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FEDERALISM IN IRAQ: ASSESSMENT

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Abstract

Since 2003, there is a debate about dividing Iraq into three states or regions in accordance with its ethnicity and religious sects. There are groups supporting unity of Iraq to keep it a united country and to continue the process of rebuilding a new Iraq, a process that started after the First World War. Still, there are those who think Iraq is a failure state and the solution is to divide it into three entities to calm down ethnic and sectarian division. In this paper, I will examine the two main points of view and assess them to see which solution will suit better Iraq, or which solution is the least harmful, in order to keep peace and stability in this war-torn country. At issue will be centralism in Iraq and its evolution to federalism. I will see if confederation is another solution to the problem. In addition, the paper will look at the struggle of the Kurdish people for their national rights and will assess splitting Iraq into two states as a valuable solution. Finally, I will conclude my paper by evaluating the issue of dividing Iraq and hopefully providing possible solutions.

Keywords

The Middle East, Iraq, Federalism, Minority Rights, Kurds

1. Introduction

Modern Iraq was created after World War 1 when the Ottoman Empire was defeated. Iraq under the Ottomans was consisting of three *wilayaat* (states); each was connected with the Ottoman Capital, not with each other. Mosul *wilayat* was in the north consisting of majority Kurds, with Arab and other national minorities, Baghdad *wilayat* and Basra *wilayat* were in the south consisting of Arabs.

When modern Iraq was created by the British, a monarchy was installed with a king brought from al-Hejaz region in south Arabia. He was the son of the prominent Arab leader Sharif Hussein. Hussein who backed up the British during the war against the Ottomans was rewarded by installing two of his sons as kings, one in Jordan and one in Iraq. Therefore, the king of Iraq was not an Iraqi and did not belong to majority Shiite Iraqis.

There was a legal issue regarding Mosul *wilayat*. The British entered it after the conclusion of WW1 when a truce was signed. Turkey claimed it to be part of its territory and the final international decision influenced by the British was to have a referendum on the fate of Mosul (Sluglett, 1987); should it be part of a newly proposed country of Iraq under British mandate or should it continue to be part of Turkey. The British lobbied the people of Mosul, especially the Kurdish majority to join Iraq. There was a promise to the Kurds to enjoy their nationalist rights and autonomy if they would vote to join the newly proposed Iraqi state. The Kurds trusted the British promise in 1922 and the new authority in Iraq and therefore voted for Mosul to become part of Iraq.

In 1926, the Iraqi Prime minister promised that in the north civil servants will be Kurdish, Kurdish will be official language in addition to Arabic, and that Kurdish will be the medium of education in Kurdistan (Sluglett, 1987). In reality, the Kurds were betrayed and they did not enjoy the promised right. Therefore, Kurds rebelled against successive Iraqi Arab government until today, demanding their national rights, initially nationalist and administrative rights, then demanding autonomy for Iraqi Kurdistan, and finally seeking a real Federalist Iraq. Still, many Kurds aspire for self-determination to create their own independent state.

Kings and authoritarian presidents have held Iraq together since 1920s. What we find today is a failed States. This deterioration is a result of ethnic, religious, and sectarian divide that started with the former Iraqi regime and continued with the current sectarian regime. The Kurds have established their own autonomy and are enhancing their regional control as the federal government in Baghdad is weakened. Arab Sunnis and Shiites are divided by hatred that goes back to the origins of Islam in the seventh century.

Iraq is actually consisting of two geographical regions one mountainous dominated by the Kurds in the north and the rest dominated by Arabs, the Sunnis in the center and the north, south of the Kurdish area, and the Shiites mainly in central and southern Iraq. In addition to the two main ethnic groups of about 75% Arabs and about 20% Kurds, there are the Turkomans and the Chaldo-Assyrians who constitute the rest 5%. Almost 65% of Iraqis are Shiite Muslims, 30 percent Sunni Muslims, and 5 percent Christian, Yazedis and Mandaean religious minorities (Metz, 1988).

Before I explain the types of political system in regard to federalism, I should explain the types of political systems in regard to the relationship between the center and the periphery. There are three types of governmental systems concerning the relationship between the central government and the regions. They are the unitary (central) system, federalism, and confederate system.

