

The Accountability of the Iraqi Constitution on Investment for Sustainable Development

Mukdad Abdulwahhab Al-Khateeb
Dept. of Sustainable Development
Environment Research Center
University of Technology
Baghdad \Iraq

Abstract

As the Iraqi community is demanding constitutional amendments, it might be a significant opportunity to illustrate the defects of the present Iraqi constitution and provide the bases and issues of sustainable development that should be encompassed within the constitutional articles to provide the prospects of the Iraqi community on eco-efficient societal happiness through investment for sustainable development. This paper shows that the present constitution is more "political" than "developmental", and argues that constitutions should lay the grounds of investment for sustainable development to secure the present livelihood for the Iraqi community as for the future generations.

KEY WORDS: constitution in Iraq, constitution for sustainable development, accountability of the Iraqi constitution, investment for sustainable development, Mesopotamia, sustainability wheels, triple partnership

1-Introduction

Laser scanning or Lidar "light detection Constitutions should act as driving tools for human happiness and societal welfare and thus becomes compatible with the goals of Sustainable Development (SD); defined as "development that meets the needs of the present generations without compromising the ability of future generations to meet their own needs" [20]. Happiness, on both levels; individuals and community, is the ultimate vision of SD in framing

the sustainable communities where the personal needs and desires coincide with community's welfare and plans for a better present living standards and secured future. The traditional contradiction between economic growth and environmental sustainability will remain shadowing the scene of growth at outdated political systems unless mitigated through modern constitutions that recognize the importance of green growth to communities. The transformation of development and

environment policies into action, on a national level, should be processed by laws and regulations that suite the every country's conditions [23]. Since Stockholm 1972, the environmental rights have not been addressed for present and future generations. Although the Earth Summit Rio-92 managed reasonably effective guidelines for the sustainable development of mankind, but still, the following (Rio+5, Rio+10, Summits on Climate Change, Conferences of UNFCCC) failed to present tangible progress in the SD trajectories, which has led to the focus on the idea of the World Environmental Constitution (WEC), that presents a new concept formulated to define the legal status of a human being with basic environmental rights, privileges and responsibilities. The WEC should on one hand provide enhanced political and legal guidelines, with a set of incentives and sanctions for the environmental behavior of all countries within their capacities and with respect to their sovereignty and, on the other hand, presents an internationally integrated environmental policy and minimizes the gaps in the related international legislative regulations [18].

MESOPOTAMIA LAWS - CODE OF HAMMURABI

Mesopotamia" in Greek, is the land between two rivers, properly referring to (Iraq); a country located between Tigris and Euphrates Rivers [2], whereas the Iraqi people are its [9].

Iraq, is the inheritor of Mesopotamia; which is well recognized in the West as the (cradle of civilization), represented by the successive periods of the Mesopotamian Bronze Age, the Sumer, Akkadian, Babylonian, and Assyrian empires. Hammurabi (c. 1810 BC - 1750 BC), the sixth king of the First Babylonian Empire, created the first law codes, that were set from legitimate superiority and decisions made by Kings, and The (Law of Hammurabi) was the most famous for his set of laws (The Code of Hammurabi) [15], which dates back to about 1772 BC., representing one of the most ancient untangled writings in the world. The Code consists of 282 laws, with graded penalties, regulating "an eye for an eye, a tooth for a tooth [12] as scaled depending on social status of slave contrasted with free man [7] [5] [3]. [

THE IRAQI CONSTITUTION

The current Iraqi constitution took place on 15 October 2005. In 1925, the first modern constitution in Iraq established the constitutional Kingdom of Iraq under the British military occupation and kept effective until establishing the Republic of Iraq in 1958. During the years 1958, 1963, 1964, 1968, and 1970 several interim constitutions were adopted until 2003, when the present Transitional Administrative Law became effective [8].

The institutional restraints and political actualities facing the MENA region governments demand strategic

long-term socio-economic plans to ensure that the peoples' aspirations of the region are interpreted into socially and environmentally viable development projects [22]. The devolvement of SD-inexperienced politicians will definitely endanger the livelihood of the coming generations that demands constitutions that are SD-accountable and professionally address the challenges of SD at the national level taking into consideration the global, factors and development trends. Since the national challenges and the global conditions are continuously changing, the constitutional amendments become a must to update the constitutions according to the developmental needs at national level and to be able to accommodate the international relations .

On several occasions; media interviews, public meetings, and political speeches, the politicians and social sectors in Iraq have expressed

their reservations on several constitutional articles. There is an ongoing demand to review the Iraqi constitution and prerequisites for amendments, which should have took place since the issuance of the Constitution (Article 142) but continuously postponed due to the political tension within the different dominant political powers.

Several countries have experiences amendments on their constitution. The United States Constitution which was put into operation on March 4, 1789 have had witnesses thirty-three amendments [14] whereas the Constitution of India witnessed 98 amendments, until May 2013, since it was first enacted in 1950 [13.]

