note)

back in 2008 (OECD DAC, 2008). Four years later, the UNDP (2012) published a report entitled Governance for Peace: Securing the Social Contract. It examined in detail the correlations between governance, peace and the social contract, concluding that the elements contained in the social contract concept are essential to the success of post-conflict state-building.

Hameiri (2014) is more critical, however, considering state-building to involve not only "...rebuilding the capacity of the intervened state to perform the functions of modern statehood*",* but also ensuring "...the adequate provision of particular state functions, by [sic] quarantining policy making from popular and political pressure from above and below" (Hameiri, 2014, p. 317). In Iraq's case, one might contend that both were only achieved to a very limited extent. Provision in particular is only very piecemeal or has taken on particular tendencies in the context of the militarisation of political actors. This has been illustrated with the example of energy supply in Baghdad's Sadrist-controlled neighbourhoods (Parreira, 2021).

For their part, other authors consider the inability to establish peace through external democratisation in Iraq as a prime example of the failure of liberal peacebuilding. Jahn (2007) also traces this back to the fact that Iraqi actors were only involved to a minimal extent in the post-war processes for building a new political system (2007, p. 220), making it necessary to establish peace through military intervention. The excessive violence of the IS organisation has proven the author right in retrospect. This is because, combined with the desire to avenge the loss of a position of hegemonic power, dashed hopes in the new state gave rise to latent and direct support for the militant movement. The declared aim of combined regime and ideological change to strengthen regional security (Jahn, 2007, p. 212) has thus by no means been achieved. Instead, the intervention created enemies that have at times even boosted the transnational clout of Jihadism.[17]

The hypothesis asserted by Lottholz and Lemay-Hébert (2016), namely that state-building, even from Weber's broader perspective (traditionally interpreted primarily as institutional dogma), enables state legitimacy to be viewed in more cultural and historic terms, is also relevant in this context. Additionally, the authors see implications here for what they term international state-building, which refers to externally driven intervention in the state-building process. This expanded reading of Weber also calls into question the possibility of establishing peace through a purely institutional application of Weber's concept of the state. The authors refer in a DC context to several OECD-DAC studies which also cite traditional, more or less locally mainstreamed forms of creating legitimacy. Religion and ethnic identity are listed as specific parameters in this context (Lottholz & Lemay-Hébert, 2016, p. 1478). This broader understanding of Weber also affords a differentiated response to the role of the social contract with respect to improving relations between the state and citizens/society. When it comes to the question of how to achieve legitimacy, this response involves thinking beyond the mere application of a neo-Weberian, infrastructure-oriented approach. The choice of such a post-Weberian model can and should open the eyes of DC actors to cultural particularities (in the target region for the intervention). And it should do so without them losing sight of the material dimension of the social contract, which is usually a pre-requisite for giving consideration to the soft elements, as they are known, in the first place.[18]

17 Jahn also put forward the hypothesis, of interest to social contract theorists, that, for all the fundamental differences between Locke and Rousseau, the state of nature addressed in modern reflections on the social contract can be traced back to the discovery of South America and the associated impressions upon encountering the indigenous peoples (Jahn, 1999).

18 Badie already explored the issue of cultural differences and peculiarities regarding the function of political systems in the 1980s in his standard work *Les deux États: Pouvoir et société en Occident et en terre d'Islam* (The Two States: Power and Society in the West and in the Land of Islam, 1987).

Nonetheless, empirical evidence shows that large swathes of Iraqi society have particular expectations of the state institutions (Jaecke & Khalifeh, 2020; Fazil, 2021) as guarantors, be it of jobs in a bloated and inefficient bureaucracy, of subsidies for particular daily consumables (basic foodstuffs, fuel and energy), or of human security. The question remains as to the extent to which the specific complexities in Iraq tend to have a divisive effect rather than facilitating the development of a coherent, national social contract by taking into account the cultural and ethnic aspects of legitimation of political actors at country level.

Nation-building in Iraq in its broader sense is mentioned in the classic work by Farouk-Sluglett and Sluglett (1991) and examined more specifically in a social contract context by Ismael and Ismael (2015). The former make reference to the phase of reconstruction following the end of the Iran-Iraq War, when Saddam Hussein attempted to reinvigorate the economy and modernise the administrative system at the same time. The economy, co-financed with state oil revenues, served as the economic driver for this change.

Ismael and Ismael (2015) stress that the redistribution of wealth (referred to here as social justice) based on natural resources in Iraq enabled the implementation of joint project. They point out that this made it possible to transcend community affiliations and thus contribute to nation-building and gradually pave the way for the creation of a national identity. They continue that this was achieved in part using legal measures, such as the Personal Status Law, which was designed to repress tribal influences (2015, p. 233). Nonetheless, this trend in the legal sector had already been strongly reversed under Saddam Hussein, as shown clearly by studies on re-Islamisation and re-traditionalisation (Kreile, 2008; Poggenburg, 2019). This study, however, does not view the hegemonic system of Hussein from the perspective of his neo-patrimonial distribution logic, thus giving the impression that Iraq truly had a functioning social contract. The material redistribution of oil wealth to establish social peace is not in and of itself a sufficient criterion here for recognising the existence of a social contract.

