The legal, ethical, political, and cultural implications of transferring Iraqi state documents abroad in 2003

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Abstract

Following the US invasion of Iraq in 2003, the country witnessed dramatic political, social, and security transformations. One of the pivotal events that accompanied this invasion was the transfer of massive quantities of Iraqi state historical and political documents to the United States. These documents, ranging from records of the former ruling Ba'ath Party and government archives to cultural and ethnic documents, represent a historical memory and national heritage of immense importance to Iraqis. The transfer of these documents abroad sparked widespread controversy over its legal legitimacy, ethical implications, and impact on Iraqi national identity.

Keywords
Iraq, Iraqi state documents, Iraqi documents transfer, Hague Conventions

1. Introduction

When studying the modern history of Iraq, one cannot overlook the moment of the US invasion in 2003. This marked a radical turning point in its political and social structure, directly and profoundly impacting its national sovereignty and official institutions. Among the many repercussions of this momentous event, the transfer of official Iraqi state documents to the United States emerged. This complex issue, intertwined with political, legal, and cultural dimensions, has sparked and continues to spark widespread controversy among researchers, historians, and jurists, as well as among ordinary Iraqis, who consider these documents an integral part of their state's memory and national identity (Deudney & Ikenberry, 2017). The documents transferred from Iraq to the United States after 2003 were not limited to documents from the security and intelligence agencies, such as those of the General Intelligence Service, but also included Ba'ath Party records, files from ministries and government institutions, and archival documents dating back to various historical periods, some dating back to the first decades of the twentieth century. Under completely unclear circumstances, amid the chaos of the occupation and the collapse of the state and its institutions, the United States transferred these documents. These circumstances raised questions about the legality, moral legitimacy, and even political significance of this process (Wilkinson, 2019). The United States justified the transfer of these documents by claiming that it sought to preserve them from loss or destruction, especially in light of the widespread looting and vandalism that accompanied the war, which affected numerous official departments, museums, libraries, and documentation centers (Al Radi, 2003). However, this justification was not sufficient to convince many of those interested in preserving Iraq's documentary heritage, who viewed this transfer as a clear violation of the Iraqi state's sovereignty and historical rights, as well as a colonial behavior reminiscent of the practices of colonial powers in the nineteenth and twentieth centuries, when they plundered the property of defeated peoples and deposited it in their museums and archives(Kennedy, 2005). The importance of the documents lies not only in their status as administrative papers or official records but also in the institutional, political, and cultural memory they hold. They form the basis for understanding the Iraqi state and society and are an indispensable resource for researchers and historians. According to international laws and norms, these documents are considered the sovereign property of the state that produced them and are supposed to be preserved within its territory and under the supervision of its national institutions. Therefore, transferring them to another state without the official approval of an elected and legitimate government constitutes a violation of international humanitarian law (Jimerson, 2007). The debate on this issue has been complicated by the continuous change in Iraqi governments after the occupation, as the country faced a series of political and security crises that weakened its ability to recover these documents or formally and effectively claim them. Despite sporadic attempts by some Iraqi entities recently to recover the national archives, the documents remain today preserved in American institutions, most notably the Hoover Institution at Stanford University, which holds a large portion of the Ba'ath Party documents and makes them available to researchers under conditions determined by it, not the Iraqi state (Thgeel, 2020). The issue of documents is also

closely linked to the concept of transitional justice, as these are essential tools for documenting human rights violations and the repressive practices of the former regime. They are essential for achieving accountability and societal reconciliation. However, their use outside Iraq and outside its judicial and human rights institutions could lead to their exploitation for specific political ends, far removed from the national interest or historical truth (Bickford et.al, 2009). From this perspective, the transfer of Iraqi documents to the United States is not merely an archival or administrative issue, but rather an issue of sovereign and cultural significance. It reveals the unequal relationship that emerged between Iraq and foreign powers after 2003 and raises profound questions about the future of Iraqi national memory and the right of future generations to access its history from its original sources (Montgomery,2014). A scholarly and objective approach to this issue requires careful consideration of several aspects, including the legal background to the transfer process, the parties involved or responsible for it, international reactions, and the possibility of recovering the documents in light of the current political reality (Altafin, 2015).It also requires a thorough analysis of the role that heritage organizations, UNESCO, and Iraqi academic institutions can play in formulating a compelling national discourse to recover these documents and make them available to the Iraqi state and people (Matthews et.al, 2019).