It might be an exceptional opportunity for the Iraqis to revise their constitution on developmental bases rather than political, and to encounter the elements of sustainable development within

IRAQI CONSTITUTION

"Article 142:

First: The Council of Representatives shall form at the beginning of its work a committee from its members representing the principal components of the Iraqi society with the mission of presenting to the Council of Representatives, within a period not to exceed four months, a report that contains recommendations of the necessary amendments that could be made to the Constitution, and the committee shall be dissolved after a decision is made regarding its proposals.

Second: The proposed amendments shall be presented to the Council of Representatives all at once for a vote upon them, and shall be deemed approved with the agreement of the absolute majority of the members of the Council.

Third: The articles amended by the Council of Representatives pursuant to item "Second" of this Article shall be presented to the people for voting on them in a referendum within a period not exceeding two months from the date of their approval by the Council of Representatives.

Fourth: The referendum on the amended Articles shall be successful if approved by the majority of the voters, and if not rejected by two-thirds of the voters in three or more governorates.

Fifth: Article 126 of the Constitution (concerning amending the Constitution) shall be suspended, and shall return into force after the amendments stipulated in this Article have been decided upon."

METHODOLOGY

As the Iraqis, at all levels, are demanding full or partial reviewing of the constitution and looking forward for constitutional amendments, it might be an exceptional opportunity to revise the Iraqi constitution on bases other than political, and to encounter the elements of sustainable development within its context.

This Paper intends to illustrate the deficiency in the current constitution on; SD principles, investment for SD, and SD capitals' preservation through sustainable consumption and production.

Chosen Sustainable Development basic principles and related issues were enlisted and the 144 constitutional Articles of the Iraqi constitution were analyzed and matched to the SD-issues. The relevance of the selected constitutional Articles to SD (Low, Medium, and High) was a personal judgment based on; the importance of the SD-issue to the Iraqi community at present and future, and the rate of recurrence and seriousness of the constitutional Article. The personal judgment is definitely affected by the ongoing chaos and unrest in Iraq on many fronts; civil peace, political conciliations, public services, environmental sustainability, sectarianism, prevalence of law and ignorance of the constitution.

Hereafter, the paper explains Investment for Sustainable Development and then matches and rates relevant Constitutional Articles to SD- Principles and Issues.

INVESTMENT FOR SUSTAINABLE DEVELOPMENT

The SD-Capitals; Natural, Human & Social, and built are the wealth for successive generations of every community and they should not be threatened or compromised by mismanagement or carelessness by the ruling authorities. Thus, such capitals should be only invested for sustainable development, where their revenues are managed in a way that assures their alteration to Sustainable Development Goals (SDGs).

Although Iraq is wealthy, being the fifth world oil reserve, its efficient production and consumption needs to be upgraded and improved. The performance of industry has significantly deteriorated as a result of the international embargo (1991-2003) and then worsened as the industrial installations were completely demolished at the 2003 war. The Industrial sectors' infrastructure is either ruined or unproductive and overpriced to run. The upgrading of the industry will not only need new machines but most notably, require a human capital capable of steering the renovation progression and the eco-efficient

management of the resources [16]. Oil industry dominates Iraq's unilateral economy, funding 60% of GDP, 99% of exports and over 90% of Government revenue [10]. Iraq exported 2.8 million barrels per day (bpd) in April 2014, up from 2.2 million in January, said Hussein Shahrstani, the deputy prime minister for energy, while the government is targeting exports of 3.4 million bpd in 2014 including output from the semi-autonomous Kurdistan region, part of an overall target of pumping 9 million bpd by 2020 [17]. Mr. Shahrstani also confirmed that the rate of Iraq's oil production of May 2014 was three and a half million barrels per day [11] compared to an probable regular Oil production in July and August 2012 of around 3.1 million bbl/d [19] after being around 2.4 million bbl/d during 2009-2011. Alternatively, Iraq consumed 694,000 million bbl/day in 2010 [4]. High oil exploitation processes graded Iraq as the 37th major international contaminant amid 217 countries, and accountable for 104 million tons of released CO₂ in 2009, out of the world total CO₂ discharge valued to be 30,389 million ton [6].

Although Oil is a depleted natural resource, which should be judiciously invested for the accomplishment of the SDGs, it is being mishandled and mostly misused. Despite the high

returns gained from Oil, estimated at 2011 to be nearby 67 billion USD, the national spending was 85 billion USD, 73 % of which to cover the running cost (mainly salaries) and only 27 % devoted for the investment projects [1]. Government budgeted incomes in 2013 amount to IQD 119.3 Trillion, with revenues from oil making 93%., and the spending was IQD 138.4 Trillion (\$ 118.3 Billion), with an increase of 18% over 2012 and surpassing 70% of GDP [21].

The Investment for SD (Fig. 1) requires the full synchronization of the tools (Sustainability Wheels) that assure the effective alteration of Capitals into development goals. Despite the major responsibility of the Governments (decision Makers) in this investment, the experts and scientific institutions also should play a role through providing the green (innovated) technology and the advice to the government and support to the community. Also, the community should as well cooperate to maintain the efficiency of provided services and provide support the state SD trajectories and making use of green production and sustainable consumption. Such Triple Partnership (Fig. 2) between the government, community, and experts is essential to assure the eco-efficient transformation of revenues to socio-developmental goals that would pursue happiness

based on eco-efficient economy at the
present as well as for the coming

generations.

