

About the Middle East Centre

The Middle East Centre builds on LSE's long engagement with the Middle East and provides a central hub for the wide range of research on the region carried out at LSE.

The Middle East Centre aims to enhance understanding and develop rigorous research on the societies, economies, polities and international relations of the region. The Centre promotes both specialised knowledge and public understanding of this crucial area and has outstanding strengths in interdisciplinary research and in regional expertise. As one of the world's leading social science institutions, LSE comprises departments covering all branches of the social sciences. The Middle East Centre harnesses this expertise to promote innovative research and training on the region.





The Shifting Landscape of Iraq's Judiciary: Increased Judicial Activism, Centralisation and Politicisation after 2017

Iraq Watch Group

About the Authors

Iraq Watch Group is a group of researchers and analysts focusing on Iraq.

Abstract

This paper examines the evolution of Iraq's judicial system after 2003, focusing on the increasing centralisation of judicial power and the rise of judicial activism. Following the fall of Saddam Hussein, the judiciary has become progressively insulated from criticism, with power concentrated within the Supreme Judicial Council (SJC). This consolidation has allowed the judiciary to expand its role beyond impartial justice administration, engaging more actively in political processes and increasing its susceptibility to political influence. The findings of this paper suggest that post-2003 judicial reforms, while ostensibly aimed at fostering judicial independence, have instead led to the creation of a judiciary that is often seen as playing a political role and serving the interests of the leading Shi'a political elite. This has worked to compromise its intended neutrality and poses a risk to the rule of law in Iraq.

Key Findings

- After 2003, Iraq's judicial system underwent significant changes as part of the broader
 effort to reconstruct state institutions following the fall of Saddam Hussein's regime.
 These reforms initially seemed to create a more independent judiciary, distinct from
 the executive influence it had been under for decades. Despite the efforts to rebuild
 the judiciary, post-2003 developments have largely led to an increasingly centralised
 and arguably politicised system.
- This paper argues that post-2003, Iraq's judicial system has been increasingly centralising and consolidating its power under a single authority. This centralisation, coupled with expanding judicial activism, has rendered the judiciary more susceptible to political influence and control. Such developments pose significant risks to the rule of law in Iraq by facilitating the politicisation of judicial decisions.
- Due to the move toward centralisation, judicial power has increasingly been concentrated within the Supreme Judicial Council (SJC) and the Federal Supreme Court (FSC). Laws and directives, such as Law No. 45 of 2017 and subsequent amendments, granted significant authority to the SJC head, effectively giving them unchecked control over judicial matters. The ambiguous nature of these laws means that the head of the SJC can use their judicial power to serve their own interests, which are often aligned with those of the political elite.
- Judicial activism has also emerged as a trend in Iraq's post-2003 judicial landscape, with the judiciary actively intervening in political matters rather than adhering to its role of interpreting laws impartially. The FSC, in particular, has been instrumental in shaping political outcomes, with its rulings often impacting the direction of political developments in the country, in most cases, in favour of dominant political Shi'a parties.
- To address centralisation and politicisation within Iraq's judiciary, it is essential to first recognise the broader issues affecting the system. Establishing strong internal checks and balances will enhance accountability and prevent the concentration of power, which can happen by strengthening key institutions such as the Public Prosecution and the Judicial Oversight Commission. Moreover, before implementing any reforms, it is important to consider the existing judicial culture and education to ensure that changes are well-suited to the actual needs and challenges of the judiciary.

Introduction

In February 2025, the Supreme Judicial Council (SJC) issued a decision to overturn the Federal Supreme Court's (FSC) injunction that had suspended the implementation of three controversial laws passed by parliament in a single vote. These laws pertain to personal status, general amnesty, and land return (SJC, 2025). Despite widespread rejection by Iraqi society, these three laws were pushed through solely because they were backed by certain political elite.

Although Article 94 of the Iraqi Constitution explicitly states that FSC rulings are final and binding on all authorities (FSC, 2025), the FSC was later compelled to reverse its position (FSC, 2025). It justified this reversal by arguing that the plaintiffs, who were members of parliament, lacked a vested interest in the case. However, this rationale contradicts previous rulings, as the Federal Court had previously accepted challenges brought by MPs on different laws, as seen in its decisions 17/Federal/2023 and 326/Federal/2023 (FSC, 2023).

This incident highlights two critical points. First, judicial decisions have increasingly become centralised within the SJC, overriding constitutional provisions, legislative frameworks, and the jurisdiction of other courts, such as the FSC. This effectively places the SJC above scrutiny and accountability. Second, it reflects the growing trend of judicial activism, with the judiciary stepping beyond established legal interpretations, and often making farreaching decisions meant to safeguard the interests of its leaders and its political allies as opposed to the rule of law.²

The arguments presented in this paper build on previous research on the role of centralised courts in transitioning political systems (Ginsburg, 2003) and how courts can become key political actors (Hirschl, 2009). It also builds on Zaid al-Ali's work on Iraq's political system, its constitution and courts, and highlights vulnerabilities within the system by showcasing how readily judicial institutions in Iraq could be captured (Al-Ali, 2014).

¹ Judicial centralisation refers to consolidating judicial authority in a central body, often resulting in a dominant court that oversees and controls major legal interpretations across the judicial hierarchy. Iraq's judiciary embodies both judicial activism and centralisation, influencing fair and sustainable political dynamics significantly through its rulings and decisions.