2. Methodology and study questions

The researcher used a qualitative historical research method and attempted, as much as possible, to access official sources related to the transfer of Iraqi state documents to the United States, issued by governmental institutions in both the United States and Iraq, in addition to information sources from the United Nations and other international bodies. In addition, the researcher used information contained in academic articles as sources of information that discussed the subject. The sources of information that were obtained were studied and then analyzed according to the objective directions of the research—legally, ethically, politically, and culturally—in order to reach the results of the effects of transferring Iraqi documents abroad and what resulted from this transfer process. The purpose of the study was to gain an understanding of the events that had an effect on the transfer of Iraqi official records overseas. The researcher achieved this objective by identifying, gathering, and assessing historical documents pertinent to the subjects under investigation. The researcher based the study on the primary sources he gathered. These primary sources included official records from both the United States and Iraqi government agencies, as well as data that was accessible on the websites of institutions and centers that preserve Iraqi records. These institutions and centers include the Hoover Institution, the Minerva Initiative, and the United States National Archives, among others. Several organizations in the United States have been identified as the final destinations of Iraqi state records that were transported from Iraq after the year 2003. The researcher tracked the route of these documents and identified their eventual destinations. The study aims to answer several questions, the first of which is, what are the legal, political, and ethical implications of transferring Iraqi state documents abroad after the 2003 invasion? The second question is: Was the transfer of Iraqi state documents and archives merely a preservation and protection operation against the risk of loss, or did it

constitute a violation of national sovereignty and theft of collective memory? The final question pertains to the legal frameworks that govern such cases, and did they receive respect?

3. Literature review

Several authors have characterized the impact of the US invasion on Iraqi culture and heritage, noting the destruction of museums, libraries, and archaeological sites, and have referred to this phenomenon as cultural cleansing. The cultural cleansing effectively commenced in 1991 with the implementation of the economic embargo on Iraq, which persisted for twelve years following Iraq's occupation of Kuwait. The blockade significantly undermined Iraqi society and depleted its intellectual elites. The American invasion commenced the process of dismantling the Iraqi state. The sequence of events was intentional and premeditated, as the looting and arson occurred under the observation of the invading forces, which aimed to safeguard the Ministry of Oil due to its significance for American war planners (Cultural Cleansing in Iraq, 2010). Government archives and documents hold significant military and security relevance, as they contain critical information regarding various state institutions and their management. The US military addressed this issue by instructing US forces, in its specialized guidelines for combating insurgency, to safeguard enemy documents. This was exemplified during the 1983 invasion of Grenada, where US forces were directed to preserve government records. The archive possesses both administrative and legal significance, aiding military occupation forces in maintaining order, delineating civil rights, and prosecuting offenses. The US forces seized 47,000 boxes of government records and transported them to Qatar, alongside millions of records stored at the Hoover Institution (Cox, 2011). Several authors have examined the ethical implications surrounding the transfer of Iraqi state documents and archives, as well as their subsequent utilization by researchers. The question posed is whether it is ethically permissible for researchers to utilize Iraqi documents that were seized and unlawfully transferred by US forces to the United States. Most Iraqi documents remained classified and inaccessible to the public, except for a limited selection that was translated and released by the Conflict Records Research Center in Washington (Montgomery & Hennerbichler, 2020). Montgomery categorized the files managed by the American forces into three distinct sections: the files pertaining to the Anfal campaign, the files overseen by American forces post-invasion that were subsequently transferred to the Combined Media Processing Center in Qatar, and the files of the Ba'ath Party held by the Iraqi Memory Foundation (IMF), founded by Kanan Makiya and later transferred to the Hoover Institution (Montgomery& Hennerbichler, 2020). American forces captured millions of Iraqi state documents following the invasion, encompassing materials from presidential palaces, ministries, and various military installations. This event is regarded as the largest acquisition of enemy documents since World War II. Woods estimated that the Baath Party documents comprised approximately six and a half million items. The author noted that numerous American officials decline to disclose their identities when discussing Iraqi documents due to the sensitivity of the topic. Additionally, many Freedom of Information Act requests pertaining to Iraqi documents submitted to American institutions have been denied (Woods, 2007). UNESCO Director-General Matsuura noted just before the invasion that Iraqi libraries and archives include information sources dating back 20 centuries, including