2.Unitary System or Centralism

Most countries in the world, including Iraq in the previous regimes, follow the unitary central system. Unitary system is practiced mainly in relatively homogenous countries and countries that have mainly one chief ethnic group. In the unitary system of government, central government has practically all the power to control of the administrative system and sub-national governments of provinces, counties, and cities. Local governments typically have only those powers granted to them by the central government. This type of system is in practice in France, Italy, Japan, Morocco, South Korea, Sweden, Uruguay, and Cameron (Danziger, 2011).

2.1 Unitary System in Iraq

Since Iraq was created as a modern state in 1921 until the American invasion of Iraq in 2013, Iraq had a unitary central form of government where the center in Baghdad was in full control of administrative life in the country. The president was in control of appointing all governors, sub-governors, and mayors of Iraq, and could remove them anytime at will.

In 1991 after the Iraqi invasion of Kuwait and the American coalition crushing the Iraqi army that triggered the uprising in Iraqi Kurdistan region and elsewhere, the Kurds were able to create a de facto state or region that opted out of the central strict system and practiced in reality some sort of federal system in Iraq.

3.Federalism

In federalism, there is a central government and local governments for smaller political units, usually called states, provinces, territories, regions, areas, etc. The power is divided between the national government and lower level governments. Each local government has distinct powers that the other governments cannot override. Some power is shared with federal government in the capital but local issues are retained by local or regional governments. Federalism allows for many political subcultures. The balance between the national government and the regional governments differ from one country to another depending on their circumstances and historical development. Most federal systems give great autonomy to regions. The national government is responsible for state's general affairs, such as the army, foreign relations, great financial and economic projects, borders, citizenship, federal tax system, etc. The federal system is a system that distributes authority between two governments that have jurisdiction over same group of people and same geographic area. If there is any dispute between the national and regional governments, the independent judicially system, such as the Supreme Court, the constitutional court, or the federal court will rule on the issue. Examples of federal system are Australia, Brazil, Canada, Germany, India, Mexico, Malaysia, Nigeria, and the United States (Danziger, 2011).

3.1 Federalism in Iraq

The first time federalism as a notion was used frequently was after the March 1991 uprising against the former regime. Occasionally the word *itihad* (union) will be used to mean the same notion. It does not mean division or separation but a form of organizing the local government. The federal system is basically a democratic system; when democracy is breached, disputes and struggles will occur and vice versa. Because of the new reality after the March 1991 uprising, the federal system was put forward by a progressive political party in Iraq. Later in 1992, it was adapted by the Kurdish regional parliament. When the Iraqi National Congress was established to coordinate the Iraqi opposition against the former regime, the federal system was adapted and also later in the London Conference of the Iraqi opposition in 2002 (Tozlo, 2004). The Iraqi Governing Council after the removal of the Iraqi regime in 2003 adapted the notion. The Iraqi Interim constitution that was proposed by the U.S. administration in Iraq represents a

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form of federalism in order to meet mainly the demands of the historically oppressed people of Kurdistan. Kurds played an important role in fighting and toppling the old regime in Iraq and were strong allies of American forces.

The interim constitution was approved in Iraq and its framework became part of the current Iraqi Constitution that was ratified in 2005 referendum. The constitution states that Iraq is a republic and its system in a federal system (Iraqi constitution, 2005). The power supposedly is shared between the federal government and regional authorities to prevent the authority in Bagdad from concentrating its power, as was the case with the previous regime.

The Iraqi constitution in theory provides a framework for such federalism where two legislative bodies would be formed, one based on population, Council of Representatives, and the other (Council of Union) based on diverse ethnicities where no ethnic group dominates policy but a policy is based on consensus. The current constitution provides regions or provinces significant rights; any article not specific for national government is under the jurisdiction or regional government.

3.2 Federalism Suggested Forms in Iraq

There are two forms of federalist system suggested in Iraq. One is based on ethnicity or nationalism and the other is based on geography. In ethnic federalism, the state is formed on the base of ethnic composition on the country. Here, Kurds will enjoy self-rule in the areas that they form majority of the population. Accordingly, Iraq will be consisting of the Iraqi Kurdistan region in the north and the other region will be of Arab areas south of Kurdistan to central and southern Iraq. Other rational minorities such as the Chaldo-Assyrians and the Turkomans will enjoy administrative and cultural rights in their cities, towns, and areas.