² Judicial activism involves a judiciary's tendency to step beyond traditional interpretation, actively shaping laws and policies, sometimes filling gaps left by the legislature or executive. This can occur when courts interpret the constitution in ways that significantly impact political and social issues, thereby taking a role akin to policy-making.

Methodology

This report draws on data collected from 25 semi-structured, anonymised key informant interviews carried out by researchers from March to June 2024. Interviewees include a diverse group of stakeholders: politicians, former judges, lawyers, activists, civil society members and journalists. These interviews have been supplemented with open-source data, a brief analysis of legislation, news reports, and documented cases illustrating various judicial cases.

Background on Iraq's Judicial System

During the rule of the Ba'ath regime, the Iraqi judiciary was linked to the executive branch through the Ministry of Justice. This situation persisted until the fall of Saddam Hussein's regime in 2003. This long institutional history left the judiciary subordinate to the executive branch and influenced by the political desires of different regimes. This dependence was reinforced during the Ba'ath Party era, where party membership was a prerequisite to serving as a judge, as with various other roles within the Iraqi state.

Creation of the Judiciary Post-2003

The fall of the regime brought about a fundamental crisis for the judiciary. As de-Ba'athification policies were implemented by the Coalition Provincial Authority (CPA), it was impossible to dismantle the judiciary and dismiss judges in the same wholesale fashion as was done with the Iraqi army and the wider security sector. Judicial positions tend to require a high level of training and academic qualifications, meaning suitable candidates were hard to find. As a result, a series of adaptations were made under the direction of the so-called civilian administrator Paul Bremer, who established the Central Criminal Court of Iraq (CCCI). The court was founded primarily to bypass the traditional judicial system and grant judges working in it immunity regarding their past affiliations with the Ba'ath Party, through a special authorisation from Bremer at that time (Mallat, 2009).

While the establishment of the CCCI was a solution aligned with the conditions of the direct US occupation of Iraq in the absence of an elected government, it was not sustainable due to a lack of sufficient legislation and regulations. With the establishment of Iraq's first elected government in 2006 and the beginning of efforts to rebuild state institutions, the issue of the judiciary resurfaced (Human Rights Watch, 2008). The newly formed political class primarily resorted to blackmailing judges via de-Ba'athification measures. Eventually, a deal was struck between the judges and the politicians, in which the judges were exempted from prosecution in exchange for aligning their legal interpretations of the Constitution and other laws with political agreements (Al-Hassani, 2024).

In 2006, former Prime Minister Nouri al-Maliki reportedly convened a meeting with senior judges from the SJC and the FSC, along with other political figures (Abbas, 2023). He proposed resolving the judges' issues related to their past affiliations with the Ba'ath Party in exchange for their assurance that judicial decisions would align with political agreements. The judges agreed to this arrangement, as explained to the researchers by a former official within the SJC. This transactional approach to judicial decisions was later evidenced in 2011 when Judge Medhat Al-Mahmoud reportedly instructed politicians: 'Solve the issue politically among yourselves, inform us, and we will provide the necessary legal framework for the solution' (Abbas, 2023).

From the outset, this arrangement fostered a centralisation of power within Iraq's judiciary, allowing a select few judges to dictate its direction. This dynamic demonstrated that political interests often prevailed over legal principles, as outlined in this paper. While the former head of the SJC tried to steer away from this when possible, this paper argues that this politicisation has increased in recent years. The combination of judicial activism and centralisation has enabled this overlap, making it possible for political agendas to consistently influence judicial outcomes.

The Judiciary in Iraq's Constitution

According to Article 89 of the Iraqi Constitution, 'the federal judicial power is comprised of the SJC, the FSC, the Federal Court of Cassation (FCC), the Public Prosecution Department (PPD), the Judiciary Oversight Commission (JOC), and other federal courts that are regulated in accordance with the law' (Iraqi Constitution, 2005). The HJC, PPD, and JOC are integral non-court components that support the functions of the courts and judges without influencing their legal decisions. Each component should operate independently within the judiciary, sometimes providing internal checks and balances.

The 2005 Iraqi Constitution only briefly addresses the judicial structure. It identifies six judicial branches, going into detail about two and only vaguely mentioning the seventh, the Administrative Judiciary (State Council), in the final Article. This ambiguity extends to the unclear relationship between the SJC and the FSC, with no clear direction on their potential integration or separation. The formation of the SJC and the FSC is left to future legislation, which omits crucial details on their composition and establishment, leading to structural inconsistencies and confusion within the judiciary.

The Supreme Judicial Council (SJC)

The SJC in Iraq operates under Law No. 45 of 2017, which establishes its legal, financial, and administrative independence (Iraqi Official Gazette, 2017). Comprised of 20 members, the SJC is led by the head of the FCC, who simultaneously serves as the head of the SJC. Additional members include the Deputy Chief of the FCC, the Chief Prosecutor, the Chairperson of the JOC, and the 16 Chiefs of the Court of Appeals. The head of the SJC is

appointed only once by parliament when the FCC Chief's appointment is approved. Filling this critical role, which is central to the functioning of Iraq's judicial system, is subject to various significant political factors. Due to the importance of this position, from 2004 until 2016, all those who served in this post did so in acting capacities until the appointment of Faiq Zaidan (Dijlah, 2016). This marked a practical step toward separating the leadership of the SJC from that of the FSC, setting the stage for a more definitive division. On 12 January 2017, amid contentious debate, the legislature unexpectedly approved Law No. 45 of 2017 concerning the SJC, which formally excluded the President of the FSC or any representative from the Council's membership, thus institutionalising the separation of the two entities (Iraqi Official Gazette, 2017).