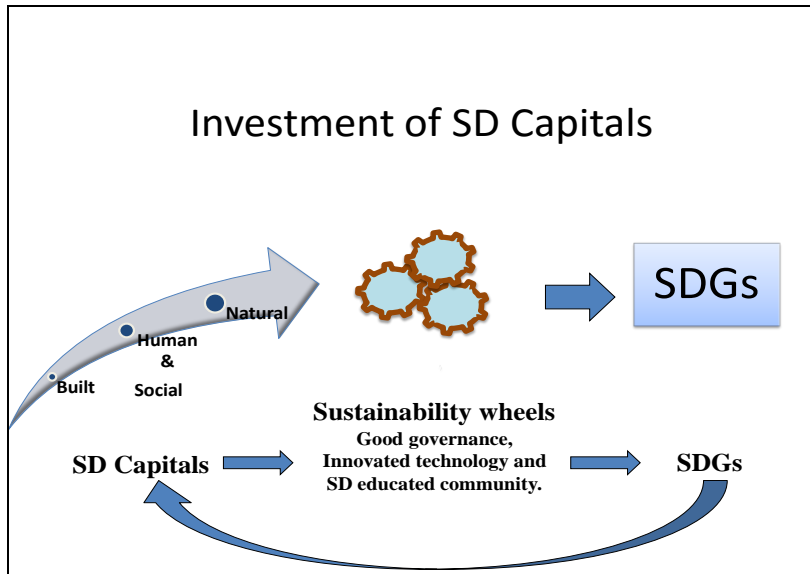


Fig. 1: Investment for Sustainable Development (Mukdad Al-Khateeb)

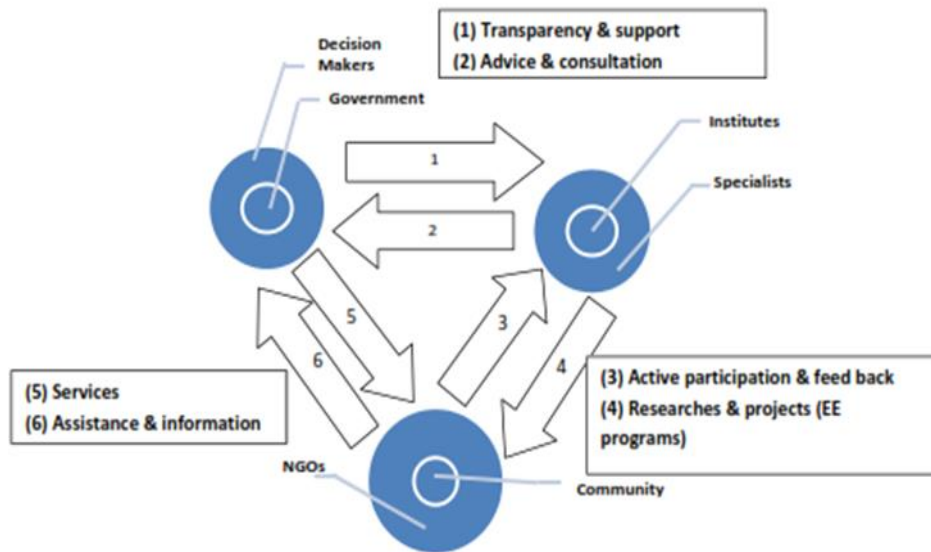


Fig. 2: The Triple Partnership- Community, Government and Environment Institutions Partnership (Mukdad Al-Khateeb)

CONSTITUTION’S RELEVANCE TO SUSTAINABLE DEVELOPMENT; GAP ANALYSIS STUDY

Fifty Nine Constitutional Articles (out of 144) were found related to SD-principles and issues with different relevance; mostly (Low), less

(Medium), but very rarely (High). Table-1 presents the Gap between the Constitutional Article and SD Principle Basics and Related Issues, and marks the relevance according to Table-2 which elaborates in details the Constitutional Article and related SD-Issues

TABLE – 1: Gap Analysis; Relation and Relevance of Constitutional Article to SD Principle Basics and Related Issues

Gap Analysis; (Relation of Constitutional Articles to SD-Relate Basic Principles & Issues)					
Basics of Sustainable Development			Relevance To SD		
SD Principle	Basic	Issue	Low	Med.	High
Natural Capital		Natural Beauty	X		
		Ecosystems	X		
		Natural Resources	X		
SD Principle	Basic	Issue	Low	Med.	High
Human Capital		Personal; Rights & Obligations			X
		Up-Down Relation	X		
		Down-Up Relation	X		
		Public Morals			X
		Securing & Respect for Personal Freedom	X		
		Respect for Private Property			X
		Respect for Intellectual Property	X		
SD Principle	Basic	Issue	Low	Med	High
Social Capital		Respect for Social Diversity			X
		Respect and Secure Public Freedom		X	
		Community Relations With State Institutions	X		
		General Morals And Behavior	X		
		Social Unity on Risk and Disasters' Management	X		
		Support For Societal Cooperation	X		
		Support For Social Solidarity	X		
		Support For Honesty	X		
		Equality Before the Law		X	
		Gender Equality		X	
		Encourage and support Forgiveness	X		
SD Principle	Basic	Issue	Low	Med.	High
Built Capital		Preserving Public Assets		X	