cuneiform writing on clay tablets. It is uncertain how much the Iraqi National Library and Archive (INLA) and other Iraqi libraries lost, but the documents and archives cannot be replaced. The Conflict Records Research Center (CRRC) in Washington, D.C. received Saddam Hussein's archives. The Hoover Institution Library and Archive held Ba'ath Party records captured by American forces (Moustafa, 2018). During the 2003 US invasion of Iraq, coalition forces seized millions of pages of Iraqi state records from various Iraqi ministries and government offices. These records included routine military correspondence, Iraqi intelligence records, tapes and minutes of high-level meetings, and other documents. Analysts contracted with the US Department of Defense used these documents to produce two books and several shorter studies. Through an initiative known as the Conflict Records Research Center, the US government has begun making these records available to researchers (Brands,2011). In a desperate search for proof of weapons of mass destruction and battlefield intelligence, mobile document collection teams from the United States seized millions of ministerial records from Saddam Hussein's regime during the invasion. In 2012, Douglas Cox, a blogger and law researcher, revealed that these government archives, which are mostly still under the control of the Pentagon, were taken by the United States government (Montgomery, 2015). According to official accounts, the looting of Iraqi records and archeological sites was justified by the fact that there were not enough troops to adequately guard these locations. However, several official remarks suggested willful disregard for the protection of these places. In protest of the failure to save the Iraqi Museum, three cultural advisers to the White House resigned (Nugent, 2005). The theft and fire that plagued the National Library and the Iraqi Museum were the result of a calculated political and strategic decision rather than a lack of security by American soldiers (Emberling & Hanson, 2008). The US leadership did not prioritize protecting Iraq's heritage monuments during and after the invasion, according to the Deputy Assistant Secretary of Defense, who said that American field commanders in the country had not been given any directives to do so (Thurlow, 2005). Following the war, US forces confiscated documents in Iraq that were kilometers or even terabytes in size. Among the first files taken were those belonging to the Ba'ath Party, which ruled Iraq. Information about human rights abuses in Iraq during the Ba'ath era was found in Ba'ath Party files, which made them crucial. The precise content of the 48,000 boxes of documents that US forces confiscated following the invasion of Iraq is unknown. According to a 2004 Washington Post editorial, roughly 80% of the former Iraqi regime's paper documents—hundreds of millions—had been taken by American forces and sent to Qatar, where they were digitized, cataloged, indexed, and kept in the Harmony database (Cox, 2009). Whiting divided the Iraqi documents that the US had taken into three groups: the Baath Party files; state documents that the Kurds had taken in northern Iraq after the 1991 Gulf War; and finally, documents from the terrorist group ISIS, which was defeated in Iraq in 2016. In her article, Whiting made a key point: the documents that were taken by American forces and sent outside of Iraq could not be seen by Iraqis. They could only be seen by people who had access to the American study institutions where they were kept (Whiting, 2019). Five years after the American invasion of Iraq, the Society of American Archivists (SAA) and the Association of Canadian Archivists (ACA) called for American authorities to return millions of intelligence documents and intervene with the "government of Kurdistan" to return the Iraqi Anfal files to the Iraq National Library and Archive in Baghdad. The March 1991 Kurdish

uprisings during the first Gulf War captured the Anfal papers, which document Iraq's mid- to late-1980s genocide against Kurds. To store and analyze human rights offenses, the materials were handed to the US as Kurdish property. The SAA and ACA based their statement on the archival principle of national record inalienability, which states that only a state legislative act can alienate national records (Montgomery, 2010).

4. Iraqi state documents and archives transferred after 2003

4.1. Ba'ath Party archives

The Ba'ath Party, which ruled Iraq from 1968 until its overthrow in 2003, operated a system that used archives as a center for gathering political, security, and social information about citizens and opponents. The documents include intelligence files on individuals and institutions, correspondence between party leaders and government offices, security reports, social records, and legal documents, as well as evidence used by the regime's courts in political cases. These documents are not only records of governance; they represent a historical memory that must be preserved for investigations, trials, and historical and political research. The archives of the Iraqi Ba'ath Party offer a wealth of historical information, encompassing internal records, intelligence reports, organizational data, and files pertaining to Iraqi individuals and groups (Thompson, 2021). This archive contained vital information used by the former regime in its governance and can also play a significant role in understanding Iraq's modern history. Immediately after the invasion, US military and coalition forces, in cooperation with specialized contractors (such as the Iraq Memory Foundation), began collecting documents from party headquarters, palaces, and government centers. Amidst the chaos and insecurity, they quickly transferred millions of documents. They were transferred to a US military base in Iraq, then to the United States, and then stored at Stanford University in California, which cataloged and digitized the files. The US occupation authorities carried out all these actions with haste and often without coordination with the Iraqi authorities (Wilkinson, 2019). The Americans considered these documents "war spoils" worthy of preservation and study. The Iraqis, especially after the institutions stabilized following the arson and looting of Iraqi state institutions, considered this transfer a theft and a violation of the sovereignty and rights of the Iraqi people to their archives. Some sources indicate that batches of Ba'ath Party documents were returned to Iraq, the first in 2013 and the last in 2020, following diplomatic efforts and international pressure. It should be noted that there are no official Iraqi or American statistics or data on the number of Ba'ath Party documents transferred to the United States or those returned. However, discussions remain about how to preserve them and provide a secure archival environment within Iraq. Legally, there has been criticism that this transfer violates the Hague Convention and other international agreements prohibiting the transfer of property to an occupying state (Dorval, 2021). From an ethical standpoint, the United States has been accused of "stealing Iraq's national memory," particularly since the documents were later used in political campaigns to justify the invasion (such as allegations of weapons of mass destruction). Many international organizations concerned with archives have emphasized the need to return the documents to Iraq with the