The literature, however, which examines the categorisation of the new political system within Iraq, often adopts a consociationalist perspective (proportional political representation), based on assigned distinguishing characteristics. This frequently takes place on a comparative basis, usually with Lebanon, for example. The Lebanese model is more formalised and has existed in one form or another since the late 1940s. Nonetheless, from a comparative perspective, there is a greater focus on the assumed existence of an elite pact. By means of identity politics, this maintains an established form of power-sharing that prevents the emergence of impartial, formally bureaucratic state authorities or a social contract for the whole of society.

2.3 Fragile context, resilience and the social contract

In the introduction to the volume “Irak: un destin tragique” (Iraq: a tragic destiny), Adel Bakawan (2021) makes the following assertion: “Born in 1921, with no administrative unity or national identity, let alone a sense of nationhood, and governed until 2003 by a Sunni minority and subsequently a Shia majority with no state tradition, Iraq has to date been unable to develop a sense of Iraqness (French: *irakicité*), which would create a certain degree of cohesion”. Despite repeated attempts by certain political actors (such as Ayad Allawi and Muqtada al-Sadr) to develop an inclusive national discourse, Iraqi reality remains characterised largely by “primary loyalties” (Bakawan, 2021, pp. 9–10, author’s translation). From this perspective, establishing an inclusive Iraqi state would appear impossible. Instead, its new institutions now serve to allow groups defined along ethno-sectarian lines to appropriate oil revenues rather than laying the foundation for an impartial political system (Luizard, 2021, p. 68).

It is precisely against this backdrop that the social contract proves useful as an analytical lens, making it possible to clearly identify certain structural weaknesses and the dynamics of the established system and at the same time highlighting starting points for improving the situation.

This birds-eye view of the social contract could also benefit the traditional main players from the humanitarian development and peacebuilding sectors, who have maintained a massive presence in Iraq since 2003. In this way, it would be possible to reflect in a structured manner on governance, accountability and redistribution in a neo-patrimonial system of proportional representation characterised by ethno-sectarianism (Arabic: *Mukhassasa ta'ifiyya*). Relevant parameters such as social cohesion, state-society relations and statehood can also be categorised.

After all, the ongoing crisis within the Iraqi political system is not only a thorn in the side of the populace, but is also the subject of reflections within academic discourse. The term *ladaula* (literally "non-statehood"), introduced by Faleh Abdul-Jaber, has become particularly well established in this context when it comes to considering the role of non- or para-state actors within power structures. For instance, then Prime Minister al-Kadhimi referred to the Popular Mobilisation Units/Forces (PMF/PMUs or *Hashd*) as *ladaula*, that is, non-state, in August 2020. At the same time, the PMF/PMUs were legitimised in a fatwa issued by Ayatollah Sistani. In any case, the central hypothesis is that *ladaula* actors operate in a manner that is supportive and constitutive of the state, while the state itself is a chimera. This would also explain why the official Iraqi state, which derives its legitimacy from its own actions, is very limited in its ability to exercise authority. Aziz's hypothesis that it is the very maintenance of the hybrid nature of the state (an opaque mix of informal and formal actors) by the political elite that enables this elite to capture the state institutions in order to enrich themselves (Aziz, 2021, pp. 45–48) is significant in this context.

This form of state failure, namely the appropriation of state or public (belonging to the general population) resources is categorised by Ismail (2016) as follows: "*If the state does not act as an agent of society (realising its interests) there is no social contract between the state and society*" (2016, p. 524). This is also true in practice of the Iraqi political system, which has seen its legitimacy and authority undermined and eroded to such an extent by particular interests that the question arises not only as to whether the state can continue, but also regarding the role of the social contract. Ismail (2016), who views the contract theory (primarily) from an economic point of view, sees the question emerge as to what extent a state can provide public goods, even if it is acting in a predatory manner. In a hybrid context, such as that in Iraq, this question is particularly pertinent with regard to armed non-state actors and their capacity to offer security as a public good of sorts. At the same time, Ismail is interested in the reason(s) why citizens do not play an active role in these processes. He also completes the picture by giving consideration to the influence of external actors (in Iraq's case, these would be primarily Iran and the United States). His conclusion is extremely relevant to the Iraqi context. He considers the lack of institutionalised diversity to be the primary reason for the failure of the state and thus for the dysfunctional social contract. "In other words, politicizing societal differences, say clan or ethnic identities, may make a society a deeply divided one that is unable to cooperate for the common good" (Ismail, 2016, p. 525). In such situations, it is virtually impossible for citizens to find an approach to renegotiating the dysfunctional social contract. Equally, the exploitative elites have seen their position strengthened by the weakening of society, and thus see no reason to bolster social cohesion.

