

# Citizenship In the New Iraqi Constitution

By

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## 1-The modern state and the citizenship's hazards in Iraq:

Since its creation at the hands of the British mandate, the modern state has never been able effectively to integrate the main Iraqi components in term of the politics, and while Iraqi independence was still on the table of the negotiation between the colonial powers, the Shiite, Sunni and Kurd leaders did whatever they could to obtain an autonomous place under the protection of the either British or Turkish within the new state. More importantly, only few political parties and civil society organizations existed, and none had a clear trans-ethnic approach.

Many of the religious-linguistic groups mentioned above were subdivided into tribes and tribal units, especially the Kurds and the Shiites. A considerable part of the overall population was nomadic herders (estimated at 35% in 1867 and 5% in 1947),<sup>1</sup> while the majority was farmers and villagers. The literacy rate remained somewhere between 5 and 10 percent in the remote Ottoman provinces later to become Iraq. And for this reason there were no political clubs, patriotic reading circles and other bourgeois associations, trade unions and farmers associations to flourish in this social environment. But at a very early stage in the age of the modern state, however, it became very easy to notice that neither the British mandate power nor the newly raised Sunni elite would allow a fragment authority over the territory of the Iraqi state. Although the new leaders and the various political factions forming in the newly introduced parliament relied exclusively on appeals to the solidarity of a particular ethno-religious group in order to gather a following and legitimize their rule.<sup>2</sup>

Unfortunately enough, the feelings of national solidarity in Iraq were completely absent since the British installed Faysal of Hijaz the commander of the Arab forces that fought against the Ottoman armies as a king of Iraq, and for Faysal was very urgent to require the Sunni's support to control the state in this difficult era, even although they were

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<sup>1</sup>Makiya 1998 : 214)

<sup>2</sup> Simon 1986 : 54)

not the major population of the Iraqi society, but they were already engaged in ruling the state for along during the Ottoman occupation in Iraq. Thus, the policy of ethnicity was the main political approach from the very moment when the kingdom has been established in Iraq.<sup>3</sup> The king Faysal of Hijaz and his ex-Sharifian officers were stern adherents of the Pan-Arab nationalism that had earlier. They dominated politics in the first decades of independence, providing almost half of the premiers appointed during the mandate (1921 to 1932) and the monarchy (1932 to 1958) the rest coming from old Ottoman bureaucratic families or the Sunni notables of Baghdad. Only 4 out of the 23 individuals appointed as premiers during that period were of Shiite background.

The idea of an Arab nation — which should become the ideological basis of the nation building process — was hardly known even among the Arab-speaking population of the country, which felt loyal to their tribe, their village, their guild, their religious Imam, but not to peoples out of the borders of the state in Saudi Arabia or Syria they had never heard of. But in the eyes of the new rulers, this mosaic structure had to be overcome and the different pieces melted together into a conscious Arab nation capable of defending itself against European imperialism.<sup>4</sup>

By compare with the multi-cultural Ottoman empire, the new regime envisioned the different minority groups — in fact the biggest majority of the population — into the mainstream of Arabism and implicitly Sunni sub religion, which was regarded as the centerpiece of the nation's cultural heritage and its foremost contribution to world history. The principal's instruments to manage this goal, like any other state building projects of the contemporary world, were schools, the army and a unified administration. The whole educational systems were under the control of the founder of modern Pan-Arabism ideology, a unified administration by Baghdad-trained officials put an end to centuries of indirect rule that, in this remote corner of the empire, had not been profoundly altered through the Ottoman reforms of the nineteenth century or the Young Turk experiments.<sup>5</sup>

At three important points in the history of Iraq seemed as if this spiral of Ethno-religious exclusion and conflict had been halted. Bakir Sidqi's regime of 1936/37 tried to promote an overarching, explicitly multi-ethnic Iraqi nationalism. The Kurdish language, Shiite religion and other ethnic symbols were recognized as part of the nation's heritage and were