(Manufactured and Financial)	Local Investment		X	
	Foreign Investment	X		
	Public Services	X		
	Developing Banking Services	X		
	Issuing Insurance Policies	X		
	Expenses' Reduction	X		
	Rational Consumption	X		
	Green Technology	X		
Protection of Public Property	x			

SD Principle	Basic Issue	Low	Med.	High
Sustainability Wheels	Accountability of Society			X
	Environmental Sustainability	X		
	Sustainable Development	X		
	Civil Peace	X		
	Sustainable Production	X		
	Sustainable Consumption	X		
	Carrying Capacity	X		
	Eco-efficient Technology	X		
	Green Growth Trajectories	X		
	Tools for implementing the Constitution	X		
Separation of Authorities			X	

SD Principle	Basic Issue	Low	Med	High
MDGs & Post 2015 SDGs	Eradicating Poverty	X		
	Education for All			X
	Education for SD	X		
	Health		X	
	Maternity		X	
	Childhood		X	
	Environmental Sustainability	X		
	Gender Equality	X		
International Partnership for Peace and Development	X			

TABLE – 2: Sustainable Development Basic Principles and Issues related to Constitutional Articles

The "Article Text" is literally quoted from the Iraqi Constitution

https://www.google.iq/?gfe_rd=cr&ei=ZV07V4WjBaiFzAXcoLDAAQ#q=iraqi+constitution+in+english

SD Basics	SD Issue	Article No.	"Article Text"
	Natural Beauty	N/A	
	Ecosystems	N/A	

Natural Capital	Natural Resources	Article 112	"Second: The federal government, with the producing regional and governorate governments, shall together formulate the necessary strategic policies to develop the oil and gas wealth in a way that achieves the highest benefit to the Iraqi people using the most advanced techniques of the market principles and encouraging investment."
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SD Basics	SD Issue	Article No.	Article Text
Human Capital	Personal; Rights & Obligations	Article 2	"B. No law may be enacted that contradicts the principles of democracy. C. No law may be enacted that contradicts the rights and basic freedoms stipulated in this Constitution."
		Article 16	"Equal opportunities shall be guaranteed to all Iraqis, and the state shall ensure that the necessary measures to achieve this are taken."
		Article 34	"First: Education is a fundamental factor for the progress of society and is a right guaranteed by the state. Primary education is mandatory and the state guarantees that it shall combat illiteracy. Second: Free education in all its stages is a right for all Iraqis."
		Article 37	"Second: The State shall guarantee protection of the individual from intellectual, political and religious coercion. Third: Forced labor, slavery, slave trade, trafficking in women or children, and sex trade shall be prohibited".
		Article 38	"The State shall guarantee in a way that does not violate public order and morality: A. Freedom of expression using all means".
		Article 40	"The freedom of communication and correspondence, postal, telegraphic, electronic, and telephonic, shall be guaranteed and may not be monitored, wiretapped, or disclosed except for legal and security necessity and by a judicial decision."
		Article 41	"Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices, and this shall be regulated by law."

Human Capital	Personal; Rights & Obligations	Article 18	"First: Iraqi citizenship is a right for every Iraqi and is the basis of his nationality."
		Article 19	"First: The judiciary is independent and no power is above the judiciary except the law. Second: There is no crime or punishment except by law. The punishment shall only be for an act that the law considers a crime when perpetrated. A harsher punishment than the applicable punishment at the time of the offense may not be imposed. Third: Litigation shall be a protected and guaranteed right for all. Fourth: The right to a defense shall be sacred and guaranteed in all phases of investigation and the trial. Fifth: The accused is innocent until proven guilty in a fair legal trial. The accused may not be tried for the same crime for a second time after acquittal unless new evidence is produced. Sixth: Every person shall have the right to be treated with justice in judicial and administrative proceedings. Seventh: The proceedings of a trial are public unless the court decides to make it secret. Eighth: Punishment shall be personal. Ninth: Laws shall not have retroactive effect unless stipulated otherwise. This exclusion shall not include laws on taxes and fees. Tenth: Criminal laws shall not have retroactive effect, unless it is to the benefit of the accused. Eleventh: The court shall appoint a lawyer at the expense of the state for an accused of a felony or misdemeanor who does not have a defense lawyer. Twelfth: A. Unlawful detention shall be prohibited. B. Imprisonment or detention shall be prohibited in places not designed for these