Clausen and Albrecht (2022, pp. 16–18) make a similar argument when they note that state fragility can also serve as a useful instrument for external actors to justify certain types of intervention or an international hierarchisation of states. From the social contract perspective, however, it is more interesting to observe how the security apparatus is perceived by the population. According to a survey in 2021, 60% of Iraqis consider it to be a trustworthy state institution. However, this positive perception is relativised as a security guarantee by the fact that a larger proportion of the population, over 70% in total, does not feel safe or only feels partially so. The authors also assume that Iran's strong influence on the security sector will weaken the social contract in the long term, as will structural and practical shortcomings. They

consider the close links between political and security actors another reason for the move away from state-building towards greater stability.

Resilience can also be an indicator of state and societal fragility. Government legitimacy can be measured in this context based on such things as the provision of public goods (output or provision-based legitimacy). Huber and Woertz (2021) categorise Iraq as a rentier state combined with a hybrid model of administration and statehood. On this basis, the authors assert that the resilience of the Iraqi state can be measured primarily in terms of how it deals with price shocks on the international commodities market for oil and gas. After all, these market fluctuations significantly impact the state's capacity to create output-oriented, that is, provision-based, legitimacy. Nonetheless, the question of redistribution – especially in Iraq – is not only limited in terms of purely mathematical resource availability regarding the oil price, but is also linked in practice to the question of how the funding is used, given that most of this finance is demonstrably spent on the bloated apparatus of public officials.

The level of confidence in state institutions can also be drawn upon as a means of measuring the quality of the relationship between citizens and the state. According to a survey by the Arab Barometer, cited by Huber and Woertz (2021, p. 1269), the armed forces and civilian security forces (police) score relatively well (just over 80% and just under 70% approval respectively). However, the government, the administration and the local administration all received an approval rating of less than 30%, with the government's rating even below 20%. These indicators are reliable measures of the highly dysfunctional nature of the Iraqi social contract, which should in the first instance express the positive relationship between the public and the government.

In order to account properly (analytically) for the increasing complexity arising from multi-level conflicts, hybrid political systems and tense societal relationships, an interdisciplinary approach is increasingly being drawn upon as a means of improving the analysis. In-depth evaluations, such as peace and conflict analyses (PCAs) can certainly be used to identify socio-political conflict drivers, which can be taken into account in order to improve or renegotiate a social contract. A number of authors approach this question to a greater degree from the perspective of the peacebuilding-development nexus, that is, the functional intersection between peacebuilding and development cooperation. State-building and the establishment of crisis-proof social contracts is a key component in this context. In many cases, however, including in Iraq, this approach requires a change of direction, that is, putting an end to the exertion of external influence on the political system. After all, it is not only local actors, but also regional and global ones that often hinder the emergence and consolidation of social contracts (McCandless, 2021, pp. 139–143).

Concluding thoughts on section two

Since the military invasion by the US-led coalition in 2003, a large number of external actors have provided support in the areas of institutional state-building, conventional development cooperation and peacebuilding. However, the frameworks for such cooperation arrangements present challenges. The political system has developed in such a way that it has given rise to increasing fragmentation in communal life and to an extremely tense relationship between society and the government/state institutions. Additionally, these differences, some of them fundamental, escalate on a regular basis, creating civil-war-like conditions. As such, an already complex framework is being repeatedly shattered by the formation of fresh rifts. Consequently, external actors also face a Sisyphean task to some extent. And this is precisely why it makes sense to work towards structurally improving the fragile and tense state-society relationship.

The next section will thus draw upon the previous analysis of this complex relationship to explore several ways that external actors can make a constructive contribution to the process of negotiating a new social contract. However, these actors cannot secure on their own the

necessary willingness on the part of the Iraqi elite to work on a common national project based on a shared Iraqi identity. This needs to be primarily a process within Iraq itself, ideally with funding from external actors.

3 Renegotiation of the social contract and external contributions

The conclusion of this analysis creates a synthesis that builds upon the reflections and conclusions of the two preceding sections, which examined state and societal conditions on the one hand and external efforts and results related to the establishment of a new, functioning political system in Iraq on the other.

As this analysis has revealed, the goal of establishing a prosperous, sovereign and democratic Iraqi state with external support was too ambitious and failed to be achieved for many different reasons.

Instead, the result is a hybrid governance and political system, involving non-state actors in some cases, captured institutions and a highly fragmented society, which defines itself primarily along sectarian and ethnic lines. This is supplemented by a Shia-dominated system of proportional representation and an economy strongly geared to oil revenues, creating an adversity to reform on the part of the state.