necessary protection. Protection is essential not only to preserve Iraq's cultural heritage but also to ensure that the history reflected in these documents is accurately represented and respected (Montgomery, 2011). Without returning these materials, the risk of further erasing a nation's identity and collective memory remains high. This erasure could lead to a loss of historical context and undermine the cultural integrity of future generations. It is crucial that international efforts prioritize the repatriation of these documents to foster healing and understanding in a nation still grappling with the consequences of conflict. Understanding the significance of these documents is essential for acknowledging past injustices and fostering a sense of belonging within the affected communities (Pearlstein, 2018). We can honor the past and empower future generations to learn from it by facilitating their return. History is a powerful teacher, and by ensuring that these documents are returned, we can create a foundation for reconciliation and progress. It is through this process that we can build a more inclusive society, where every voice is heard and valued.

4.2 The Iraqi Jewish archive

The Iraqi Jewish Archive includes documents related to the Jewish community in Iraq, historically one of the oldest Jewish communities in the Arab world. These documents are important for understanding the history of the Iraqi Jewish community, its migrations, and its cultural and religious practices. In late 2003, the US military and its advisors discovered documents stored in the old Iraqi Intelligence building, which were later transferred to the US National Archives Officials documented this transfer as a rescue effort to protect the documents from loss (Montgomery,2013). Iraq wants these documents back, as they are part of its national heritage. However, some US Congress members and Iraqi Jews in the US think the documents belong to the community, not just the state. This dispute has sparked a legal and political debate between Iraq, the United States, and some Jewish organizations. The archive was to be returned by 2018, but it hasn't been returned yet. Iraq continues to demand the return of this archive as part of Iraq's national heritage (Rosenberg, 2014).

4.3. The Iraqi intelligence archive

The U.S. seized the majority of the archives belonging to the Iraqi Intelligence Service, established in the 1970s and reporting directly to the presidency. These archives included files on espionage, surveillance of domestic and foreign opposition, assassination operations, coordination with regional and international intelligence agencies, and daily reports on national security. These documents were not only historically significant but also contained sensitive details about Iraq's internal politics and regional relations, especially with Iran, Syria, and Gulf states. Much of this archive was transferred to the United States and analyzed extensively by American intelligence agencies (Cox, 2009).

4.4. Ministry of Defense records

These documents contained national defense plans, secret military maps, reports on troop movements, and correspondence between top military commanders. They also included arms inventories and memos related to past wars—particularly the Iran-Iraq War (1980–1988) and the Gulf War (1991). This archive provided the U.S. military with a strategic overview of Iraq's former military capabilities and was critical for assessing the performance of the Iraqi army both before and after the invasion (Moustafa, 2018).

4.5. General security and military intelligence files

These agencies were responsible for political surveillance, citizen monitoring, and enforcing state repression. The seized materials included thousands of reports on party activities, religious pilgrimages, and monitored phone communications, in addition to surveillance reports on foreign embassies. This archive is crucial for understanding the operational structure of Iraq's security state and how it managed political suppression. It also served as a resource for legal proceedings against figures from the former regime (Cox, 2011).

4.6. chemical and biological weapons program files

Although international inspection teams found no conclusive evidence of active WMD programs after 2003, the U.S. forces seized significant documents related to past armament efforts, especially from the 1980s. Some of these were later declassified and included scientific studies, experiment results, and correspondence with foreign entities that supplied materials and technology. These documents became central to debates surrounding the legitimacy of the invasion and the credibility of pre-war intelligence claims (Cirincione, 2004).

Document Type	Approx. Volume	Seized Year(s)	U.S. Custodian(s)
Iraqi state records	~100 million pages (35,504 boxes)	2003	U.S. military
Ba'th Party archives	~8–11 million pages + 108 videos	2003	Iraq Memory Foundation → DIA scanning → Hoover
Iraqi secret police files	~5.5 million pages digitized	1991	Kurds → DIA → U.S. National Archives; digital copy returned to Kurdistan in 2014 .
Operation Iraqi Freedom documents	~48,000 boxes (millions of pages)	2003	Foreign Military Studies Office (FMSO); public online briefly in 2006, then removed .
Iraqi Jewish Archive	~2,700 books + tens of thousands of docs	2003	U.S. Army → U.S. National Archives; digitized for online access;