Human Capital	Personal; Rights & Obligations		<p>purposes, pursuant to prison laws covering health and social care, and subject to the authorities of the State.</p> <p>Thirteenth: The preliminary investigative documents shall be submitted to the competent judge in a period not to exceed twenty-four hours from the time of the arrest of the accused, which may be extended only once and for the same period."</p>
		Article 22	"First: Work is a right for all Iraqis in a way that guarantees a dignified life for them."
		Article 28	"First: No taxes or fees shall be levied, amended, collected, or exempted, except by law. Second: Low income earners shall be exempted from taxes in a way that guarantees the preservation of the minimum income required for living. This shall be regulated by law."
		Article 31	"First: Every citizen has the right to health care. The State shall maintain public health and provide the means of prevention and treatment by building different types of hospitals and health institutions."
		Article 33	"First: Every individual has the right to live in safe environmental conditions."
	Up-Down Relations	Article 22	"Second: The law shall regulate the relationship between employees and employers on economic bases and while observing the rules of social justice."
	Down-Up Relations	N/A	
	Public Morals	Article 17	"First: Every individual shall have the right to personal privacy so long as it does not contradict the rights of others and public morals."
		Article 38	"The State shall guarantee in a way that

Human Capital			does not violate public order and morality: A. Freedom of expression using all means. B. Freedom of press, printing, advertisement, media and publication."
	Securing & Respect for Personal Freedom	Article 15	"Every individual has the right to enjoy life, security and liberty. Deprivation or restriction of these rights is prohibited except in accordance with the law and based on a decision issued by a competent judicial authority."
		Article 37	"First: A. The liberty and dignity of man shall be protected. B. No person may be kept in custody or investigated except according to a judicial decision. C. All forms of psychological and physical torture and inhumane treatment are prohibited. Any confession made under force, threat, or torture shall not be relied on, and the victim shall have the right to seek compensation for material and moral damages incurred in accordance with the law."
		Article 38	"The State shall guarantee in a way that does not violate public order and morality: C. Freedom of assembly and peaceful demonstration, and this shall be regulated by law."
	Respect for Private Property	Article 17	"Second: The sanctity of the homes shall be protected. Homes may not be entered, searched, or violated, except by a judicial decision in accordance with the law."
		Article 23	"First: Private property is protected. The owner shall have the right to benefit, exploit and dispose of private property within the limits of the law. Second: Expropriation is not permissible except for the purposes of public benefit in return for just compensation, and this shall be regulated by law. Third: A. Every Iraqi shall have the right to own property anywhere in Iraq. No others may possess immovable assets, except as exempted by law. B. Ownership of property for the purposes of demographic change is Prohibited."

		Article 34	"First: Education is a fundamental factor for the progress of society and is a right guaranteed by the state. Primary education is mandatory and the state guarantees that it shall combat illiteracy."
	Respect for Intellectual Property	Article 42	"Each individual shall have the freedom of thought, conscience, and belief."

SD Basics	SD Issue	Article No.	Article Text
Social Capital	Respect For Social Diversity	Article 3	"Iraq is a country of multiple nationalities, religions, and sects."
		Article 4	"Fifth: Each region or governorate may adopt any other local language as an additional official language if the majority of its population so decides in a general referendum."
		Article 37	"Second: The State shall guarantee protection of the individual from intellectual, political and religious coercion."
		Article 39	"Second: It is not permissible to force any person to join any party, society, or political entity, or force him to continue his membership in it."
		Article 41	"Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices, and this shall be regulated by law."
		Article 45	"First: The State shall seek to strengthen the role of civil society institutions, and to support, develop and preserve their independence in a way that is consistent with peaceful means to achieve their legitimate goals, and this shall be regulated by law."
	Article 49	"First: The Council of Representatives shall consist of a number of members, at a ratio of one seat per 100,000 Iraqi persons representing the entire Iraqi people. They shall be elected through a direct secret general ballot. The representation of all components of the people shall be upheld in it."	
	Respect and Secure Public Freedom	Article 39	"First: The freedom to form and join associations and political parties shall be guaranteed, and this shall be regulated by law."
Community	N/A		

Social Capital	Relations With State Institutions		
	General Morals And Behavior	Article 29	"Second: Children have the right to upbringing, care and education from their parents. Parents have the right to respect and care from their children, especially in times of need, disability, and old age."
	Social Unity on Risk and Disasters' Management	N/A	
	Support For Societal Cooperation	N/A	
	Support For Social Solidarity	N/A	
	Support For Honesty	N/A	
	Social Capital	Equality Before the Law	Article 13
Article 14			"Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status."
Gender Equality		Article 20	"Iraqi citizens, men and women, shall have the right to participate in public affairs and to enjoy political rights including the right to vote, elect, and run for office."
Encourage and support Forgiveness		N/A	

SD Basics	SD Issue	Article No.	Article Text
Built Capital (Manufactured and Financial)	Preserving Public Assets	Article 27	"First: Public assets are sacrosanct, and their protection is the duty of each citizen. Second: The provisions related to the preservation of State properties, their management, the conditions for their disposal, and the limits for these assets not to be relinquished shall all be regulated by law."
	Local Investment	Article 24	"The State shall guarantee freedom of movement of Iraqi manpower, goods, and capital between regions and governorates, and this shall be regulated by law."