The second type is geographic federalism. Here, federalism is based on administrative units, like provinces (governorates) in Iraq. In this case, each Iraqi province will have a decentralized system including the Kurdish provinces. The Kurdish provinces will not be connected with each other but with the national government in Baghdad, just like any other province. This type is not based on ethnicity but geography. Some provinces could merge with others because of location in the south, central, or north based on geography. The Kurds oppose such system and believe they should be one region because of their history and ethnicity (AlsharqAlas at, 2003). Other small ethnic groups should be represented in the parliament in accordance with their population size. They do not object to federalism based on geography or

any other from in the rest of Iraq.

3.3 Federalism in the Iraq Constitution

The federal system that was practically created when the Kurds ruled themselves outside the government control in 1991was enhanced in 2003 when the U.S. administration called for a federal administrative system. This new policy was a reaction to the former regime policy of crushing the Kurds in their strife for nationalist rights. The worse policy was carried out against the Kurds when the town of Halabja was grazed by chemical weapons and over one hundred Kurdish people were killed during an Iraqi government campaign named Alanfal.

The first article of the text of the Iraqi Constitution states that Iraq is "an independent state and one federal Republic with full sovereignty; the system of government is republican, representative (parliamentary), democratic, and this is the guarantor ...of the unity of Iraq" (Iraqi constitution, 2005). However, Article 119 of it undermines the first one in practice that "each province has the right to form a region in referendum in one of two ways: First, a request from a third of the members of each of the provincial councils intending to form a region. Second, at the request of one tenth of voters in each of the governorate (province) intending to form a region" (Jawad & Alaasaf, 2012). The parliament is the supreme legislative authority to grant such request for a referendum on such proposal. It can be said that the article openly authorizes the establishment of federal system can always lead to a demand for the establishment of such federations.

A problem here is that some districts of certain provinces are demanding their own federal regions because of their ethnic or religious distinctions, as the case of majority Turkomans in Tal Afar district in Nineveh province, or districts of predominantly Christian in Nineveh Palin. This demand was pressed prior to the Islamic State (IS) taking over most Nineveh province. Also, at stake is the conflict escalating between the various provinces around the administrative boundaries of each. Some provinces claim that there are parts of them encroached upon by other provinces, such as between the provinces of Karbala and Anbar, between the Kurdistan region and the provinces of Diyala and Nineveh, and other, which can add sectarian and ethnic conflict to the problem. Amending the Constitution is one of the issues that are almost impossible to achieve because of the tough conditions set for to revise it. The provision in Article 142 provides that "a referendum ... [requires] the approval of the majority of voters, and if it is not rejected by two-thirds of voters in three or more governorates" (Jawad & Alaasaf, 2012). The

Kurds region consisting of three provinces or Sunni or Shiite majority provinces can defeat such amendment.

3.4The Disputed Areas

Most of the so-called disputed areas had a majority of non-Arab until the advent of the Baath Party to power in 1968, where it was rearranging the provinces to have majority Arab population. Some districts were detached from the province of Kirkuk and attached to Sulaymaniyah et al., (Hanish, 2013).

The Commission on the Implementation of Article 140 of the Constitution of the Republic of Iraq is supposed to deal with these disputed areas. In Nineveh province, the areas includes several Christian, Yazidi, and Shabaks majority areas, such as districts of Shikhan, and Hamden, Telkaif, Akre, and some parts of Sinjar of Yazidi concentration in addition to others. In Erbil, it includes Makhmour district that includes a majority Kurdish that was taken from it and put under the Nineveh after 1991. In 1966, the province of Kirkuk included Jam Jamal and Klar, which are located today in the province of Sulaymaniyah, and Tuz Khurmatu of a majority Turkomans in located in Salahuddin province today, and Kafri of a mixture of Kurds, Turkmen and Arabs in located in Diyala province today. In Diyala the dispute is also over Khanaqin district of a Kurdish majority and Mandali sub district in Baladrooz district. In Wasit province, the dispute is over Badra district of both Faili Kurds and Shiite Arab residents (Commission on the Implementation of Article 140, 2007).

