

Energy Strategy of A Study of Obstacles on the Way of Federalism in Iraq

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Abstract: Some scholars and political experts believe that federalism is the most effective way for settling the problem of nation-state building in societies having structural multiplicity such as ethno-racial and religious ones. Being a country of many races, ethnic groups and religious sects, Iraq has adopted federalism as its governmental form based on article four of the provisional constitution and article one of the permanent constitution for the post-Saddam era. However, there remains as problematique and complicated the future of federalism in Iraq. In other words, federalism has not so far been realized in Iraq and this is because of heresies and ambiguities wrought into the constitution and also a variety of legal and practical draw backs. The present article on the one hand tries to enquire about these heresies and ambiguities; on the other hand, there are examined problems such as lack of taking advantage from achievements of other federalist system; practical problems such as geographic-territorial condition, wealth distribution and especially the problems arising from existing rival discourses regarding the region of Kurdistan. On the whole, these factors are responsible for the rise of a precarious and shaky federalism faced with a plethora of challenges and set-backs.

[Jahanbakhsh Moradi, Ahmad Saie. **Energy Strategy of A Study of Obstacles on the Way of Federalism in Iraq.** *J Am Sci* 2012;8(9):592-594]. (ISSN: 1545-1003). <http://www.jofamericanscience.org>. 80

Keywords: Federalism, nation-state, provisional constitution, permanent constitution, problematique of federalism in Iraq, region of Kurdistan.

1- Review of Federalism

Federalism, as one of three forms of government, due to its operational capabilities in obviating the problem of establishing nation-state, and its fruitful implementation in many influential countries in the international domain- like the United States, Canada, Germany, Australia, and Switzerland- has gained a considerable amount of attention in the sphere of political thought. By taking federalism as the favorite form of government, on the one hand, a powerful union can be established; and on the other hand, member states can rightfully reach the desired domestic independence. Iraq, as a country of multiple ethnicities and religions, has taken federalism as the desired system of government for the post-Saddam era based on the fourth article of the provisional constitution and the first article of the permanent constitution. However, there hangs a kind of problematique and complication around the future of federalism in Iraq; In other words, there are ambiguities regarding the operational implementation of federalism in Iraq. If federalism be not successfully realized in Iraq and the region of Kurdistan, crises and instability arises in the whole nation, and eventually engulfs neighboring countries; hence the significance of the problem.

Before going over the main discussion which is the examination of federalism and the extent of its accomplishment in Iraq, it is necessary to have a general view of the theory of federalism itself. To do this, in what follows we have enumerated the basic tenets of federalism using less a single theory of federalism than a unified theory extracted by examining successful and historical instances of it in countries like the United States, Switzerland, Australia, and Canada. Accordingly, federal systems, by and large, must observe the following:

- 1- Duality of political authority
- 2- Separation of authorities and powers
- 3- Vertical and horizontal decentralization of power
- 4- Existence of written and codified constitution
- 5- Federal laws privilege over state laws
- 6- Incapability of regional governments and states in being separated from the federal government
- 7- Double parliament system
- 8- Existence of federal courts of law

The present article, by introducing the issue of federalism and its interrelated complications in Iraq,

tries to present a true picture of diplomacy in Iraq and the region of Kurdistan. Accordingly, it is made known that the reason for the abovementioned problem would be the heresies and ambiguities spun around the Iraqi constitution as well as existence of certain legal and practical intricacies.