		Article 26	"The State shall guarantee the encouragement of investment in the various sectors, and this shall be regulated by law."
		Article 31	"Second: Individuals and entities have the right to build hospitals, clinics, or private health care centers under the supervision of the State, and this shall be regulated by law."
	Foreign Investment	N/A	
	Public Services	N/A	
	Developing Banking Services	N/A	
	Issuing Insurance Policies	N/A	
	Expenses' Reduction	N/A	
	Rational Consumption	N/A	
	Green Technology	N/A	
	Protection of Public Property	N/A	

SD Basics	SD Issue	Article No.	Article Text
Sustainability Wheels		Article 5	"The law is sovereign. The people are the source of authority and legitimacy, which they shall exercise in a direct, general, secret ballot and through their constitutional."
		Article 7	"Second: The State shall undertake to combat terrorism in all its forms, and shall work to protect its territories from being a base, pathway, or field for terrorist activities."
		Article 22	"Third: The State shall guarantee the right to form and join unions and professional associations, and this shall be regulated by law."
		Article 29	"First: A. The family is the foundation of society; the State shall preserve it and its religious, moral, and national values. B. The State shall guarantee the protection of motherhood, childhood and old age, shall

Sustainability Wheels	Accountability on Society		care for children and youth, and shall provide them with the appropriate conditions to develop their talents and abilities. Third: Economic exploitation of children in all of its forms shall be prohibited, and the State shall take the necessary measures for their protection."
	Accountability to Society	Article 30	"First: The State shall guarantee to the individual and the family – especially children and women – social and health security, the basic requirements for living a free and decent life, and shall secure for them suitable income and appropriate housing. Second: The State shall guarantee social and health security to Iraqis in cases of old age, sickness, employment disability, homelessness, orphanhood, or unemployment, shall work to protect them from ignorance, fear and poverty, and shall provide them housing and special programs of care and rehabilitation, and this shall be regulated by law."
		Article 32	"The State shall care for the handicapped and those with special needs, and shall ensure their rehabilitation in order to reintegrate them into society, and this shall be regulated by law."
		Article 35	"Third: Forced labor, slavery, slave trade, trafficking in women or children, and sex trade shall be prohibited."
		Article 43	"Second: The State shall guarantee freedom of worship and the protection of places of worship."
	Accountability to Environmental Sustainability	Article 33	"First: Every individual has the right to live in safe environmental conditions. Second: The State shall undertake the protection and preservation of the environment and its biological diversity."
	Accountability to Sustainable Development	Article 25	"The State shall guarantee the reform of the Iraqi economy in accordance with modern economic principles to insure the full investment of its resources,

			diversification of its sources, and the encouragement and development of the private sector."
	Accountability to Civil Peace	Article 6	"Transfer of authority shall be made peacefully through democratic means as stipulated in this Constitution."
	Sustainable Consumption	N/A	
	Sustainable Production	N/A	
	Carrying Capacity	N/A	
	Eco-efficient Technology	N/A	
	Green Growth Trajectories	N/A	
	Tools for implementing the Constitution	Article 65	"A legislative council shall be established named the "Federation Council," to include representatives from the regions and the governorates that are not organized in a region. A law, enacted by a two-thirds majority of the members of the Council of Representatives, shall regulate the formation of the Federation Council, its membership conditions, its competencies, and all that is connected with it."
	Separation of Authorities	Article 47	"The federal powers shall consist of the legislative, executive, and judicial powers, and they shall exercise their competencies and tasks on the basis of the principle of separation of powers."

SD Basics	SD Issue	Article No.	Article Text
MDGs & Post 2015	Eradicating Poverty	N/A	
	Education for All	Article 34	"First: Education is a fundamental factor for the progress of society and is a right guaranteed by the state. Primary education is mandatory and the state guarantees that it shall combat illiteracy. Second: Free education in all its stages is a right for all Iraqis. Third: The State shall encourage scientific

SDGs MDGs & Post SDGs 2015			research for peaceful purposes that serve humanity and shall support excellence, creativity, invention, and different aspects of ingenuity. Fourth: Private and public education shall be guaranteed, and this shall be regulated by law."
	Education for SD	N/A	
	Health	Article 31	"First: Every citizen has the right to health care. The State shall maintain public health and provide the means of prevention and treatment by building different types of hospitals and health institutions. Second: Individuals and entities have the right to build hospitals, clinics, or private health care centers under the supervision of the State, and this shall be regulated by law."
	Maternity	Article 29	"First: B. The State shall guarantee the protection of motherhood, childhood and old age, shall care for children and youth, and shall provide them with the appropriate conditions to develop their talents and abilities."
	Childhood	Article 29	"Third: Economic exploitation of children in all of its forms shall be prohibited, and the State shall take the necessary measures for their protection."
		Article 30	"First: The State shall guarantee to the individual and the family – especially children and women – social and health security, the basic requirements for living a free and decent life, and shall secure for them suitable income and appropriate housing."
	Environmental Sustainability	N/A	
	Gender Equality	Article 49	"Fourth: The elections law shall aim to achieve a percentage of representation for women of not less than one-quarter of the members of the Council of Representatives."
International Partnership for Peace and	Article 8	"Iraq shall observe the principles of good neighborliness, adhere to the principle of noninterference in the internal affairs	