Federal Supreme Court (FSC)

The Constitution extensively outlines the role of the FSC as the constitutional and supreme federal court with binding authority across all levels of government. Article 93 provides that the Court's responsibilities include overseeing the constitutionality of laws, interpreting constitutional provisions, and resolving disputes related to federal laws and conflicts between various levels of government. Additionally, the Court handles jurisdictional disputes within the judiciary and between various judicial bodies. It is also empowered to adjudicate cases against high-ranking officials such as the president and prime minister and to ratify general election results.

This mandate has bolstered the Court's constitutional role, making it a pivotal entity in Iraq's governance structure. Zaid Al-Ali (2014) argues that the substantial constitutional powers granted to the FSC make it susceptible to political manipulation. This is highlighted further by analysts who showed how politicians such as Nuri al-Maliki can rely on figures like former head of the FSC, Medhat al-Mahmood, to legalise significant political decisions through the court, effectively turning the judiciary into a tool for political ends (Baban, 2021).

Appointing judges to Iraq's FSC has been a contentious issue, notably highlighted by an urgent situation in 2021 when two members of the Court retired. To address the immediate need for a method to select Court members, parliament did not adopt a new FSC law but rather amended the 2005 law (Al-Yazidi, 2021). The amendment established that the FSC would consist of nine judges, selected by a committee comprised of the chiefs of the SJC, FSC, PPD and JOC. The president of the Republic is tasked with approving these appointments. This arrangement grants the SJC significant influence over the FSC judicial selection process, centralising considerable control within the judiciary's upper echelons (Iraqi Official Gazette, 2021).

Centralisation of the Judiciary

In addition to the judiciary's long history of subordination to the executive branch, as well as the blackmailing of judges using de-Ba'athification, the post-2003 system managed to

pass several laws and regulations that entrenched a form of centralised decision-making within the judiciary itself. This allowed the concentration of judicial power solely in the hands of the President of the SJC, without any oversight from other authorities, whether within the judiciary, the Cabinet or Parliament.

Faiq Zaidan, the head of the SJC, has openly expressed support for centralisation. In an interview, Zaidan argued that a centralised judiciary is playing a better role than most of Iraq's other institutions (Al-Baidar Centre, 2022).

The Power of the SJC

Law of the SJC No. 45 of 2017 accounts for most of the power the judiciary enjoys today. Article 1 of the law establishes the SJC without providing a clear mechanism for selecting its members, electing them, or even establishing any institutional oversight to hold them accountable in case of any failures (Iraqi Official Gazette, 2017).

Later, the President of the SJC pushed for the adoption of the Law on the Inclusion of the Judicial Institute in the Supreme Judicial Council No. 70 of 2017. This law is related to the Judicial Institute, the official institution responsible for granting the academic qualifications required for judges to practice (Dhamad, 2024). The new law transferred the process of selecting judges from the Ministry of Justice to the FCC and SJC, as a means of addressing many corruption suspicions associated with the Ministry of Justice. However, the law was drafted to give the President of the SJC absolute powers over this matter. Article 2 established the Council of the Institute, chaired by the President of the SJC, giving him direct authority and holding three key positions: President of the Supreme Judicial Council, President of the Judicial Institute, and President of the Federal Court of Cassation.

In addition to these two laws, the President of the SJC announced 'Directive No. 1 of 2018 for Facilitating the Implementation of the Supreme Judicial Council Law'. Although labelled as 'instructions,' which are supposed to be of a lower order than the law, in practice, these were treated as though having equal authority to that of the law. These directives placed all administrative, legal, and financial matters concerning judges under the SJC (Shafaq News, 2022). This effectively gave the President of the Council control over everything related to salaries, financial entitlements, security protections, and other facilities for all judges in Iraq. These directives led to the emergence of a group of judges loyal to the President of the Council, granting them more authority than their peers. This then provides incentives whereby judges are motivated by their desire to both keep their judicial ranks and seek for better positions by bending to the head of the SJC's influence. 'There are many competent judges within the judiciary, but they cannot act with full authority due to these laws. We are burdened with the political responsibilities of our positions, which we cannot bypass under the current circumstances,' said a judge currently serving in one of Iraq's courts.

Law No. 45 of 2017 and subsequent directives further reinforced the dominance of judges within the Council's structure. The Council is responsible for judicial promotions, appointing presidents in the various courts of appeal, and nominating the President and

members of the Judicial Oversight Commission, who are also part of the Council. Thus, the Council effectively appoints its own members without any term limits, leading to a gradual replacement process that ensures continuity of the existing influence, undermining the integrity of leadership transitions within the judiciary.

The law further concentrated power in the hands of the President of the Judicial Council, creating what could be described as an autocracy (Mekkiya, 2023). The Council is authorised to delegate tasks solely to its president, following the abolition of the vice president role, rather than assigning responsibilities to a group or forming a committee. Moreover, the administrative framework of the Council and the authority to issue implementation directives have been left solely to the president's discretion, without requiring a vote or approval from the Council.