4. Confederation

Confederation is similar in a way to federation but it gives less power to national government. It is a loose union between states or other political units. These units cooperate but each has complete power over its unit. Each state, region, or territory has absolute control over its population and territory and the national or central government deals only with matters related to issues of all states or regions collectively. In a confederate system, power is retained by local or regional governments, and is like a treaty between sovereign nations to establish league of friendship for their common defense, security, and mutual general welfare. Usually, powers under confederation are to declare war, send and receive ambassadors, make treaties, regulate money, etc. These states usually have the right to pull out of federation anytime they like. Confederated system is usually uncommon in today's world and some argue that it is weak or

unstable system. A good example of it is the European Union, Commonwealth of Independent States that was created after the collapse of the Soviet Union, or the U.S. when the Articles of Confederation were in effect (Danziger, 2011).

5. The Division of Iraq Project

About 10 years ago, an idea circulated calling for splitting Iraq into 3 autonomous regions to reduce strife is Iraq. The idea gained attention and attraction but also opposition. The idea came to attention in 2006 when then Senator Joe Biden and a foreign-policy analyst wrote an op-ed column encouraging such approach. They thought that a more decentralized structure might be the best outcome for a terrible situation. They mentioned the case of Bosnia-Herzegovina, the multiethnic nation created in 1995 after the breakup of Yugoslavia, where the regions run their own internal affairs and even maintain their own armies (Richer, 2014). This is similar to what the Kurds are practicing today in reality whether the national government lies it or not.

This idea of federation that is somehow close to confederation would preserve the current borders and possibly ease the tense and the dispute between the central government and the Kurdish regional government. It is looking more attractive to the Kurds and to the Sunnis communities, and possibly in other segments of the Shiites. The idea in mixed sectarian communities in Baghdad and other mixed areas is not supportive, fearing divisions will lead to even greater disturbance and conflict.

The demand for the formation of other regions similar to that of the Kurdistan region escalated in most Iraqi provinces at different times after 2005. This desire was supported by large political groups involved in the political process, especially those who felt marginalized by then the Iraqi Prime Minister Nuri al-Maliki. It is interesting to mention that those who opposed federalism during the ratification of the 2005 Iraqi Constitution on the basis that it would lead to tearing Iraq apart are its supporters today (The Division of Iraq, 2012). They are demanding federalism in accordance with the permanent constitution, especially its Article 119. While the Shiite religious parties of the central government, which promoted voting for the permanent constitution, are launching a campaign opposing it because it undemand their control of all Iraqi territories.

It appears that the causes for the call for federations differ from one province to another. In the southern governorates of Basra, Maysan, DhiQar, etc., where the majority are of the same sect of the ruling coalition, the reason for creating federal regions is a complaint of negligence of the central government and its failure to grant these provinces financial allocations required for their development. In the western provinces of al-Anbar, Nineveh and Salah al-Din, where the communities are predominantly of different sect than the ruling coalition. The expressed reason is that the government is insisting on treating them either as followers of the former Baath regime or tough application of the "terrorism and the de-Beatifications" laws (The Division of Iraq, 2012).

The U.S. Administration, which promoted the idea of that Iraq is divided into Kurds, Sunnis and Shiites began to express its reservation to such projects. It warned the leaders of the Kurdistan region of the consequences of separation from the central authority. It advised them of the need to solve their problems with the national authority through dialogue and debate.

In 2015, there was a proposal in the U.S. Senate to fund the Kurds and Sunni independently from the central government. The Kurds welcomed the proposal of the U.S. Senate Armed Forces Committee to provide military assistant separately to them and to the Sunni tribes aside from the national government after suffering from central government's undelivered promises to support Kurdish Peshmerga military force. The Sunni Arab position generally welcomed it; after it was proved that the government was not serious about arming them. This proposal was rejected by the Iraqi government and the Shiite governing coalition as a violation of Iraqi sovereignty and as a step to divide Iraq based on ethnic and sectarian affiliation.