	Development		of other states, seek to settle disputes by peaceful means, establish relations on the basis of mutual interests and reciprocity, and respect its international obligations."
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DISCUSSION AND CONCLUSIONS

Constitutions are among the most effective tools for achieving the community's happiness at present and future, while the efficiency of that effectiveness is; an indicator of the Governments' accountability to the constitution and might be well defined indication of "Good Governance".

There should be very serious arguments on whether the constitution should be more political than developmental and if the politicians should set the states' strategies or the SD-strategic planners? Do both, politicians and planners always match? How to ensure SD to communities regardless of the political trends and politicians' moods?

Despite the historic fact that Iraq is the legitimate inheritor of Mesopotamia, which has grounded the first ever history of laws; the Code of Hammurabi during Babylon interval 1772 BC., Iraq's present constitution, issued 2005, seems to be unqualified to provide the ground for sustainable development for the Iraqi community; alternatively defined as; the societal happiness based on eco-efficient economy.

The Iraqi constitution encompasses the following six Sections which include 144 Article;

Section One - Fundamental Principles; Articles 1- 13

Section Two - Rights and Liberties; Article 14 - 46

Section Three - Federal Powers; Articles; 47 - 108

Section Four - Powers of the Federal Government; Articles 109 - 115

Section Five - Powers of the Regions; Articles; 116 - 125

Section Six - Final and Transitional Provisions; Article 126-144

Only 59 SD-related Articles are present in the constitution, most of which with (LOW) relevance to SD, but still, the constitution could be well invested for SD. What really matter is; the readiness of the decision makers to; utilize the developmental issues present in the constitution. The 59 articles related to SD were mostly on Human Capital and specifically on Rights and Liberties (Table-3, Fig.3). It is becoming evident that the constitution by itself is insufficient unless respected by the governments and imposed equally upon all the; citizens & institutions. On the other hand, the people feel committed to the constitution when find it meeting their desires, hope and ensures the communities' perspective

on their livelihood and expectations for a better future.

Almost 30 Articles mentioned the need for issuing Laws as they ended with “shall be regulated by law”, while most of which were ignored awaiting political conciliations or, at the best conditioned, regulated after so long.

The successive governments in Iraq should show their commitment to the constitution and take serious action for amendments that would ensure the community’s demands for better living at present and similarly for future generations.

Table- 3: No. of Articles Related to; SD-Principles and Bases and Constitutional Sections

Constitutional Section	No. of Articles Related to SD-Principles and Bases					Total SD Related Articles on Constitutional Section
	Human Capital	Social Capital	Built Capital	Sustainability Wheels	MDGs	
Fundamental Principles	1	3	-----	3	1	8
Rights and Liberties	22	8	4	9	5	48
Federal Powers	-----	1	-----	1	1	3
Powers of the Federal Government	-----	-----	-----	-----	-----	-----
Powers of the Regions	-----	-----	-----	-----	-----	-----
Final and Transitional Provisions	-----	-----	-----	-----	-----	-----
Total No. of Articles on SD - Principle	23	12	4	13	7	