Sidelining other Judicial Entities

Law No. 49 of 2017 concerning the Public Prosecution assigned a wide range of significant duties to the Public Prosecution Office, as stipulated by Article 2 (Iraqi Official Gazette, 2017). There has been a longstanding call within the judicial community to enhance the role of the prosecution, which had been marginalised for decades under the previous regime. However, in practice, these efforts appear disingenuous. The Public Prosecution in Iraq relies mainly on seconding judges (395 out of 1568 judges, or roughly 25%) on an individual, temporary basis, with the SJC itself selecting individuals for the roles of public prosecutor and assistant prosecutor (Supreme Judicial Council, 2023).

Despite these responsibilities, the prosecution office lacks an administrative structure or institutional presence – it does not even have a dedicated website. The Public Prosecution Law, drafted and overseen by the Judicial Council, failed to establish the prosecution as a genuine institution. Instead, the Public Prosecution is represented by just one member (the head of the office) in the 20-member Council, despite prosecutors making up a quarter of the judiciary (Al-Saidi, 2022). Moreover, it is the Judicial Council that nominates the head of the prosecution for parliamentary appointment (Iraqi Official Gazette, 2017).

The influence of politics and structural constraints within Iraq's judicial system has led to a diluted version of prosecution that often doesn't serve the public interest but functions primarily to position judges in less significant roles. A judge from the public prosecution office expressed frustration, stating, 'our powers are very limited; we cannot effectively perform our duties due to political and structural constraints, so our days are typically consumed by routine bureaucracy, despite Iraq's critical need for a robust prosecution system.'

Similarly, the Judicial Oversight Commission is virtually non-existent in practice. It consists of only two permanent members – the president and vice president – and eight seconded judges who oversee approximately 1,600 judges and prosecutors across 157 courts handling around 1.5 million cases annually (Mekkiya, 2023). The commission lacks dedicated administrative staff, a formal institutional structure, an annual budget or organisational identity. It is entirely subordinate to the Judicial Council, and judges are temporarily seconded to act as judicial overseers under the Council's authority.

Beyond the Judiciary

The practical impact of Directive No. 1 of 2018 extended beyond the judiciary itself, giving the President of the SJC influence over judges working outside of the Council, particularly members of the Board of Commissioners of the Independent High Electoral Commission, who were responsible for the 2021 elections (Al-Nawab, 2023). Those elections resulted in significant losses for the political parties that later formed what is known as the Coordination Framework. The President of the SJC prevented these judges from returning to their previous judicial roles, mainly because he was unsatisfied with the 2021 elections, which saw the Sadrist bloc, rivals of Faiq Zaidan, win the largest number of seats, according to the description of one source who works in the SJC secretariat. This decision had consequences for Parliament when it sought to replace the management of the Independent High Electoral Commission in preparation for the 2023 local elections. 'We renewed confidence in the commissioners from the judiciary because they had nowhere else to go. They were supposed to return to their positions as judges, but the President of the SJC did not allow it, putting us in a difficult position,' according to a member of Parliament.

Similarly, the Commission of Integrity, formerly headed by a judge embroiled in a dispute with another judge over the politicisation of targeting corrupt figures, faces similar challenges to the independent high electoral commission. This situation adds another layer of dependence on the SJC, as described in this paper's introduction. The former head of the Commission of Integrity, despite aiming to highlight specific corruption cases, faced pressure to refrain from doing so. This pressure was exerted through various judicial mechanisms, such as public prosecution, coupled with internal political influence, complicating efforts to combat political corruption (Iraqi News Agency, 2024).

Judicial Activism

The judicial system has been accused of being vulnerable to political pressure at different levels, most notably at the constitutional level, where the FSC's decisions have been employed to change the rules of the political system at various critical moments.

Federal Supreme Court and Elections

Judicial activism in Iraq is characterised by the FSC's significant influence on political processes, which has often led to accusations of politicisation. Since 2010, the judiciary's decisions have shaped key political moments, starting with Decision No. 25/Federal/2010, which redefined the 'largest bloc' in a way that allowed then-Prime Minister Nouri al-Maliki to circumvent the electoral victory of Ayad Allawi (Federal Supreme Court, 2010).

The FSC was also called upon again following the victory of the Sadrist bloc and its parliamentary coalition, which with their partners secured more than half of the seats in the 2021 elections. The court reintroduced the quorum requirement for voting on the presidency – a crucial step before appointing the prime minister and forming the

government – mandating the attendance of two-thirds of the members for the session to be constitutional (Abbas, 2022). This blocked the Sadrist Movement from forming the government and allowed the Coordination Framework, which controlled one-third of the seats, to disrupt the government formation process.

This decision by the FSC had implications for all subsequent elections, as it undermined the importance of direct voting results and supported the power-sharing system by allowing political blocs to reverse election outcomes through internal agreements.

The FSC and the Political Process

The FSC's decisions have gone beyond mere constitutional interpretation, serving as tools for political manoeuvring and shifting power dynamics. For example, it facilitated the removal of former Speaker of Parliament Mohammed Al-Halbousi in favour of the Coordination Framework's preferred candidate, Mohsen Al-Mandalawi (Abdul-Zahra and Zeyad, 2023). This decision sidestepped the traditional parliamentary process, highlighting the judiciary's use as an expedient means for political gains.