5.1 Argument for Dividing Iraq

In addition to Kurdish support, the support of division of Iraq comes from mainly the Sunni political groups and it is supported by neighboring countries like Saudi Arabia, Qatar, & Turkey (Almola, 2011). The Sunnis believe the majority Shiite government is marginalizing them. It goes along with Biden's project that was projected when Biden was the Chair of Foreign Relations Committee in the U.S. Senate in 2006.

Biden looked to Bosnia as the modern precedent, even allowing Muslims, Croats and Serbs to retain separate armies. "The Kurdish, Sunni and Shiite regions would each be responsible for their own domestic laws, administration and internal security. The central government would control border defense, foreign affairs and oil revenues" (Richer, 2014). The Biden/Gelb plan was endorsed by the U.S. Senate in 2007 but ignored by the Bush Administration. Senator Biden then stated that Iraq should be divided into three largely autonomous regions -- Kurd, Sunni Arab and Shiite Arab -- with a weaker central government in Baghdad. He added that the Bush administration's effort to establish a strong central government in Baghdad had been a failure, doomed by ethnic rivalry that had spawned widespread sectarian violence. Of course, the Iraq's Sunnis, the driving force behind the insurgency, would welcome the partition plan rather than be dominated by a Shiite-controlled central government(Ibid).

Splitting Iraq is a way to save it. Decentralizing it means giving each ethno-religious group a way to run its own affairs, while the central government handles common interests. The solution to establish three largely autonomous regions does not contradict with the current Iraqi Constitution but goes along with it. In this case, if there is an agreement on creating such system, the Sunnis, who have no oil, should be guaranteed 20 percent of oil revenues because of their population size (New York Times Upfront, 2015). As a minority, Sunnis are realizing they don't want to live in a Shiite-controlled, highly centralized state with laws enforced by sectarians militias.

The reasons and motives for splitting Iraq are the unbalanced policy pursued by the central authority, which often take the forms of sectarianism, marginalizing the other groups. In addition, the weakness of the central authority and its inability to make any significant improvement in the daily lives of individuals is another reason for trying alternative administrative system. The second reason is the self-interest of some political figures who are seeking status and self-interests for themselves or their territories and to have regional status similar to that of the Kurds. The third reason is the influence of some neighboring countries, which are pushing for the formation of the regions that have majority of people of their similar religious sects (Jawad & Alaasaf, 2012).

5.2. Argument for Keeping Iraq Intact

There are people who oppose both notions of federalism or confederation systems. They think it will lead to the division of the Iraqi state. They believe that it may open the door to new wars in the region, where Iran could support the Shiite majority government and Turkey and some other Arab states will support the Sunni segment of the population. They argued that the idea of splitting Iraq could lead to a bloody war and that partitioning Iraq on ethnic and sectarian basis would dismantle the social fabric of Iraqi society (Lister, 2014).

Any effort to divide the country would require widespread "relocations." This would probably be violent and impoverish those forced to move, leave a legacy of fear and hatred, and

further delay Iraq's political and economic recovery. Dividing Iraq will set off fights over control of oil where more than 90 percent of the government's revenues come from oil exports. A civil war is a real possibility (Choksy & Carol, 2014). In addition, the breakup will lead to humanitarian disasters, such as a refugee exodus similar to the one that followed the Indian partition of 1947, and military clashes that could draw in Iran and Turkey (Ibid). The question is which is more stable, one Iraq that is constantly in an internal war with itself, or three pieces that are extraordinarily hostile? This is a hard question to predict an answer to.

Without the Sunnis and Kurds as a part of Iraq, then it will be hard to balance out the influence Iran has in the country's national politics. In addition, the collapse of Iraq raises the specter of mass migration and violence of the sort that accompanied the birth of India and Pakistan (Choksy & Carol, 2014).

It would be hard to get the Iraqis to agree on the borders of the regions. That would require political settlements on all disputed territories. This is hard to do where disagreement and political adversary marks their relationship.

Some Shiites religious parties claim concern for the unity of Iraq but the real purpose is to dominate Iraq's politics and both Sunni and Kurds in Iraq. They do not want a Sunni strong partner, but a weak follower. They try to justify that by speaking of Iraq's unity and national sovereignty but Iraq since the 2003 invasion has become for feit in land, sea and air not only by the international coalition, but by Iran.