Key Iraqi Document Collections in U.S. Institutions

5. The 2003 US invasion of Iraq and Iraqi State documents

In March 2003, the United States led a military coalition to overthrow the regime of Iraqi President Saddam Hussein, alleging the existence of weapons of mass destruction and links between the Iraqi regime and terrorist organizations. The invasion ended quickly with the fall of Baghdad in April 2003, leading to the complete collapse of the Iraqi state and its security and administrative institutions. This security vacuum led to widespread chaos, including the systematic looting of government buildings, museums, and archives (Van der Heide, 2013). During this chaos, the US military and occupation forces, supported by American contractors, began collecting various government documents, ostensibly to protect them from loss and destruction. The documents transferred included decades-long political, military, social, economic, and cultural records, particularly those relating to the ruling Ba'ath Party from 1968 to 2003, as well as documents reflecting Iraq's ethnic and religious diversity (Blaydes, 2020). These documents are an essential component of Iraqi national memory and play a significant role in understanding modern history, the performance of state institutions, and the preservation of individual and collective rights. Therefore, their loss or foreign control represents a direct threat to cultural and political sovereignty (Zaina, 2019). According to official US narratives, the transfer of the documents was intended to protect them from damage or destruction during the chaos and to facilitate their study in academic and research institutions with the aim of better understanding Iraq's political history. On the other hand, there were intelligence and political motives for using these documents as evidence in trials or to achieve security objectives (Kaufmann, 2004). This transfer sparked controversy between those who see it as a rescue and preservation of Iraqi memory and those who consider it a serious violation of sovereignty and cultural colonialism aimed at controlling Iraq's history and future. This situation coincided with both Iraqi and international calls for the return of the documents, as well as human rights and archival initiatives aimed at affirming the Iraqi people's rights to their archives (Marc, Enslin, & Haley, 2010).

5.1. The international legal framework and the transfer of Iraqi state documents to the united states after 2003

To understand the legal aspects of transferring Iraqi state documents to the United States following the 2003 invasion, it is essential to review international laws and treaties that govern state conduct during occupations and the protection of cultural property and archives (Hussein & Khalid, 2018). Additionally, the resolutions of the United Nations and the actions of occupying powers play a crucial role in assessing the legality of these procedures. This issue is often analyzed through the lens of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, which underscores the obligation of occupying forces to protect cultural heritage. Moreover, the ethical implications surrounding the transfer and preservation of these documents must be taken into account, as they possess significant historical value for the Iraqi people (UNESCO,1954).

5.1.1. The Hague Conventions of 1907, 1945, and Geneva Conventions of 1949

The Hague Conventions, drafted at the beginning of the twentieth century, regulate the rules of conduct during wars and occupations. Among its fundamental provisions are those relating to the protection of public and private property in the occupied state. Article 46 of the Hague Conventions states, "Respect for the private and public property of the occupied state is assured." It prohibits any seizure or destruction thereof except as required by imperative military necessity (Graditzky, 2018)." Article 56 of the same convention states, "Scientific and educational institutions, property of art, and cultural heritage shall be protected, and the occupying power shall be required to preserve them and not to remove or pillage them." Therefore, the transfer of Iraqi state documents, which are considered public and cultural property, requires clear legal justification, not mere arbitrary seizure or transfer. As for the Geneva Conventions, they stipulate the protection of civilians and property in conflict zones, including government archives and historical sites. Additional Protocol I extend protection to include cultural assets, and the transfer of such assets without the consent of the occupying state or an international organization is a violation of international law. The United Nations Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954 Hague Convention) prohibits the transfer of cultural property outside an occupied state without its express consent. Iraq was a party to this convention, which means that the transfer of state documents must take place with Iraq's consent or under international supervision (Henckaerts, 2012).

5.1.2. UN Security Council Resolution 1483 (2003)

This resolution was issued in May 2003 following the fall of Saddam Hussein's regime. It stipulates that the Coalition Provisional Authority (CPA) is the entity responsible for administering Iraq (Bensahel, 2008). Paragraph 13 of the resolution states, "The Coalition shall have broad authority over Iraq's assets, including state funds and property, which shall be preserved for the benefit of the Iraqi people." This resolution does not explicitly mention state files or archives, but it does grant the CPA control over "Iraq's assets," which opens the door to interpretation regarding the transfer of documents. The Coalition Provisional Authority (CPA) was established in Iraq to administer the country's affairs after the fall of the former regime. Civilian Administrator Paul Bremer issued numerous orders to organize institutions and manage assets, including Order No. 1 (2003), which concerned the freezing and protection of assets belonging to the former regime. Archives were not explicitly mentioned in the orders, but the CPA interpreted itself as the entity responsible for "protecting and preserving" government documents. These interpretations are a matter of legal controversy, as some consider them an excess of the occupation's powers under international law (UN. S/RES/1483 2003).

5.1.3. Conventions and the protection of documents as part of cultural heritage

 The transfer of Iraqi state documents to the United States after 2003 fell into a gray area between international law and the law of occupation. International law prohibits the transfer of cultural property except for essential reasons and with the consent of the occupying state

or under international supervision (O'Connell, 2004). The Coalition Provisional Authority claimed the legality of the transfer under the pretext of protecting the documents, but these justifications have been widely criticized as an abuse of occupation powers. Iraq's demands for the return of the documents remain legitimate and have a strong basis in international law. International law provides a solid foundation for Iraq's legitimate demands for the return of the documents. Adhering to legal frameworks that safeguard cultural heritage ensures accountability in the actions of the occupying forces (Murphy, 2003).