Viewed through the lens of the social contract, this gives rise to a number of problem areas. Potential contributions by external actors to renegotiating the social contract can in turn be derived from these areas. Account is taken of these challenges and solutions in the concluding recommendations for action issued here.

3.1 Baghdad's governance: rentier state and particular provision

The political system established after 2003 is a quasi-representative, election-based model of power-sharing that rests upon sectarian and ethnic affiliation. The allocation of political and public offices on the basis of this *Muhassasa ta'ifiyya* also determines the provision of public funding. Consequently, this is based not primarily on objective need criteria, but rather on proportional political representation and associated clientelist considerations. It becomes clear here that the state in Iraq in no way acts in accordance with formal bureaucratic criteria, but rather that its governance model follows a specific power-sharing logic, especially when it comes to issues of public goods redistribution.

This phenomenon is to some extent a specific form of state capture, based on an elite pact. The extent and nature of this state capture depends in turn on the distinguishing feature of the Iraqi economy, namely, a highly pronounced form of rentier state, that is, its unilateral dependence on the promotion of and trade in fossil fuels. This reliance on oil revenues has several consequences, including the hindrance of economic diversification (as such diversification would undermine the monopoly on power)[19] and the reduction of the need for the state to tax the population. In such constellations, the state is said to be autonomous of society (Fazil, 2021, p. 3), which enables it to be less concerned with accountability.

19 This also explains the state's efforts to channel its investments primarily into the oil industry.

State capture and revenue dependence are thus closely interconnected. This comes at the expense of economic diversification, job creation, the neutral distribution of public goods, and, at overall level, the emergence of a social contract based on mutual obligations. This complex situation also gives rise to various types of corruption (Iraq is ranked 157 out of 180 countries in Transparency International's Corruption Perceptions Index (Transparency International, n.d.), ranging from the improper awarding of contracts to misappropriation of public funding. Additionally, the lack of economic diversification leaves the Iraqi state dependent to an above-average extent on fluctuations in the market price of oil and gas when it comes to provision.

This complex entanglement of political and economic factors also explains why the system is so difficult to reform, having developed its own resilience to change through the way it operates. Of course, this resistance, coupled with and determined by the state's willingness to repress political dissatisfaction, also poses an obstacle to improving state-society relations. The same is true of the renegotiation of the social contract.[20]

Autumn 2019 saw the outbreak of mass unrest, triggered by this combination of limited, clientelist redistribution of state and, in a democracy, public resources, and by a dissatisfaction with the political system itself, which is blamed for a lack of social welfare, poor infrastructure and an inability to reform (Fazil, 2021). Despite brutal repression, this unrest only abated with the outbreak of the coronavirus pandemic in early 2020. The early parliamentary elections in autumn 2021 then saw parties with militia closely connected to Iran massively punished when those militia were rumoured have been responsible for the murder of hundreds of demonstrators.[21]

Weakened and captured institutions that serve the particular interests of sectarian representatives on the political stage and reveal a lack of public service provision (health, education) and infrastructure (water, energy) paint a picture of a fragile state on the brink of failure. This is thus a difficult environment in which to systematically renegotiate the social contract, as the relationship between the state and society is constantly put to the test. At the same time, it creates a need and opportunities for improving the contract.

3.2 Development policy practice and peacebuilding in light of the social contract

The purpose of this study is to find answers to the question of the extent to which the day-to-day structural problems in Iraq can be effectively identified through the conceptual lens of the social contract in order to then derive constructive recommendations for action for external players. This section will thus also make reference to the increasing attention being afforded to the social contract in studies by international organisations.

A key option here is the conception of the social contract based on the three Ps (provision, participation and protection) (Loewe at al., 2019). However, due to the unique challenge presented by the situation in Iraq as a result of actor dynamics and conflict cycles, and to the particular effect this has on external actors planning effective interventions and on the areas of humanitarian assistance, DC, TC and peacebuilding, it would seem expedient to at least consider the interdisciplinary perspective of the HDP approach. In this way, possible approaches

20 Fazil describes this problem as follows: "Public policy is largely devoid of an aspiration to achieve public good for all citizens. […] **which has adverse consequences for the coherence and continuity of development strategies and programmes.**" (Fazil, 2021, p. 2; emphasis added)

21 Consequently, certain Shia militia reject the election result, which is hindering the formation of a new government (Iban, 2021).

can be identified for improving the social contract.[22] This will be achieved in this paper primarily by means of making pertinent reflections on peacebuilding, given that Iraq is plagued by a whole range of conflict drivers (Dodge et al., 2018). There are also numerous studies on the interface between conflict resolution and the social contract.[23]

However, there are two phenomena that tend to hinder the implementation of activities aimed at improving state-society relations. The repeated eruption of violent domestic conflict in Iraq (civil war and the Surge between 2006 and 2008, and IS rule between 2014-2017) prevents external actors from realising their projects and creates an immediate need for humanitarian assistance (such as the provision of care for internally displaced persons), as well as for reconciliation and physical reconstruction.