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<sup>3</sup> Seale 1965 : 32)

<sup>4</sup> Wimmer 2003 : 6)

<sup>5</sup> Batatu 1978 : 183)

like a model of Kemalist in Turkey. The second was a military coup of 1941 by Rasheed Al Gelany and also tried to justify the direction throw a limited democracy on the kemalist way. The last one was Qassem's reign between 1958 and 1963 was initially based to a large extent on the Communist Party mobilizing large sections of the newly populated suburbs and involving the largest ethno-religious groups within its Central Committees. The Free Officers under Qassem were oriented towards social reforms, including a serious attempt at land reform and a break with the principle of indirect rule in tribal areas. As was the case with Bakir, Al Gelany and Qassem had Kurdish roots and understood Iraq as a multi-ethnic national state. In his National Council of the Revolutionary Command, the group of Free Officers leading the coup, and the Cabinets, Kurds and Shii Arabs were well represented.<sup>6</sup>

Unfortunately, the movement of Al Gelany was never succeed and his military coup came down after few days and both regimes of Bakir and Qassem proved to be politically too weak make a stand against the Arabist circles in the army, allied with urban notables and a rising class of bureaucrats. In their eyes, an encompassing nation building and political integration meant sharing power and privileges with other factions within the army and government. Even the trans-ethnic political parties that had supported those regimes could not resist the centrifugal forces of ethnic factionalism.<sup>7</sup>

Depending on one's political point of view, this period in the history of Iraq could be seen as a centralization of the state to rebuild a political institutions have been corrupted as a consequence of a long occupation by the Ottoman and the British. But from much more detached socio-political point of view this period looks like a typical example of a fragile state emerging since the ethno-religious policy took started to lead toward dividing the national loyalty, and some times the dominate elite used the identity as a weapon against the other groups and legislated some lows to legitimize withdrawal the Iraqi citizenship from some Iraqis such as the none Arab Shiites and the Jews, and some lows to classify the citizens for a levels like the Kurds.

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<sup>6</sup> For more a bout this subject see : Makiya 1998, Batatu 1978.

<sup>7</sup> Lucitz 1995 : 141)

## **2-Ethno-religious map and the rise of citizenship's question in Iraq:**

Although the historical semi stable territory for the state, Iraq looks like a nation of multi sub nations, and always fulfill all conditions for a conflictual position that many nationalities, ethnics, and religious groups have engage in for a long historical times. By the end of a British mandate, when Iraq took a full independence in 1932 the Iraqi society was made up of 53% Arabs Shiites, 21% Arabs Sunnis, 14% Kurds mostly Sunnis, and 12% other nationalities, ethnics and religious groups such as the Turkmen (Sunnis), the Assyrian (Christian), and the Iraqi Jews.<sup>8</sup>

But however, that ethno-religious heterogeneity doesn't lead immediately to a struggle and violence, because it's not necessarily that more heterogeneous societies have more civil conflicts. And there is so many heterogeneous societies have never been in conflict, because many other important factors can be a real controller for the situation, such as a level of economic development and the stability of a political system. And in other hand a political conflict is more likely to oppose ethno-religious groups rather than other groups, thus the effectiveness of ethno-religious heterogeneity always seems like a shadow for a political conflict.<sup>9</sup>

During this mostly sensitive era in Iraq, unfortunately, a conflict broke out between a main components of the Iraqi society, this conflict was a sort of competition for win the rule of the state, like with the all new independence countries a make up of the political regime was a main political conviction could lead for a controversy, and as we indicated in the last few pages, the opportunism approach of the Sunni Arabs pushed them easily to the rule of Iraq. Since that it was very plain to notice that the first aspect of the Sunni's domination was a proportion of the others within a structure of the new Iraqi army.<sup>10</sup>

More than any thing else, for the Shiites and the Kurds, this step in the age of the state increased the feelings of unity and sharing destiny among themselves, and developed a deep ethno-religious identities and