5.1.4. The Iraqi legal framework and the transfer and preservation of state documents after 2003

In addition to international laws and agreements regulating the transfer of documents during occupation, Iraq has a national legal framework that regulates the preservation and archiving of documents, defines responsibilities and competent authorities, and prohibits their transfer or disposal without legal authorization. Therefore, it is essential to study these laws to understand the legality of transferring Iraqi state documents to the United States after the invasion. Law No. 70 of 1983 for the Preservation of Documents and State Archives is the primary framework law for the preservation of the Iraqi state archives (Clarke, 2013). Article 1 of the law states, "All documents owned by the state or under its management are considered part of the national archives, and they may not be disposed of or transferred without the approval of the competent authority." Article 1 of the same law states, "The sale, smuggling, or transfer of documents outside Iraq without an official license from the Supreme Archives Authority is prohibited." Violations of these provisions may result in severe penalties, including fines and imprisonment, to ensure the protection and integrity of Iraq's historical and cultural heritage. It is imperative that all individuals and organizations adhere strictly to these regulations to safeguard the nation's valuable records(moj.gov.iq). Safeguarding the nation's valuable records not only preserves the rich history of Iraq but also fosters a sense of national identity and pride among its citizens. Therefore, it is crucial for everyone to understand the importance of these regulations and to actively participate in protecting the nation's cultural legacy. Cultural legacy requires collective effort and commitment from all sectors of society. Educational programs and community initiatives can play a vital role in raising awareness and encouraging active involvement in the preservation of Iraq's invaluable heritage. By encouraging a sense of ownership and connection to their cultural roots, citizens can contribute to a more unified and resilient society. This awareness not only enriches individual lives but also strengthens the fabric of the nation, ensuring that future generations can appreciate and learn from Iraq's rich past (Kathem, 2020).

The executive regulations of the law clarify how the law is implemented and include technical and security controls for preserving documents, regulating access to them, and the right of official bodies and citizens to access them under conditions that preserve national security. There are also other relevant laws, including the Contracts and Treaties Law (2015), which regulates the official exchange of documents between countries and stipulates that the transfer of state documents to any foreign entity must be within the framework of official

treaties or agreements(www.moj.gov.iq). There is also the Information Confidentiality and National Security Law, which prohibits the disclosure or transfer of sensitive information or security documents outside the country without official approval. As for Iraqi bodies responsible for government archives and documents, they can be summarized as follows: the Board of Supreme Audit, which monitors the state's accounts and financial documents; the Iraqi National Archives, which is responsible for preserving and organizing archives; and the Ministry of Culture, which plays a role in preserving cultural heritage and historical documents. According to Iraqi law, transferring state documents outside Iraq without the approval of the competent authorities is a clear violation of the law, and the perpetrator is subject to legal accountability. The occupying power does not have the authority to transfer or handle these documents as it pleases. The protection of these documents is crucial for maintaining the historical integrity of Iraq and ensuring that future generations have access to their cultural heritage. Any unauthorized transfer could lead to significant loss of invaluable records that are essential for understanding the nation's history and identity. Any transfer carried out without the approval of the legitimate Iraqi government is considered a violation of Iraqi sovereignty (Paust, 2003).

6. The ethical dimension of the transfer of Iraqi state documents to the United States after 2003

The transfer of Iraqi state documents after 2003 goes beyond a mere legal framework to profound ethical dimensions that touch on national identity, the rights of future generations, and respect for people's heritage. National sovereignty means that a state has the full right to manage its assets and cultural and historical heritage without illegitimate external interference. Therefore, the transfer of historical and political documents from Iraq to another country without official approval represents, from an ethical standpoint, a violation of this sovereignty (Wilkinson, 2019). This action raises questions about whether the United States acted as an occupying power that respects international law or as a colonial power exploiting the weakness of the occupied state. Government documents and archives are not merely papers or files; they represent the memory of a nation that preserves its experiences, suffering, and achievements. Therefore, removing this memory from its homeland disrupts historical and cultural communication between generations and hinders the process of building a national identity based on a solid foundation of self-knowledge. According to international standards, occupying powers have a responsibility to protect cultural heritage and prevent its destruction or smuggling. Ethically, this means that transferring documents should only be done in cases of extreme necessity, with the approval of the competent authorities, and for the purpose of preservation, not exploitation (Cox, 2014). While the United States justified the transfer of documents by claiming to protect them from damage and theft amidst the chaos, ethical questions arise about the validity of these justifications, especially since some of them remained outside Iraqi control for years and were used for political and intelligence purposes. Archives are used as tools of justice to lay the facts on the table, conduct investigations and trials, and construct a correct historical narrative. Ethically, providing access to these documents to Iraqis themselves is integral to achieving historical justice. Keeping documents