Project and programme management is also set back considerably by widespread corruption (Iraq is ranked 157 out of 180 countries in Transparency International's Corruption Perceptions Index (Transparency International, n.d.)). Iraq's fragility (ranked 20 in the Fragile States Index) is another indicator of the challenges faced in the national context.

At the same time, donors have different interests, which are more a reflection of at least similar key aspects of security policy and geopolicy than of different ideological approaches to development policy. Hameiri (2014) makes reference here to the theory of negative externalities in risk management. These externalities serve as the rationale for state-building and development assistance in Iraq. The goal of preventing illegal and thus uncontrolled migration resonates unspoken in this context. At the same time, efforts to curb global terror organisations are also found along this spectrum. For instance, the first international donor conference for Iraq following the defeat of IS saw a total of EUR 30 billion pledged for the reconstruction effort (UN OCHA, 2018).

Regional geopolitical trends are also relevant at this point. This has been seen in the changed relationship between Saudi Arabia and Iraq, which at least offers the potential for reinvigorating bilateral trade relations and gives reason to hope for the urgently required Saudi investment (ICG, 2018).

In other words, a pure needs analysis with a social policy focus is restricted to some extent by the development policy practice of international actors and their geopolitical and administrative stipulations.

And yet a clear trend has emerged within international organisations and the DC sector towards making more systematic use of the social contract lens for the purpose of analysis and identifying needs. This is illustrated by a number of relevant publications in which the social contract is mentioned in passing as a relevant variable or even placed at the heart of reflections. The World Bank published a study jointly with the United Nations in 2018. Entitled "Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict", it offers a series of reflections and recommendations on the topic. This was followed in 2020 by a World Bank study with a MENA focus, entitled "Building for Peace: Reconstruction for Security, Sustainable Peace, and Equity in the Middle East and North Africa". Produced in close cooperation with the German Federal Ministry for Economic Cooperation and Development (BMZ), it places a greater emphasis on reconstruction, yet without neglecting the social contract perspective (The World Bank & IBRD, 2020).

The United Nations Development Programme (UNDP) had already specifically chosen this perspective in 2016 in order to highlight its relevance in fragile and conflict-laden situations

22 For more information on the HDP nexus, including its strengths and weaknesses, see Caparini and Reagan (2019).

23 See in particular the studies by Erin McCandless.

(UNDP & NOREF, 2016). It was stressed in this context that, in order to improve the social contract, there was a need to increase welfare provision by state institutions, pursue more inclusive policies and strengthen the relationship between the state and society and between groups within society.

Another “Building for Peace” study was issued in 2021, this time a joint publication by GIZ and KfW. It sets out several areas with a connection to the social contract. Two of the four key areas of intervention outlined are compatible with the social contract perspective, namely ‘improving state-society relations’ and ‘social cohesion’ (GIZ, 2021, pp. 19–23).

The social contract perspective has increasingly appeared in reflections by organisations on DC and peacebuilding in recent years. At the heart of these deliberations are the promotion of social cohesion, inclusivity in peace agreements and properly functioning state institutions.

3.3 Recommendations for action to strengthen the social contract in Iraq

Building on the previous sections and the central problem areas outlined, and taking account of key fields of conflict, a series of recommendations are outlined below. Their application could make a key contribution to strengthening the Iraqi social contract. The three Ps (provision, protection and participation) provide the principal frame of reference. Further recommendations are also made, complementing the three Ps system and proposing relevant activities for improving the state-society relationship.

The latest literature on weak statehood, fragility and state-building shows the tendency (from post-Weberian reflection) to divide the state’s power structures into horizontal and vertical networks. At the same time, it draws upon this concept as a model for explaining the situation in Iraq, for instance.[24] Other authors stress the need to re-read Weber himself, including his non-canonical works, in order to also take into account cultural aspects of statehood (Lottholz & Lemay-Hébert, 2016). However, these complex relationships are found in different forms within all state entities and thus apply to some extent to all political systems. Notwithstanding, the parameters of statehood cannot be excluded entirely, not least when it comes to finding models to explain typically informal systems. Instead, the question arises as to the nature of the relationship between state and informal actors, the effective roles played by non-state groups, and how they relate to the population. Ultimately, however, Iraq can only be classified as a fragile state, on the basis of both conventional Weberian criteria (security, sovereignty, territory) and various post-Weberian approaches (which stress the aspect of informality).