Moreover, the Court's rulings regarding oil and gas operations in the Kurdistan Region further illustrate the political timing of its decisions. After a decade-long delay, the Court ruled the Region's activities unconstitutional, contradicting its earlier stance on suspending the relevant constitutional provisions due to the absence of regulatory legislation (Edwards and Mohamed, 2022). Such inconsistencies underscore the perception of the judiciary acting in alignment with shifting political interests. This behaviour confirms what the President of the FSC once stated: 'the mission of the Supreme Court now is not only to apply the Constitution literally but to achieve the higher interests of the people and the homeland and maintain Iraq's unity' (Federal Supreme Court, 2024).

Protecting the Status-Quo

The political use of the judiciary does not stop at reinterpreting constitutional texts, but extends to reinterpreting the crimes committed by the elite or their allies that have become matters of public concern. In 2017, the Court of Cassation annulled a penalty against former MP Jawad Al-Shahili, who had been convicted of using his influence to help a prisoner escape across the Iranian border. The court justified its ruling by saying, 'he is a young man, in the prime of his life, a graduate student, and has no prior convictions' (Arabi21, 2017). The same court also annulled a penalty against former Education Minister Suha Al-Ali Bek, who was convicted of embezzling \$35 million, justifying it by citing 'the circumstances of her crime, her age, morals, and past' (Al-Kubaisi, 2022).

Likewise, the penalty was annulled for cleric Hussein Al-Shami, who was convicted of embezzling funds from the Shi a Endowment, with the court citing his old age (Al-Lami, 2023). In these cases – and others – the court used Article 144 of the Penal Code, which states, if the convict has no prior criminal record and, based on his conduct, past, age, and the circumstances of his crime, it is believed that he will not reoffend. However, only members of the political class have benefited from this provision, excluding ordinary citizens.

Legal tools are also used as part of the suppression of dissent after the 2019 protests in Iraq – not only by employing legal provisions against activists and opponents but also by pushing the judiciary to eliminate any anti-establishment spaces by acquitting the key criminals involved in suppressing protesters. For instance, the judiciary's decision to release the killer of researcher Hisham Al-Hashimi, despite his public confession on state television, as well as the acquittal of Officer Omar Nizar, who was directly accused of killing around 100 protesters in Nasiriyah during Al-Zeitoun Bridge Massacre (Al-Jaffal and Kamal, 2024). Such judicial decisions have turned Iraq into a state where impunity prevails, pointing to institutional collusion in failing to bring perpetrators to justice.

Conclusion

Iraq's judiciary, which should be pivotal in safeguarding democracy, risks bringing about its demise due to the extensive control exerted over key institutions, including the parliament and various independent commissions like the Commission of Integrity and the Higher Commission for Human Rights and Independent High Electoral Commission. The susceptibility of the judiciary, particularly through the SJC and FSC, to similar encroachments – amplified by increasing centralisation and judicial activism – positions it at a critical juncture. As a perceived safeguard, the judiciary is regarded by politicians, activists, and international observers as a vital last resort that must operate in the broader interest of Iraq rather than specific factions.

Given the complex political climate in Iraq, formulating specific recommendations for judicial reform is not possible without addressing broader political dynamics. However, it is vital for various actors to first recognise that there is an issue within the Iraqi judiciary that makes it susceptible to accusations of political interference.

Secondly, broader strategic guidelines can be established and taken into consideration by reform-minded Iraqi government officials, civil society, and the international community. This could include working toward establishing checks and balances within the judiciary, specifically advocating for a clear separation between the SJC and FSC. Additionally, empowering the Public Prosecution and Judicial Administrative Authority is essential to safeguard both ordinary Iraqis and the integrity of the judiciary itself.

International actors should also acknowledge the shortcomings of the judiciary as outlined in this paper, and should tailor their policies to reflect this, including in how they go about designing and delivering capacity building programmes. They should be careful to ensure that such programmes do not work to legitimise the politicisation of the judiciary.

The goal of reforming Iraq's judiciary cannot be viewed in isolation, but rather as part of a comprehensive process to reform the state and the political system as a whole. Any measures aimed solely at judicial reform will remain questionable and highly susceptible to misuse.

Lastly, it is crucial to recognise the problems plaguing judicial education and work culture in Iraq. Echoing the broader issues within the Iraqi bureaucracy, these practices are outdated and were significantly shaped by the former regime. Post-2003, these systems have merged into a hybrid that is tainted by corruption and inefficiency, making them unsuitable for their intended purposes. This understanding is vital before initiating any reforms or capacity-building programmes, to ensure they are effectively tailored to address these foundational issues.

References

Abbas, Akeel, 2023. 'كركوك والفشل العراقي الدائم: انتصار الأحزاب على القانون [Kirkuk and the Permanent Iraqi Failure: The Triumph of Parties over the Law],' *The Freedom First*, 3 September. Available at: https://thefreedomfirst.com/archives/23081 (accessed 12 February 2025).

—, 2022. ألتيار العدري.. الانسلاخ التدريجي عن الطبقة الحاكمة [The Sadrist Movement: Gradual Detachment from the Ruling Class], Sky News Arabia, 1 October. Available at: https://www.skynewsarabia.com/blog/1559936-%D8%A7%D9%84%D8%AA%D9%8A%D8%A7%D8%B1-%D8%A7%D9%84%D8%B1-%D8%A7%D9%84%D8%B1-%D8%B3%D9%84%D8%A7%D9%86%D8%B3%D9%84%D8%A7%D9%8A-%D8%A7%D9%8A%D8%AF%D8%B1%D9%8A%D8%AC%D9%8A-%D8%A7%D9%84%D8%A8%D9%82%D8%A9-%D8 (accessed 12 February 2025).