in the United States and elsewhere denies Iraqis full access to their history, creates a state of cognitive alienation, and is a moral violation of people's right to their past (Lowry, 2017). When national documents documenting a shared history or the suffering of a people are removed, this is not merely a material loss; it causes a profound psychological wound at the collective level. Many Iraqis felt that this transfer directly targeted their identity and memory. Examples include personal testimonies and stories from Iraqi families who lost the ability to review archives that documented their suffering or persecution under the former regime (Mnjama, 2020). The impact also extends to local researchers and historians, as depriving them of primary sources means that their studies of Iraqi history are distorted or incomplete, impeding the development of national knowledge. On an ethical level, states that interfere in the affairs of other countries must respect the right of peoples to their cultural and historical heritage, coordinate with local authorities, adhere to international standards, and refrain from exploiting heritage as a political or propaganda tool(Szanton, 2004).

6.1. The preservation vs. plunder debate

In cases such as the Iraqi Jewish Archive, complex questions arise regarding the ownership of documents belonging to ethnic or religious groups within the state. These disputes must be managed based on principles of justice and equality, and solutions must be sought that respect both collective and individual rights. Ethics requires open, transparent dialogue between the parties involved, including the Iraqi government, Iraqi communities abroad, and international institutions, to find just and mutually satisfactory solutions (Baser, 2021). There is a clear ethical debate between two sides: the United States and its supporters, who believe that the transfer of the documents was necessary to save them from damage and theft in the chaos that followed the invasion, emphasizing the intention to preserve and document them. The other side is the Iraqis and their critics, who view this transfer as tantamount to plunder or theft and that it reinforces a colonialist stance in which the Iraqi people are denied their right to their history (Papastavridis, 2007). This debate highlights the issue of the perpetrator's intentions and the impact of their actions on the affected party, a crucial ethical issue. The ethical issue does not end with the transfer; it includes managing a range of disputes, such as how the documents are returned. Who has the right to access them? What are the conditions that guarantee their protection and respect? How is the privacy of individuals named in the documents protected? Ethically, all parties must adhere to the principles of transparency, mutual respect, and social justice in managing these issues. The lack of transparency in the transfer of documents and the lack of coordination with Iraqi authorities undermine mutual trust. It is also essential to involve stakeholders, and Iraqis must be included in any decisions regarding their cultural and historical heritage (Laipson & Steinbruner, 2006). Maintaining a balance between preservation, access, and protection of documents must not come at the expense of freedom of access. Also, the principle of compensation and redress must be activated, and efforts must be made to compensate for moral and material damages through ethical means.

7. International politics: between power and moral legitimacy

In international politics, major powers often face a challenge between their perceived strategic and security interests and their moral and legal obligations toward other states, especially in cases of occupation or military intervention. The transfer of Iraqi state documents after 2003 reveals this challenge, as the United States saw its strategic interest in retaining archives as an information and security tool, in addition to symbolic control over the history of the former regime (Alshaibi, 2019). Conversely, adherence to international law (the Hague Convention, UNESCO Conventions for the Protection of Cultural Heritage) and recognition of the rights of the Iraqi state and people to preserve their heritage are unavoidable (Chapter, I). Such a challenge generates moral and political conflicts on the international stage, where the rules of the game clash between power and right. International organizations such as UNESCO and the International Council on Archives play an important role in attempting to balance moral and political dimensions by issuing resolutions and recommendations urging occupying states to respect cultural heritage and not to transfer or destroy it, monitoring transfers, demanding the return of transferred documents and artifacts, and facilitating international dialogue between conflicting parties (Brucan, 2020). However, the limited enforcement power of these organizations makes achieving moral justice difficult, especially if the superpower is not committed. The case of the Iraqi documents can be compared to other issues, such as the recovery of artifacts stolen from Egypt and attempts to recover them from European museums. The same applies to World War II archives, which were retained by certain countries despite demands from the countries of origin (Cox, 2009). These examples illustrate that the ethical dimension of transferring and preserving documents is not just an Iraqi issue but a global challenge in international relations. The dispute over the documents has affected diplomatic relations between the two countries, as the delay in their return has led to repeated tensions and disputes. Some international parties have considered the withholding of the documents to symbolize a lack of respect for Iraqi sovereignty (Hamilakis, 2003).