It is thus necessary to examine in greater detail the basic question discussed here of whether the particular relationship existing between the state/government and society in contemporary Iraq allows us to speak in any real way of the existence of a social contract in its strictest sense (traditional utopia à la Rousseau or Locke) or in broader terms (as a weak or dysfunctional contract). Against the backdrop of diverse loyalties, deep socio-political rifts and a massive loss of confidence in the competence of the state, it would also appear questionable whether Iraq can be referred to as a community or a nation to any significant extent. Instead, the empirically observable relationship between the state and society would seem to represent an ongoing process of developing and renegotiating the social contract.[25]

24 For information on post-Weberian statehood, see Migdal and Schlichte (2005); for the Iraqi context more specifically, see Mansour and Salisbury (2019).

25 This study builds on the premise that when the three Ps have been realised, even if only to a very limited extent, then it is possible to speak of the existence of a social contract, including the possibility for negotiation.

After all, as outlined above, Iraq has in reality been unable to roll out the state throughout the country since 2003. That is, it has failed to formulate a shared national vision of the origin, purpose and orientation of the Iraqi political system that enjoys the support of a significant and politically relevant majority. At best, it is possible to speak of a social contract for the whole of Iraq in metaphorical terms. After all, we are dealing with an ongoing negotiation process that is not yet concluded, has no discernible uniform line and does not appear to offer any promise in the near future, given the aforementioned circumstances.

It is especially important to clearly formulate this assessment in order to derive from it recommendations for action. Given the main problems identified (fragile statehood, hybrid form of governance, segmented society), there is a pressing need to step up work on the foundations and development of a self-sustaining social contract. At present, this primarily involves attempts to prevent deteriorating state-society relations from eroding further. Otherwise, players that primarily cause disruption and exploit weaknesses in power structures, such as the reinvigorated IS and Iranian-affiliated actors, could continue their efforts to spoil relations and further weaken the state.

Recommendations for action: questions, goals and work steps

The following recommendations thus pursue the primary and essential goal of safeguarding the quality of state-society relations. In this way, appropriate steps can be taken to strengthen the largely dysfunctional Iraqi social contract. The contract can also be adapted by means of suitable renegotiation to the needs and expectations of the population and to the obligations of their political representatives.

The recommendations, derived from the aforementioned problems, can be categorised into the following areas: current situation in Iraq (part 1) and the role, options and limitations of external actors (part 2).

The interpretation of the social contract concept (see section 1.1), which can be operationalised along the three central parameters (three Ps) of provision, protection and participation, offers the starting point. At the same time, it accords the structural framework in Iraq – post-conflict environment, rentier state, fragile statehood and a divided society – the necessary relevance.

When it comes to planned interventions by external actors in particular, it is essential to recognise that, despite the considerable backlog of reforms and numerous demands of the protest movement, changes should only be attempted incrementally. After all, it is important to avoid placing excessive strain on the fragile framework of the Iraqi state and to avert counter-productive resistance by potential disruptors. Instead, constructive contributions should be made to improving society-state relations (social cohesion being the watchword).

The following sets of questions could be helpful in this regard:

Question I: What can be done to convince the government and other cooperation partners of the need for and benefit of the social contract approach? Which alternative actors offer the best conditions and can serve as systemic change agents for establishing the social contract through negotiation?

Question II: Is the goal to instead establish a central, national social contract, with an associated national narrative? Or is there a need for a minimal solution, with all the associated pros and cons, which promotes stability through micro contracts at regional or sub-national level, along the lines of a local turn approach?

Question III: To what extent do external forces (Iran and other neighbouring states; international organisations; NGOs) also affect the nature of the social contract? What approaches should be pursued to take account of this or to take any necessary countermeasures?

Question IV: Given the demographic situation (over 60% of the population is under 25 years of age), should particular emphasis be placed on the role of young people in negotiating the social contract?

Question V: What can be done to take account of climate change and its effects, which were already categorised by the US Department of Defense (DoD) as a conflict factor back in 2003? For Iraq, this potential conflict driver is visible in the issue of water distribution, which also threatens to weaken the country's fragile social cohesion (Al-Aloosy, 2021; NUPI & SIPRI, 2022).

There is also a series of overarching objectives that needs be pursued:

- Efforts should be undertaken to prevent the deterioration of state-society relations. This should be achieved primarily by means of implementing better governance, taking voter demands (including those for structural change) into consideration and employing inter-sectarian dialogue.
- The legitimacy of political actors should be improved by taking account of the capacity-capability-legitimacy nexus, that is, by also engaging non-state actors in the reflection process.
- Measures should be introduced to create and bolster confidence in state institutions to prevent a further drifting apart of citizens and their political representatives.