5.3. Evaluation Division

Dividing Iraq into three regions contradicts current demographic reality of Iraq. If Iraq is divided to three regions, Sunni, Shiite, Kurdish, and then capital Baghdad of its mixed demography should not be made a region according the Constitution. The provinces of Nineveh, Anbar, Diyala, Salahuddin, and the southern and western Arab part of Kirkuk are considered Sunni region. Shiite provinces assumed to include the provinces of Babil, Najaf, Karbala, Qadisiyah, DhiQar, Basra, Wasit, Maysan and Muthanna. The Kurdistan region consists of the three Kurdish provinces of Duhok, Erbil, Sulaimaniay and rest of Kirkuk, in addition to, according to the Kurds, part of Nineveh, Salahuddin and Diyala. This composition is ignoring the current demographic distribution in Iraq, such as Christians, Sabeans, Yazidis, and Turkomans. If the regions are made according to sectarian distribution, then it does not address the fate of Sunnis in Basra and Wasit, DhiQar and Babylon. Also, it does not address the Shiites

in Nineveh, Diyala, Salahuddin, and other areas of mixed populations (Almayadeen, 2013).

Therefore, the only viable solution is to have two confederation or two states, one for Arab ethnic group that contains both of Shiite and Sunni and one for the Kurdish people who deserve to have their own states for several historical and principle reasons. National minorities, whether in the Arab area or the Kurdish area, should enjoy their cultural and administrative right including autonomy. Ethnic groups in the border between the two regions should have the option to create new provinces in their majority areas and it would be up to them to be connected either to the Arab region or the Kurdish region in a referendum.

6. Conclusion

Iraq is truly divided among diverse ethnic, religious and sects that makes it difficult for it to survive unless there is a true and sincere policy to deal with the issue and to give equal rights and treatment to all citizens. A civil state is a solution to the problem. Religious sectarianism and ethnic chauvinistic policies will lead sooner or later to disintegration and destruction of Iraq.

If the people of Iraq are coherent and unified, Iraqi nationalists not sectarian, then any of such idea of splitting Iraq according to religious sects would be a failure. This should be a national Iraqi business, not a business of any foreign country trying to decide the fate of Iraq.

The more tolerant is the central government that grants more rights to regions, governorates, and nationalities, the more peaceful and united country Iraq will become. The opposite will be true. Marginalization, discrimination, and racism will lead to division and splitting of Iraq that could culminate to a civil war.

Federalism will guarantee regional rights and prevent the center from dominating national politics or the result will be a creation of another authoritarian regime in Iraq. Toward that end, Iraq needs a judiciary system that is truly independent.

The central authority must be working hard to alter its policy to make Iraqis feel in fact that they are equal and to reject the unjust sectarian politics. Since all indications are that the sectarian quota system is the base of the current political system, then the status quo might continue long, increasing internal rift that encourages external interference.

There is an urgent constitutional obligation to resolve the disputed areas issue with the Kurds. Any postponement of the implementation of Article 140 of the Constitution would be understood as a call for its withdrawal and a desire of the central government to escape from

Kirkuk's and other disputed areas obligations. This will also threaten trust between the engaged political parties and could extend to include other issues. A more just solution will be for the distinguished Kurdish nationality to have its right of self-determination to create its own nation-state after almost a century of struggle for its national and human rights. If statehood is still opposed by the neighboring countries and Western powers, then co federal system will be ideal for current Iraq.

Federalism for Iraqi provinces does not mean secession but real union between people based on equality and just national rights in a common homeland. Any ignorance to national right will lead to new tragedies and might bring back despotism and war for all Iraqis. If federalism is put into truthful application, it can lead to peace, harmony, and reduction of internal conflict.

The formation of regions is a constitutional right, and the Iraqis have the right in forming such regions in accordance with the constitution within a federal Iraqi state. Wider powers should be granted to the provinces to ease people's suffocating. The orientation towards the redistribution of powers and authorities towards decentralization will enhances the atmosphere of trust and the sense of equality. But the formation of region son the sectarian basis in the feudAtmosphere leads to chaos. This trend cannot lead to the stability and harmony but to more strife and disharmony in current Iraqi situation.

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