8. The cultural, and social implications of the transfer of Iraqi state documents to the united states in 2003

The transfer of Iraqi state documents to the United States after the 2003 US invasion was not merely an archival or legal issue; it had profound political and cultural implications that impacted interstate relations, the power structure within Iraq, and civil society. The transfer of documents represented a direct challenge to Iraq's sovereignty, as it was felt that a part of the nation's political history had been taken without authorization or coordination. The incident caused diplomatic tension between Iraq and the United States for years, in addition to domestic and international criticism of the US for Iraq's loss of its historical heritage (Caswell, 2011). A general sense of frustration has grown within Iraqi political elites over their inability to control their heritage. The US has used some documents (allegations of weapons of mass destruction) to justify the invasion. The use of other documents in the trials of former officials has sparked controversy regarding the credibility and fairness of the trials. Politicians have occasionally leaked documents, escalating mistrust among various Iraqi parties (Richelson,

Ed. 2002). The complexities of returning the documents affected the level of trust between the two governments, as some Iraqi officials viewed the file as evidence of the United States' lack of seriousness in respecting Iraq as a sovereign state (Stover, et al. 2008). However, relations gradually improved with agreements that returned batches of documents. The documents represent a historical and cultural memory, and their transfer outside Iraq led to a sense of loss of part of national identity, especially since the documents contained important social and cultural records. Preventing Iraqi researchers from accessing original sources resulted in incomplete or secondary research. This encouraged some researchers to rely on foreign sources that may harbor biases (Davis, 2018). The transfer of Iraqi documents outside Iraq has certainly affected the teaching of modern history at Iraqi universities. Some Iraqi intellectuals and activists have responded by establishing pressure groups to demand the return of the documents and to increase attention to protecting Iraq's cultural heritage from future loss or looting (Tucker & Brand, 2018).

The Impact of Document Transfers on National Laws and Policies The issue has led to calls for updating Iraqi laws to protect archives, including laws prohibiting the transfer of documents outside Iraq without official approval, as well as developing the structure of national archive institutions and enhancing their protection. The issue of transferring Iraqi state documents abroad has highlighted the importance of clear national policies that protect archives and guarantee the rights of future generations to access them, free from political or external interference (Davis, 2005). It has also brought attention to the need to strengthen the independence of national institutions in heritage management, as well as the importance of international coordination to reduce disputes over heritage documents, given that historical files are not just papers but instruments of cultural and political power. These documents serve as vital links to our past, shaping identities and informing societal narratives. Therefore, safeguarding them is essential not only for preserving history but also for fostering cultural understanding and collaboration among nations. Collaboration among nations can lead to shared initiatives that promote the protection and accessibility of these invaluable resources (Meskell, 2018). By working together, countries can establish frameworks that honor their individual heritages and celebrate the collective human experience, paving the way for a more harmonious global community. This collaborative approach not only enriches our understanding of diverse cultures but also empowers future generations to appreciate and learn from the past. Ultimately, by valuing and protecting our shared heritage, we can nurture a spirit of unity that transcends borders and fosters peace (Kostadinova, 2011). This spirit of unity can lead to collaborative efforts in education, tourism, and cultural exchange, further strengthening the bonds between nations. As we embrace our shared history, we create opportunities for dialogue and mutual respect, ensuring that the lessons of the past guide us toward a brighter future. Future generations will benefit from the understanding and appreciation of diverse cultures, paving the way for innovative solutions to global challenges. By encouraging an active attitude toward our shared heritage, we empower individuals to contribute positively to society and cultivate a more harmonious world (Bowers, 2010).

9. Conclusions

After reviewing the legal, ethical, political, and cultural issues related to transferring Iraqi state documents, and considering international agreements and preservation ethics, all documents should be returned to Iraq with promises to keep and protect this heritage, honor national sovereignty, and respect the rights of the Iraqi people. Future prospects for archives management must also be considered in keeping with global changes. Providing protection and securing modern, secure archive storage facilities to protect documents from damage or theft is of utmost importance and must be taken into consideration and implemented on the ground in Iraq. Moreover, we must collaborate with international institutions like UNESCO and the International Council on Archives to train and enhance the skills of Iraqi archivists in document preservation and restoration. The exchange of expertise and technologies in the field of digitization and preservation is also of utmost importance. Iraq and the countries holding the documents must form joint committees to ensure a safe and orderly transfer. Building a digital database accessible to Iraqis through the full digitization of the archives ensures backup copies of Iraqi state documents and archives. This phase is followed by the creation of an electronic platform enabling researchers and citizens to access documents while ensuring intellectual property rights and privacy in the use of this data. On the legislative side, national legislation must be developed, and Iraqi laws enacted to protect national archives and impose penalties for unauthorized transfers. Furthermore, international agreements must be updated in line with the lessons of the Iraqi case. Creating a clear idea of managing national cultural heritage and ensuring that everyone understands that documents belong to all people, not just specific political, ethnic, or religious groups, is essential for protecting our national identity. Leveraging modern technology and employing artificial intelligence and big data techniques to organize and analyze archives will aid in the preservation and sustainability of the Iraqi Archives and other national archives. The use of digital preservation technologies will certainly prevent the loss of content over time. Transferring Iraqi state documents after 2003 is still a difficult problem that needs combined legal, ethical, political, and cultural efforts, as well as solutions that protect this heritage from being lost or misused and turn it into a valuable resource for creating a successful and united future for the country.

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