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<sup>8</sup> Makiya 1998 : 215)

<sup>9</sup> Wimmer 2002 : Chap 3)

<sup>10</sup> Kahdduri 1969 : 56)

solidarities, while in the other hand, the Sunnis took further steps toward reconstruction the central political institutions and especially the new army in a way make it impossible for the other parties even to get the minimum participation in the state ruling. Thus, Pan-Arabist factions became much more radical and took on fascist steps in the thirties, the regime tried to enforce its vision of society, the fiercer resistance became, and giving rise to ever higher levels domination. This in turn feelings of being ruled and dominated by 'ethnic others' among those who refused to melt into the great Arab nation and who were more and more excluded from state power.

The spread of Pan-Arabism, the Sunni Arabist factions in the army, state administration and later also the Baath party gradually ousted other ethno- religious factions. As early as 1936 only 3% Of the Iraqi army officers were not Sunni Arabs. In the administration, Kurds still comprised 15 percent of the higher ranks and 25percent of the lower ranks during the monarchy. But in the decade after 1958, Kurds only held two percent of the higher ranks and 13 percent of the lower ranks in the administration.<sup>11</sup>

The Arabization in Iraq faced some kinds of resistance, and the strongest one that managed by Some of these leaders, such as the famous Sufi sheikh Mahmud Berzenjii from Suleimaniya, quickly gained power and influence and went as far beyond the principles of indirect rule as to declare an independent Kurdistan. The sheiks and their tribal followers, however, were not the only Kurdish forces resisting the expanding Arab state. They were soon joined by two other sections of the Kurdish speaking population: first, by urban intellectuals and professionals, who in later years often were members of the Communist party, and secondly, by Kurdish officers serving in the Iraqi army. These different currents of Kurdish nationalism entered into an uneasy relationship with each other. Party splits and fusions, purges and factional fighting, including armed confrontations with heavy casualties, have characterized the history of the Kurdish movement up to the present.<sup>12</sup>

Thus, the Kurdish resistance movement took many aspects, and the military efforts were the top of these aspects, since that the Kurds had engaged in a series of insurgency rounds against the central government in Baghdad for a long. The first rebellion broke out in 1932, when the newly independent Iraqi government tried to enforce its rule in the

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<sup>11</sup> Makiya 1998 : 140)

<sup>12</sup> Further information in ; International Crisis Group, Middle East Report N 56, 2006.

mountains of Kurdistan. The second round started in 1940, when Mullah Mustafa Barzani fought the newly established police posts in the Barzan valley in Kurdistan of Iraq. At the end of the Second War, when the British allowed the Iraqi army to fully fight Barzani despite possible international complications, he was defeated and had to flee over the border into. The third round started after the republican coup in 1958 against the monarchy in Iraq, when Barzani and his followers returned from their exile in the Soviet Union and established another confederacy among the tribal leaders of the Kurdish North. The fourth round was in 1975 when Iran no longer needed to play the Kurdish card in the struggle for regional pre-eminence. The reprisal and revenge taken by the Iraqi state was brutal. It included the complete depopulation of a border zone, the razing of villages and the deportation or murder of their inhabitants. Repression was combined with a forced policy of cultural and demographic Arabization.<sup>13</sup>

The fifth round started at the beginning of the Iraqi-Iran war. When Masud Barzani, and the left-wing urban factions under the leadership of Talabani, started to rebuild a following among tribal allies in the North and to fight government troops and police stations throughout the region, with Iranian assistance. And the last round was after the end of first Gulf War, the rifts between the Kurds section and Saddam's regime became clearly visible. Actually this rift deepened over the past decades, ethnicity and religion was the main political sectoring lines in the state for both the Kurds and the Shiites, and the Arabization in Iraq was the particular reason of losing the national solidarity and the citizenship's question.