—, 2023. 'كروك والفشل العراقي الدائم: انتصار الأحزاب على القانون [Kirkuk and the Permanent Iraqi Failure: The Triumph of Parties over the Law],' *Al-Sharq Today*, 5 September. Available at: http://bit.ly/4g03VBH (accessed 12 February 2025).

Abdul-Zahra, Qassim, and Zeyad, Abdulrahman, 2023. 'Iraq's top court rules to oust the speaker and a rival lawmaker from Parliament,' *AP News*, 14 November. Available at: https://apnews.com/article/iraq-parliament-speaker-halbousi-federal-court-4689a98ba4b52f-7bee25cb8f7441756d (accessed 12 February 2025).

Al-Ali, Zaid, 2014. The Struggle for Iraq's Future: How Corruption, Incompetence and Sectarianism Have Undermined Democracy (New Haven: Yale University Press).

Al-Baidar Centre, 2022. حـوار خـاص مع السيد فائق زيدان رئيس مجلس القضاء األعلى في العراق [Exclusive interview with Mr. Faiq Zaidan, Chairman of the Supreme Judicial Council in Iraq], 'Al-Baidar Centre for Studies and Planning, November. Available at: https://www.baidarcenter.org/wp-content/uploads/2022/11/876t5t2.pdf (accessed 12 February 2025).

Al-Hassani, Kamil, 2024. (قائق زيدان ودوره في مجلس القضاء العراقي [Faiq Zaidan and his role in the Iraqi Judicial Council], 'Al-Majalla, 8 July. Available at: https://bit.ly/4iIVX70 (accessed 12 February 2025).

Al-Jaffal, Omar, and Kamal, Mizr, 2024. "إنهم يحتقرونكم".. عمر نزار حر ونور زهير سعيد ["They Despise You" Omar Nizar Har and Nour Zuhair Saeed], "Jummar Media, 15 August. Available at: https://jummar.media/5857 (accessed 12 February 2025).

Al-Kubaisi, Yahva, 2022. والانتقامية! الانتقائية الأحكام ГJudi-القضائية retaliation!],' cial rulings between selectivity and Alguds, 8 December. Available https://www.alquds.co.uk/%D8%A7%D9%84%D8%A3%D8%AD%D9%8 3%D8%A7%D9%85-%D8%A7%D9%84%D9%82%D8%B6%D8%A7%D8%A6%D9%8 A%D8%A9-%D8%A8%D9%8A%D9%86-%D8%A7%D9%84%D8%A7%D9%86%D8%-AA%D9%82%D8%A7%D8%A6%D9%8A%D8%A9-%D9%88%D8%A7%D9%84%D8%A7/ (accessed 12 February 2025).

Al-Lami, Alaa, 2023. (المقدّس» في العراقا [1/2] ["Sacred" Corruption in Iraq [1/2]],' Al-Alem Aljadeed, 1 June. Available at: https://bit.ly/4gC7TXL (accessed 12 February 2025).

Al-Nashmi, Fadhil, and Mustafa, Hamza, 2024. '«بنية على «التحليل والاستنتاج» والاستنتاج» (التحليل والاستنتاج» [Iraqi Judiciary: "Wiretapping Network" Information Based on "Analysis and Inference"], '1 September. Available at: https://bit.ly/4gFB5MY (accessed 12 February 2025).

Al-Nawab, Adil, 2023. 'فغوط الأحزاب الحاكمة تدفع رئيس مفوضية الانتخابات العراقية للاستقالة [Pressure from Ruling Parties Pushes Head of Iraqi Election Commission to Resign],' *The New Arab*, 23 April. Available at: https://bit.ly/49KmeOV (accessed 12 February 2025).

Al-Saidi, Sabah, 2022. 'مراقبون: الادعاء العام العراقي جهاز «خامل» يحتاج إلى إنعاش [Observers: Iraqi Public Prosecution is a "Dormant" Apparatus that Needs to be Revived], 'BasNews, 22 August. Available at: https://www.basnews.com/ar/babat/770467 (accessed 12 February 2025).

Al-Yazidi, Shirzad, 2021. إيعد طول خلاف .. تعديل قانون المحكمة الاتحادية العراقية [After a Long Dispute... Amending the Iraqi Federal Court Law], Sky News Arabia, 20 March. Available at: <a href="https://www.skynewsarabia.com/middle-east/1423146-%D8%B7%D9%88%D9%84-%D8%AE%D9%84%D8%A7%D9%81--%D8%AA%D8%B9%D8%AF%D9%8A%D9%84-%D9%82%D8%A7%D9%86%D9%88%D9%88-%D8%A7%D9%84%D9%84-%D8%A7%D9%84%D9%85-%D8%AD%D9%83%D9%85%D8%A9-%D8%A7%D9%84%D8%A7%D8%AA%D8%AD%D8%A7%D8%AF%D9%8A%D8%A9-(accessed 12 February 2025).