2- Federalism in Iraq

The advent of pan-Arabism as an ideology in Iraq's diplomatic sphere, and arabization of the army, state, and government have been objected since the establishment of the Iraqi government in the early 1920s.⁽¹⁾ On the one hand, Shiite religious movements came up with the Islamic Da'wa Party as the earliest party;⁽²⁾ and on the other hand, Kurdish ethno-nationalistic movements formed. Kurdish movements benefitted more than religious ones. According to Treaty of Sevres in 1920, the right for establishing an independent Kurdish state under the mandate of League of Nations was recognized.⁽³⁾ The next time that autonomy of Kurdistan was stressed upon is indicated at the agreement of March 11, 1970.⁽⁴⁾ Both of these events were not fruitful for Kurds. Eventually, consequent to the US-led coalition forces' raid of Iraq in 1991, the safe region in the northern Iraq above the 36 degree circle-including provinces Erbil, Dahuk and Suleymania-was established. Following local elections in the middle 1992, and the establishment of Iraqi Kurdish government and parliament, the spirit of federalism began to hover.⁽⁵⁾ Afterwards, Iraqi opposition in numerous meetings in Washington, London, Salaheddin, and Nasiriya discussed the desired form of government,⁽⁶⁾ and for the first time declared its support of federalism in Iraq during the 2002 London meeting.⁽⁷⁾ Furthermore, according to the pronouncement of the interim governmental council of Iraq⁽⁸⁾, and base on the fourth article of the provisional constitution⁽⁹⁾ and the first article of the permanent constitution;⁽¹⁰⁾ federalism has been designated as the ideal form of government in Iraq. However, it has never yet been fully realized.

3- Factors Influencing Federalism in Iraq

Here, it is argued that three sets of influences thwart federalism to be reached in Iraq. The first set consists of obscurities and heresies wrought into the Iraq's constitutional law including the ambiguous future of formation of regions- capability of regions in establishing representative bureaus in embassies, and Iraqi representative offices overseas according to the fourth paragraph of the 118th article-, conferring special authority to the Kurds, and giving the regions authority over the general structure of law according to article 112 to 119- particularly granting exclusive

authority to regions according to article 112 based on which they are privileged over the federal government in case of dispute. All these bear testimony to the unprecedented heresies and unorthodoxies laid by the Iraqi legislators and their complete disregard of the positive and successful experiences of other federal systems.

The second set of factors contains legal hindrances on the way of federalism in Iraq. They include -but are not limited to- absence of legal departments, organizations, and institutions of a particular region in other regions- except for Kurdistan-, lack of transfer of political power to regions, absence of the second parliament or the region's council notwithstanding article 63's insistence on it, and the absence of a coalescing superposition.

The third set consists of obstacles of practical nature which can, in turn, be divided into three groupings: the first group concerns geographical-territorial factors. Ethnicities in Iraq are not geographically centralized and the reason for calling a region as Sunni or Shi'a is less its homogeneous Sunni or Shi'a populace than the rough majority of the residents; while, for example, in Switzerland, each canton retained its particular religious and linguistic homogeneity.⁽¹¹⁾ On the other hand, the problem of Kirkuk and the Kurds, Arabs, and Turkmen's claim on the city- and correspondent sensitivity of Turkey and Arab countries on the issue- has posed a grave challenge on the way of federalism in Iraq.

The next practical problem concerns the impartial distribution of power in Iraq; accordingly, the concentration of oil resources in north and south of Iraq- areas resided by the Kurds and Shi'as respectively- has become the origin of fear for Iraq's Sunni Arabs.

Finally, the existence of rival discourses regarding the situation of Kurdistan has produced a latent threat to the future of federalism in Iraq. Arguably, although the Kurds are presently functioning in favor of federalism, they do not regard it as the ultimate goal to be realized; instead, they consider it as the first step toward establishing an independent Kurd government. On the other hand, there even exists another discourse of superior and older origin among the Kurds which is formation of the great and unified Kurdistan entailing all Kurdish minorities of Iran, Turkey, Iraq, and Syria. This has been referred to in the statute of Kurdish parties; for example, Democratic Party of Iraq's Kurdistan in the first page of the statute, issued in 2000, has declared the possible establishment of the Great Kurdistan.⁽¹⁾

4- Conclusion

Accordingly, it can be concluded that, federalism the way Iraqis designated is doomed to failure due to the following matters: disregard of fundamental dynamics of successful instances of federalism in the world; existence of legal and practical obstacles; and heresies and obscurities of the Iraqi constitutional law. Also, it is not too much to say that, the present situation of things in Iraq can push the nonexistent so-called federalism toward a semi-existent con-federalism to the real would-be existent disintegration.

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7/7/2012