The situation of Shiites was not so better than the Kurds, but the troubles didn't start early in the age of the state like what happened with the Kurds, actually problems of the Shiites began with the rule of the Baath, thus the Baath party still included 54% Shiites in the period from 1952 to 1963 among the members of the Central Command. Their share was reduced to 6% during the period from 1963 to 1970. And then the real conflict broke out between Shiites and Saddam's regime as soon as the war between Iraq and Iran started in 1980, and finally Saddam's regime relation with the Shiite became a basket case after the Gulf War and the Shiites insurgency in the south of Iraq in 1991.

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<sup>13</sup> Wimmer 2003 : 12)

### **3- Presently situation and the future of citizenship in Iraq:**

The new Iraqi constitution has been approved by the general referendum in 15<sup>th</sup> of October 2005 to deal with many complicated issues, citizenship in Iraq was a mostly important issue took a very wide area in the deepness discussions hold by Iraqi legislators and constitutional law experts with a direct support from some experts of the United Nation and international NGOs. The heavy heritage of ethnicity politics and the consequences of a long ethno-religious conflict in Iraq need a lot of creative ideas to rebuild a trustship among the various ethnics and religious groups.

Actually the laws are not enough to do that, theoretically the new constitution dealt with all the details of the ethno-religious tension, for example; the constitution states that all Iraqis are equal before the law regardless of "gender, race, ethnicity, origin, color, religion, sect, belief or opinion, or economic and social status." It protects the rights of personal privacy; the sanctity of the home; public trials for criminal defendants; and the freedoms of movement, expression, association and political organization. It states that all defendants are innocent until proven guilty. It prohibits extrajudicial punishment, group punishment, property seizures without compensation, and intellectual, political, or religious coercion, as well as guarantees women the right to participate fully in public life. In fact, it requires that electoral laws ensure that women hold no less than 25 percent of seats in the legislature. It prohibits all "forms of violence and abuse in the family" and "tribal traditions that are in contradiction with human rights." It accords Iraqi citizenship to all children of Iraqi mothers -- a provision that is revolutionary in this region.

But on the ground the problems are bigger than fill up the gaps in the previous constitution, unfortunately the same competition between the same traditional players broke out again after 2003, with much more complexity and ethno-religious strain. At first sight Shiites after they got a dominate position in the Iraqi parliament by election, can not trust the Sunnis any more because of the bad experience with Arabization in Iraq and how they suffered for a long, and the Kurds thinks that it's a perfect time to get more interests from the Iraqi state, and may be it will be a further step toward achieve their historical dream in the Kurdish state. Right now Iraq much more in fragments and the integration would be a great challenge cab face a several Iraqi governments in future since the plant of civil conflict it's already available, and all the efforts to fix the

problems are useless because the matter concerns the real meaning of the citizenship more than any thing else.

The present democratic system in Iraq can be a good variable to deal with the whole problems, but the immediate democratization may quickly overstrain the capacities of conflict absorption in a political system that has been—since its foundation in the thirties of the past century—held together by coercion and repression. Ideally, enough time should be given for the formation of parties and civil society organizations that are not associated with the existing ethno-religious programs. Some of these organizations may be rebuilt on the basis of past experiences and memories. And of course there are a lot to be done by the civil society organization such as business groups, trade unions, and other civil society actors, should be encouraged to emancipate themselves from the tutelage of the Iraqi state and set up their own organizational infrastructure. This may indeed take years to be accomplished. And it may again need outside encouragement and support by the most professional institutions in this field.

In the case of Iraq a fully ethno-religious variation landscape such as Iraq, it takes time for trans-ethnic parties and organizations to take root. The experience in Bosnia clearly shows that even with heavy outside financing and logistical support, non-ethnic parties may have enormous difficulties in gathering votes as long as a society still struggles with the traumas of ethnic warfare. Supporting such parties and organizations is a mid-term enterprise. It is well worth the effort, since if it succeeds, they will provide some of the political cohesion that ethnically divided polities so desperately need.

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