The following preparatory work steps need to be taken to drive the achievement of these strategic objectives:

- Conduct a systemic analysis of stakeholders and actors (including informal actors) with both capacity and skills. This permits the identification of chokepoints (systemic roadblocks, such as corruption itself or specific corrupt actors) and change agents (actors with the will and ability to effect positive change).
- Carry out in-depth research, aided in particular by empirical studies in the field[26]: conducting and mapping surveys can be useful in better understanding the expectations of different sections of the electorate, especially young people, who constitute the largest population group. These surveys could also be carried out or supported by Iraqi civil-society actors (NGOs). The aim is to ensure that public goods are provided without discrimination.
- Development of a social contract-based theory of change (such as: "development of a resilient Iraqi social contract"): the parameters of this theory should enable specific recommendations to be derived.
- Strengthening one's understanding of conflict drivers, focusing on those with a detrimental impact upon the state or renegotiation of the social contract.

Recommendations for action: practical steps

Building on the aforementioned sets of questions and taking into account the overarching objectives, the following practical recommendations have been derived for actions conducive to the development of a social contract. It may be possible to flesh these recommendations out subsequently if the recommended work steps are implemented.

26 A survey-based study by SIPRI (Stockholm International Peace Research Institute) and UNDP on the social contract is expected to be released during the course of 2022.

From a three Ps perspective, the recommendations can be classified as follows:

Provision (of public goods)

Given state fragility, corruption and clientelist tendencies (capture of public institutions), it is necessary to take account of the following for the provision of public goods:

Public goods should be made more widely available and generally de-politicised (or de-sectarianised in the Iraqi context). The government would enhance its legitimacy were it to enable the general public to share in the wealth generated from crude oil revenues. This could be achieved primarily by de-politicising the process for managing energy and water utilities. The public health system also needs to improve the quality of its services and be transformed to increase its appeal as a sector for Iraqi doctors to work in.

A budgetary reform should allow re-prioritisation of the necessary tasks. This principally involves placing a greater emphasis on public goods, such as the health sector, and moving away from substantial expenditure by the Ministry of Defence. At the same time, however, this requires that improvements be made in security sector governance (SSG) and that there be security sector reform (SSR) (see under 'Protection'). Universal access to health care is a basic pre-requisite for building trust in public institutions.

There is a need for greater transparency in order to fight corruption and thus ensure that confidence in public institutions is not further eroded. Independent authorities should be established to this end, operating on the basis of existing legislation that has not yet been applied. This task could also be carried out by civil-society watchdogs, which work to create more transparency in policy-making and business.

The geographical focus should be expanded both when it comes to promoting civil-society actors and in regard to DC/TC, and should be geared to a greater extent to needs and/or grievances. After all, social cohesion can only be achieved in the long term if specific account is taken of societal expectations.

Protection

When it comes to the rule of law, the issue of legal pluralism has had a particularly detrimental impact recently on efforts to reintegrate internally displaced persons. It is thus necessary to reach a decision on the issue of specific transitional justice (TJ) in the context of the suppression of the IS organisation and the numerous disputes over property, expropriation and returnees.

It is essential to strengthen the state's monopoly on power in order to ensure the safety and integrity of the population. To this end, systematic efforts are still required to disarm the militia following the successful fight against Daesh and to drive inclusive reform in the security sector.

A distinction should also be drawn between (unwilling) public institutions on the one hand and non-state/hybrid actors that nonetheless operate pragmatically and with a results focus, on the other. This is necessary in order for such actors to experience gradual recognition and integration in official structures.

Participation

While the sectarianised system of proportional representation does allow for political participation, numerous citizens feel that this system does not represent their interests or preferences. It is thus a key priority to not only take seriously the desire for reform, but also to admit non-sectarian parties to the system, otherwise Iraq runs the risk of seeing a return sooner or later to the kind of unrest witnessed in October 2019.

The process of forming a government, still ongoing at the time of writing, should certainly depict the evident desire for change on the part of the electorate in order to avoid reinforcing the considerable discrepancy between the opportunity for participation (elections) and the lack of representation. A change in electoral law should make it possible to mobilise voters on a basis other than ethno-sectarian lines. New elections should also be conducted at municipal level in order to underscore the duty of political representatives to be accountable.

Particular attention needs to be paid to the issue of perceived and actual marginalisation of Sunni population groups. It is especially important in this context to address the shared responsibility of Sunni elites in order to develop inclusive strategies. The area of SSR/SSG in particular requires broadening, with the involvement of Sunni population groups (Arabs, Turkmens).

Disproportionate attention should be paid to young people, given their demographic significance, in order to promote social cohesion. It is thus necessary to step up investment in young people, including through vocational and leadership training, to also give them a voice in the political arena.

In addition to the aforementioned recommendations in a three Ps context, there are several other **recommendations for action** that will strengthen social cohesion.