Arabi21, 2017. ألسجن (اثائب عراقي شارك بتهريب سجين.. خبير: قرار فاضحا [Prison for an "Iraqi MP" who Participated in Smuggling a Prisoner.. Expert: A Scandalous Decision], Arabi21, 30 September. Available at: https://arabi21.com/story/1037986/%D8%A7%D9%84%D8%883%D8%AC%D9%86-%D9%84%D9%80-%D9%86%D8%A7%D8%A6%D8%A8-%D8%B9%D8%B1%D8%A7%D9%82%D9%8A-%D8%B4%D8%A7%D8%B1%D9%83-%D8%B3%D8%AC%D9%8A%D9%86-%D8%AE%D8%A8%D9%8A%D8%B1-%D9%82%D8 (accessed 12 February 2025).

Dhamad, Ayad Muhsin, 2024. فائق زيدان... حصانة المؤسسة القضائية وعلو كعبها [Faiq Zaidan... The Immunity of the Judicial Institution and its High Status], Al-Majalla, 3 July. Available at: https://bit.ly/41J5mGA (accessed 12 February 2025).

Dijlah, 2016. 'مجلس النواب يصوت بالموافقة على تعيين القاضي فائق زيدان رئيسا لمحكمة التمييز [The House of Representatives Votes to Approve the Appointment of Judge Faiq Zaidan as President of the Court of Cassation],' Dijlah, 2 February. Available at: https://www.dijlah.tv/index.php?page=article&id=187574 (accessed 12 February 2025).

Edwards, Rowena, and Mohamed, Moataz, 2022. 'Iraqi Federal Court Deems Kurdish Oil and Gas Law Unconstitutional,' *Reuters*, 15 February. Available at: https://www.reuters.com/world/middle-east/iraqi-federal-court-deems-kurdish-oil-gas-law-unconstitutional-2022-02-15/ (accessed 12 February 2025).

Federal Supreme Court, 2010. FSC Ruling 25/Federal/2010, 25 March. Available at: https://www.iraqidevelopers.com/iraqfsc/sites/default/files/file_upload/25%20_fed_2010_0.pdf#over-lay-context=ar/node/482 (accessed 12 February 2025).

- —, 2023. *Court Decisions*. Available at: https://www.iraqfsc.iq/m.2023/ (accessed 12 February 2025).
- —, 2025. Clarification. Available at: https://www.iraqfsc.iq/ennews.5326/ (accessed 12 February 2025).
- —, 2025. Court Decisions. Available at: https://www.iraqfsc.iq/m.2025/ (accessed 12 February 2025).
- —, 2024. رئيس المحكمة الاتحادية العليا ونظيره الأردني يوقعان مذكرة تعاون مشترك .[The Chief of the Federal Supreme Court and his Jordanian Counterpart Sign a Memorandum of Joint Cooperation], 6 March. Available at: https://iraqfsc.iq/news.5131/ (accessed 12 February 2025).

Ginsburg, Tom, 2003. *Judicial Review in New Democracies* (Cambridge: Cambridge University Press).

Hirschl, Ran, 2009. *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism* (Cambridge, MA: Harvard University Press).

Human Rights Watch, 2008. 'The Quality of Justice: Failings of Iraq's Central Criminal Court,' *Human Rights Watch: Iraq*, 14 December. Available at: https://www.hrw.org/report/2008/12/14/quality-justice/failings-iraqs-central-criminal-court (accessed 12 February 2025).

Iraqi Constitution, 2005.

Iraqi Official Gazette, 2017. *Iraqi Official Gazette* 4437, 6 March. Available at: https://www.moj.gov.iq/upload/pdf/4437.pdf (accessed 12 February 2025).

- —, 2021. *Iraqi Official Gazette* 4635, 7 June. Available at: https://www.moj.gov.iq/upload/pdf/4635.pdf (accessed 12 February 2025).
- —, 2017. Law Number 45 for Year 2017, 23 January. Available at: https://www.moj.gov.iq/upload/pdf/4432.pdf (accessed 12 February 2025).

Mallat, Chibli, 2009. Iraq: Guide to Law and Policy (Alphen aan den Rijn: Wolters Kluwer Law & Business).

Mekkiya, Firas, 2023. 'Iraq's Judiciary: Problems of Unrestricted Independence,' *Doha Institute*, 4 March. Available at: https://hikama.dohainstitute.org/ar/issue06/Documents/Hikama06-2023-Firas-Mekkiya.pdf (accessed 12 February 2025).

Shafaq News, 2022. رئيس القضاء الأعلى يصدر ستة أوامر قضائية ويوجه بتنفيذها فوراً (The Chief Justice issues six judicial orders and directs their immediate implementation], Shafaq News, 28 July. Available at: https://bit.ly/4gI5ha2 (accessed 12 February 2025).

Shafaq News, 2024. 'مصدر: صدور مذكرة قبض بحق رئيس هيئة النزاهة لتطابق صوته مع التسريبات [Source: Arrest warrant issued against head of Integrity Commission for matching his voice with leaks], 'Shafaq News, 15 October. Available at: https://bit.ly/49H3hgh (accessed 12 February 2025).

Supreme Judicial Council, 2023. 'The Judicial System,' *Republic of Iraq Supreme Judicial Council*. Available at: https://sjc.iq/Judicial-system-en.php (accessed 12 February 2025).

—, 2025. 'The Supreme Judicial Council Holds its Fourth Session of 2025,' *Republic of Iraq Supreme Judicial Council*, 5 February. Available at: https://sjc.iq/view-en.75952/ (accessed 12 February 2025).

LSE Middle East Centre PeaceRep Paper Series

Alkhudary, Taif, 'Afro-Iraqis and the Politics of Non-Memory', LSE Middle East Centre Paper Series 91 (October 2024).

