



**Human Rights Without Frontiers Int.**

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## **IRAQ: Political Reconstruction and Ethnic Issues**

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### **What place for the Assyrians in tomorrow's Iraq ?**

***This paper was presented at the 70th Convention of the American Assyrian National Federation which took place in Chicago from 28 August to 1 September 2003***

Willy Fautre, *Human Rights Without Frontiers Int.*

A country is only really democratic if it protects or tries to protect the rights of its minorities. There will not be any democracy or future for Iraq and its citizens if its ethnic and religious minorities do not feel safe and respected. In this regard, Assyrians in Iraq are a significant minority that should not be forgotten in the political reconstruction of the country.

### ***Territorial federalism and community federalism: the Belgian example***

Some state structures are more prone than others to safeguard the rights of ethnic, religious or linguistic minority groups. The country I come from, the federal state of Belgium, has had a long experience of peaceful conflict resolution between its specific "human communities": the Dutch-speaking community, the French-speaking community and the German-speaking community. The institutional engineering Belgium has worked out to settle the problems opposing its linguistic communities can of course not be applied as such to minority problems of a different nature, but it can certainly be a creative source of inspiration for tomorrow's Iraq.

I will not describe in details the mechanisms of Belgian federalism because time lacks for that here and now, but I will focus on its major traits insofar as these can be relevant for the political reconstruction of Iraq.

The challenge in Belgium is to keep the balance between three linguistic communities: a 55% majority of Dutch-speakers, a 45% minority of French-speakers and a very small minority of 60,000 German-speakers. The solution that has been elaborated is based on a double form of federalism:

Firstly, **territorial federalism**: one region is Dutch-speaking, the Flemish Region; one is bilingual Dutch-French, the Region of Brussels Capital; and in the last one, the Walloon region, French is the official language, but German is also an official language in a very specific area. Each linguistic group has therefore its own region where it is its own master. Each of the three regions has its own parliament and its own government.

Territorial federalism does not, however, solve all the problems, because some linguistic groups may be in the minority in a region other than theirs. Consequently, a number of political institutions and mechanisms have been put in place to preserve

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the rights and the identity of those local minorities. The institutional engineering is very complicated, but in a nutshell, each of the three linguistic communities has its own parliament and its own government so that it can have full autonomy in a number of matters, such as school education, culture, agriculture, environment, energy, protection of monuments, etc. This second form of federalism which could be called **community federalism**, maintains the solidarity and the cohesion between the users of a same language wherever they live in Belgium ; it also protects their rights in areas where they are in the minority. A concrete example of advantages of this second form of federalism is that the German-speaking community runs German-speaking schools in full autonomy in the Walloon region. The Dutch-speaking community runs Dutch-speaking schools not only in the Flemish Region but also in the bilingual Region of Brussels Capital where hardly 20% speak primarily Dutch.

Despite all these regional institutions, the unity of the country and the solidarity between all the citizens, whatever the community they belong to, is guaranteed by a federal parliament based on a two-chamber system.

Any draft law must be approved in both chambers before becoming a law. The House of Representatives numbers 150 members elected directly by the people. The Senate has 71 members: 21 of them are appointed by the three 'communities' and 10 are co-opted. This system allows the various linguistic groups to be represented at the federal level and to have their say in laws that concern them directly.

To avoid the dictatorship of a majority group, a system of qualified majority is sometimes required for laws concerning the linguistic rights: for example an overall two-third majority, with sometimes an additional simple majority in each linguistic community.

A number of ministries are exclusively federal: justice, national defence, interior, foreign affairs, finances, social security, and health.

Other ministries exist both at the federal level and at the level of the federated entities, though with different but complementary competences: budget, economy, labor, transport, etc. This mixed system grants a certain degree of real autonomy and self-determination to the regions and communities while keeping a balance between each of them and a link with the federal level. For example, the federal ministry of budget distributes the budgets to each of the federated entities according to criteria which have been decided by law with a qualified majority at the federal level. The demographic and territorial size of the federated entities is one of the major criteria.

The federated entities can issue their own laws inasmuch as they do not conflict with the Constitution and the federal laws. The Court of Arbitration can be used in case the constitutionality of a law is challenged. Use of the Council of State is another mechanism that can also be put into effect when there is some controversy about the implementation of a law. Complaints of individuals or organisations can be



addressed to a special permanent committee of vigilance.

The structure of vertical redistribution of powers in a federal framework, the interrelations between the centralised and decentralised powers, as well as the corrective mechanisms for any possible deviations are essential to the functioning of a stable political system; this seems and is very complex, but it guarantees in the short and the long run the rights of the existing minorities.

### ***Iraq: a secular federal state***

To what extent can the basic components of Belgium's territorial federalism and community federalism be useful for Iraq?