Equal consideration should be afforded to the horizontal and vertical components of the social contract, with account taken of the way they interact with and depend on each other. For instance, the question of how to promote cohesion within a society (by means of covenants) should not be addressed separately from the issue of a narrative of Iraqi identity applicable to the nation as a whole.

There is a general need to improve relations between polarised groups within society in order to prevent further segmentation and foster (macro-)social cohesion. The primary means of achieving this is to employ dialogue formats that extend from national to local level and have the potential to promote inclusivity and mutual trust.

The private sector is in urgent need of diversification if young people’s employment opportunities on the job market are to be improved. The sector must be released from its unilateral dependence on the oil industry and international price trends in that industry. However, it is necessary to dismantle administrative and legislative barriers in order to pave the way for beneficial and secure investment. Social cohesion can only be strengthened and state legitimacy bolstered if young people have employment prospects.

External actors should focus on being consistent and unwavering in their actions, taking a long-term approach to their involvement. After all, no lasting results can be achieved through the mere provision of short-term support for societal processes.

4 Conclusion

This paper is based on the premise that the social contract represents a specific kind of relationship between the state and society. The contract is characterised by a comprehensive covenant on the socio-political rules of play, which then gives rise to widespread acceptance of the rule exercised by the government. This covenant is voluntary in nature, albeit based on self-interest. In this way, the state (which protects its citizens) and its government gain legitimacy. As well as having a stabilising effect, this consensus forms the basis for establishing the rule of law. The classic concept of the rule of law was explicitly positivist, yet cannot be applied directly to Iraq, given the legislative pluralism that exists in the country. However, because this construct is essentially a thought experiment, it is logical to explore the extent to which such an ideal state

of affairs, that is, a utopia, can also be translated into socio-political practice. Could this kind of contract go from being implicit to explicit? What specific shape would this covenant between citizens and the government take on in the process, and which negotiating mechanisms would be employed?

If the concept of the classic social contract or even more modern iterations are to be transferred to contemporary Iraq, then it is necessary to clarify the composition of Iraqi society, the effectiveness of state bodies, the nature of the government, and the type of interaction between these different levels. It is then possible to make deductions as to the legitimacy of the executive power, the status of the rule of law, and the legitimate expectations of citizens.

The following three points already provide clues as to the extent of particular and divergent attempts to gain power that hinder the construction of a macro-social covenant on the political rules of play and constructive co-existence in Iraq: (a) the existence of a horizontally segmented society with no covenants to speak of between what are in some cases antagonistic groups; (b) the increasing capture of the bureaucracy based on sectarian identity, (c) a Shia-dominated political elite and government that pursue their own exclusive narrative of justice and nationality. In practice, we are confronted with the sectarianised imposition of a new socio-political model that, while capable of winning an electoral majority thanks to demographics, is by no means consensus-based in its entirety. At the same time, the Shia population's disapproval of Baghdad's governance is regularly expressed through violence. This also places the theory of an uncontested, sub-national, intra-Shia social contract on a shaky footing. Additionally, the most recent election results have seen the rejection of the proportional representation system and the militarisation of politics reflected at the ballot box in what constitutes a call for the renegotiation of the social contract.

Ongoing Kurdish efforts to achieve autonomy indicate that the remaining shell of the former central state in Baghdad has not yet been able to capitalise upon the constructive phase of nation-building under the Qasim and Hussein regimes. Constant squabbling over the distribution of revenues from the oil and gas sectors, and even territorial disputes between the Kurdish regional government and Baghdad substantiate the hypothesis that there is no consensus on even the most basic matters such as the form and purpose of Iraq's political system.

The traditional concept of the social contract represents a utopia of sorts. Nonetheless, depending on the author and historical context, it contains parliamentary, legislative and, in some cases, positivist legal references. Rather than being based on underlying assumptions regarding motivations (self-interest versus altruism) and noble goals (freedom), modern interpretations adopt a practically oriented model of negotiation between the state, that is, its bodies (such as the executive, the legislature and its bureaucracy) on the one hand and society on the other. This model can be defined on the one hand in terms of rights and on the other in terms of expectations and aspirations with regard to state obligations in particular. However, regardless of which one of the two approaches we take, the outcome is ultimately the establishment and acceptance of a legitimate form of governmental rule.

Under certain circumstances, this template can be applied effectively to 21st Century Iraq, allowing deductions to be made and recommendations derived concerning potential interventions by the German and the international development cooperation sector. It is necessary nonetheless to take account in the process of the degree of state fragility and the level of resilience of the new political system of proportional representation. In so doing, it is important not to forget the extent of public frustration over the lack of state capacity despite a lucrative rentier state system if fresh legitimacy is truly to be created through the renegotiation of the social contract. Such legitimacy would be the most important outcome of a functioning covenant between the state and society.

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