Alkhudary, Taif, 'Changing the System From Within? The Role of Opposition Parties in Consolidating Democracy in Iraq Post-2019', LSE Middle East Centre Paper Series 64 (March 2023).

Foltyn, Simona, 'Protectors of the State? The Popular Mobilisation Forces During the 2022 Post-Election Crisis', LSE Middle East Centre Paper Series 65 (April 2022).

Foltyn, Simona, 'The Trouble with Halbousi: The Rise of, and Resistance to, Iraq's Sunni Strongman', LSE Middle East Centre Paper Series 76 (October 2022).

Freer, Courtney, 'MENA Regional Organisations in Peacemaking and Peacebuilding: The League of Arab States, Gulf Cooperation Council and Organisation of Islamic Cooperation', LSE Middle East Centre Paper Series 59 (March 2022).

Freer, Courtney, 'Qatar and the UAE in Peacemaking and Peacebuilding', LSE Middle East Centre Paper Series 60 (March 2022).

Iraq Watch Group, 'Suppressing Dissent in Post-Tishreen Iraq', LSE Middle East Centre Paper Series 90 (September 2024).

Jiyad, Sajad, 'Corruption is the Lifeblood of Politics in Iraq', LSE Middle East Centre Paper Series 77 (November 2023).

Makki, Ilham, 'Higher Education in Iraq After 2003: Ongoing Challenges', LSE Middle East Centre Paper Series 75 (October 2023).

Mason, Michael, Akıncı, Zeynep Sıla, Bilgen, Arda, Nasir, Noori and Al-Rubaie, Azhar, 'Towards Hydro-Transparency on the Euphrates-Tigris Basin: Mapping Surface Water Changes in Iraq, 1984–2015', LSE Middle East Centre Paper Series 74 (October 2023).

Saleem, Zmkan Ali, 'Insecure Leaders: How Elite Infighting May Facilitate the End of Iraq's Kurdistan Region,' LSE Middle East Centre Paper Series 95 (December 2024).

Saleem, Zmkan Ali, 'The Competition for Control in Sinjar: How External Actors and Local Interests Inhibit the Sinjar Agreement,' LSE Middle East Centre Paper Series 82 (January 2024).

Sofos, Spyros A., 'Navigating the Horn: Turkey's Forays in East Africa', LSE Middle East Centre Paper Series 68 (July 2023).

Sofos, Spyros A., 'Peacebuilding in Turbulent Times: Turkey in MENA and Africa', LSE Middle East Centre Paper Series 61 (March 2022).

Sofos, Spyros A., 'Transnational Dynamics in the MENA Region: Exploring Policy Responses', LSE Middle East Centre Paper Series 67 (June 2023).

Sofos, Spyros A., 'Turkey as a Mediator', LSE Middle East Centre Paper Series 69 (July 2023).

Travers, Alannah, 'The UN's Humanitarian Transition from Emergency Assistance to Development Funding in Iraq: The Politics of Delivering Aid in a Country of Protracted Post-Conflict Displacement', *LSE Middle East Centre Paper Series* 88 (May 2024).

This research is supported by the Peace and Conflict Resolution Evidence Platform (PeaceRep), funded by UK International Development from the UK government. However, the views expressed are those of the authors and do not necessarily reflect the UK government's official policies. Any use of this work should acknowledge the authors and the Peace and Conflict Resolution Evidence Platform.

About PeaceRep

PeaceRep: The Peace and Conflict Resolution Evidence Platform is a research consortium based at Edinburgh Law School. Our research is rethinking peace and transition processes in the light of changing conflict dynamics, changing demands of inclusion, and changes in patterns of global intervention in conflict and peace/mediation/transition management processes.

Consortium members include: Conciliation Resources, Centre for Trust, Peace and Social Relations (CTPSR) at Coventry University, Dialectiq, Edinburgh Law School, International IDEA, LSE Conflict and Civicness Research Group, LSE Middle East Centre, Queens University Belfast, University of St Andrews, University of Stirling, and the World Peace Foundation at Tufts University.

PeaceRep is funded by UK International Development from the UK government.

PeaceRep.org | peacerep@ed.ac.uk | X @Peace_Rep_

School of Law, University of Edinburgh, Old College, South Bridge, EH8 9YL

Publications Editor

Jack McGinn

Cover Image

Supporters of Iraq's influential cleric Muqtada al-Sadr stage a sit-in in front of the Supreme Judicial Council to demand the dissolution of the parliament as well as early elections, Baghdad, 23 August 2022.

Source: Ameer Al-Mohammedawi / dpa / Alamy Live News

The views and opinions expressed in this publication are those of the author(s) and do not necessarily represent those of the London School of Economics and Political Science (LSE), the Middle East Centre or the UK government. This document is issued on the understanding that if any extract is used, the author(s) and the LSE Middle East Centre should be credited, with the date of the publication. While every effort has been made to ensure the accuracy of the material in this paper, the author(s) and/or the LSE Middle East Centre will not be liable for any loss or damages incurred through the use of this paper.

The London School of Economics and Political Science holds the dual status of an exempt charity under Section 2 of the Charities Act 1993 (as a constituent part of the University of London), and a company limited by guarantee under the Companies Act 1985 (Registration no. 70527)



Middle East Centre

London School of Economics Houghton Street London, WC2A 2AE







lse.ac.uk/mec