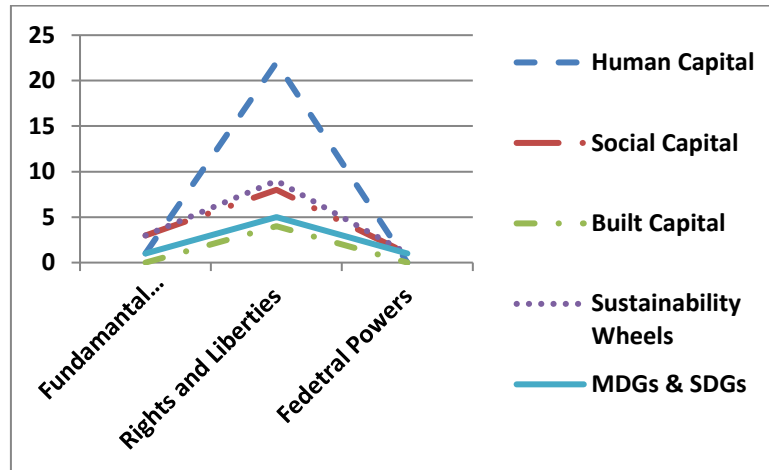


Fig.3: Frequency of SD-Related Basics in Constitutional Sections

REFERENCES

1. Al-Anbagy, A., Aljebouri, H. and Alshalal, M. (2011). Analysis of the budget (2011) in Iraq and the extent of their consistency with the National Development Plan for the years 2010-2014, Introduction to the Study of the advisers in the province of Babylon (in Arabic).
2. Ancient Mesopotamia, <http://hypermedia.educ.Mesopotamia>
3. C. H. W. Johns, (M.A., Lecturer in Queens' College, Cambridge, and King's College, London), Library of Ancient Inscriptions, New York, Charles Scribner's Sons 1904, Babylonian And Assyrian Laws, Contracts and Letters, <http://www.gutenberg.org/files/28674/28674-h/28674-h.html>
4. CIA, (2013). Middle East: Iraq. <https://www.cia.gov/library/publications/the-world-factbook/geos/iz.html> (CIA, (2013). <https://www.cia.gov/library/publications/the-world-factbook/geos/iz.html>)
5. Code of Hammurabi. http://en.wikipedia.org/wiki/Code_of_Hammurabi#cite_note-Bar-2
6. EIA, 2009, An atlas of pollution: the world in carbon dioxide emissions. <http://image.guardian.co.uk/sy/files/Guardian/documents/2011/02/10/CarbonWeb.pdf>).

7. Gabriele Bartz, Eberhard König, Arts and Architecture, Könnemann, Köln, (2005), ISBN 3-8331-1943-8
8. http://en.wikipedia.org/wiki/Constitution_of_Iraq
9. <http://wordnetweb.princeton.edu/perl/webwn?s=iraqi>
10. IAU 2011. Oil and Gas factsheet, Iraq, <http://iq.one.un.org/documents/327/Oil%20Factsheet%20-%20English.pdf>
11. Iraq Directory, <http://www.iraqdirectory.com/en/2014/04/01/26807/three-and-half-million-barrels-was-the-rate-of-oil-production-for-iraq-in-last-month.aspx>
12. J. Dyneley Prince, The Code of Hammurabi, The American Journal of Theology Vol. 8, No. 3, Jul., 1904, pp. 601–609 Published by: The University of Chicago Press Stable URL: <http://www.jstor.org/stable/3153895>
13. List of amendments of the Constitution of India, http://en.wikipedia.org/wiki/List_of_amendments_of_the_Constitution_of_India
14. List of amendments to the United States Constitution http://en.wikipedia.org/wiki/List_of_amendments_to_the_United_States_Constitution
15. Mesopotamia, <http://en.wikipedia.org/wiki/Mesopotamia>
16. Mukdad A. Al-Khateeb Nadhir Al-Ansari, Sven Knutsson . A Sustainable University Model for Higher Education in Iraq Creative Education, 2014, 2014 in SciRes., <http://www.scirp.org/journal/ce>
17. Reuters, <http://www.reuters.com/article/2014/03/05/iraq-oil-idUSL6N0M22P120140305>
18. Rio +20 UN Conference on Sustainable Development, <http://www.uncsd2012.org/index.php?page=view&type=1000&nr=27&menu=126#sthash.EWKEPvQA.dpuf>
19. TechCorr , The Availability and Price of Petroleum and Petroleum Products Produced in Countries Other Than Iran, August 24, 2012.
20. UN Documents, Report of the World Commission on Environment and Development: Our Common

- Future, 1987, <http://www.un-documents.net/wced-ocf.htm>
- 21.UN, JAPU, IRAQI BUDGET
2013, BACKGROUND
PAPER
- 22.UNDP, ARAB
DEVELOPMENT
CHALLENGES REPORT
2011: TOWARDS THE
DEVELOPMENTAL STATE
IN THE ARAB REGION
- 23.United Nations Conference on
Environment & Development
Rio de Janerio, Brazil, 3 to 14
June 1992, AGENDA 21,
Article 8.13.

مسئلة الدستور العراقي عن الاستثمار من أجل التنمية المستدامة

مقداد عبد الوهاب الخطيب
مركز بحوث البيئة
قسم التنمية المستدامة
الجامعة التكنولوجية
بغداد - العراق

الخلاصة

يطالب المجتمع العراقي بالتعديلات الدستورية، مما يهيئ فرصة مثالية لتوضيح نقاط الضعف في الدستور العراقي الحالي، من خلال توضيح اسس ومبادئ اساسية في التنمية المستدامة والتي ينبغي أن تشملها المواد الدستورية لتوفير فرص تحقيق الرفاهية المجتمعية ذات الكفاءة البيئية للمجتمع العراقي، من خلال الاستثمار من أجل التنمية المستدامة. تبين هذه الورقة أن الدستور الحالي هو سياسي أكثر منه تنموي و تطرح للنقاش مسألة؛ ان على الدساتير ان تضع الاسس للاستثمار من أجل التنمية المستدامة لتأمين معيشة لائقة للمجتمع العراقي في حاضره كما للأجيال القادمة

كلمات مفتاحية: الدستور في العراق، دستور من أجل التنمية المستدامة، مسئلة الدستور العراقي، استثمار من أجل التنمية المستدامة، بلاد ما بين النهرين، عجلات الاستدامة، الشراكة الثلاثية