Iraq has quite a number of ethnic and religious communities. The Shi'ites, Sunnis, Kurds, Assyrians and Turkmen are the most numerous but there are also some religious minorities such as the Yezidis, the Jews, the Sabbeans, the Armenians, the Mandeans, etc.

### ***Federalism: the federal level***

The first guarantee for the safety and peaceful co-existence of the various ethnic and religious communities in Iraq is that the state must be secular. The new constitution should mention this basic principle in its first article. It should also provide for a bicameral system and a federal structure comprising:

- a federal level with two chambers and a government
- territorial federated entities called **regions** with their own parliament and government

At the federal level, the members of a chamber (called Congress, for example) should be elected directly by the people all over Iraq.

The other chamber (called the Senate, for example) should comprise representatives of a number of ethnic, religious and linguistic communities whose number might be fixed by a federal law according to their demographic importance. Those representatives might not be elected directly but could, for instance, be appointed by the political groups of the parliaments of the regions.

Laws which might infringe upon the rights of linguistic, ethnic and religious minorities should be voted by qualified majorities to be specified in both chambers. In the Senate, a simple majority inside each of the five main communities (Shi'ite, Sunni, Kurds, Assyrians, Turkmen) might be required as a protection veto system when one or several of them are in the minority in a given region.

Some ministries should be exclusively federal. The ministry of Justice should certainly be one of them, because it would be the only bulwark against any attempts to introduce the sharia at the level of federated entities. Additionally, it should also be mentioned in the constitution that no alternative law system might be introduced



anywhere in Iraq. Ministries of national defence, interior, foreign affairs, budget and finances, just to name a few, must also be exclusively federal if one wants to avoid any purposeful strategy of dismantling of the state by centrifugal forces. These federal institutions should allow the Assyrians and other minorities to speak their own language, to practice and teach their faith freely, not to fear the introduction of sharia and not to be submitted to the dictatorship of the majority in general.

### **Federalism: the federated entities or regions**

In discussing the territorial federated entities, I will on purpose not use the words 'state' or 'sub-state' so as to avoid any wrong political interpretation; instead I will opt for the term 'region'.

Habib Ishow, author of the book *Social and Political Structures of Present-Day Iraq*, published in French in Paris this year, recommends "the creation of a federal system which could comprise five Member-States: an Arabic-speaking Shi'ite State, an Arabic-speaking Sunni State, a Kurdish State, an Assyrian State and a Turkmen State. Baghdad would remain the capital of the federation."

I will just raise two weak points in this proposal. Firstly, Turkey will never accept a Kurdish state near its borders even if there is a Turkmen State in the Iraqi Federation. Secondly, a Kurdish State does not offer the guarantee that there will be peaceful coexistence between the Kurds, the Christian and other minorities living on their territory, without saying between the Kurds themselves, as recent history has sadly shown. It is not necessary to recall in detail how Talabani and Barzani have long fought against each other and have betrayed each other on several occasions.

From a purely geopolitical perspective, I assume that the creation of a Kurdish federated entity is to be excluded. Turkey would not tolerate it and might use it as a pretext to invade and settle in northern Iraq on a long-term basis. Consequently, the creation of an Assyrian federated entity and a Turkmen federated entity cannot be envisaged either. This may sound disappointing for some Assyrians but due to their geographical dispersion in Iraq, another form of federalism could guarantee their safety and their rights in a more appropriate way.

In the framework of territorial federalism, four federated entities called regions (and not states) could be created:

- the **Region of Southern Iraq**, quite homogeneous from an ethnic and a religious point of view, as it would correspond to the Shi'ite-populated territory;
- the **Region of Central Iraq**, mainly populated by Sunnites;
- the **Region of Northern Iraq**, quite heterogeneous from an ethnic and a religious point of view, as it would comprise a mosaic of peoples, among which four major communities: Kurds, Assyrians, Turkmen and Yezidis;
- the **Region of Baghdad**, also heterogeneous from an ethnic and religious point of view. It could have a status equivalent to the Brussels Capital Region in Belgium and as ethnic/religious groups are concentrated in specific parts of the



city, they could run a number of municipalities and have their own mayors.

In the Belgian federal system, no parliament has any precedence whether it is federal or regional.

The four regions would have their own parliament, their own government, and their own budget. They would be able to promulgate regional laws as long as they would not collide with the Constitution and the federal laws. Institutions such as a court of arbitration and a council of state would serve as legal railings against legislative adventures.

In a number of matters, full autonomy would be granted to each of the two regions: use of languages in public institutions, education, culture, agriculture, environment, energy, protection of monuments, etc.

A number of competences would be shared between the federal level and each of the regions, through ministries which would have complementary mandates: economy, labor, transport, etc. This mixed management of some state duties would guarantee at the same time the cohesion of the country and a real autonomy of both regions.

### ***The Assyrians in a federal Iraq***

About two-thirds of the Assyrian community live in the north of the country, and a third live in Baghdad. The community is made up of mainly Nestorians and Chaldeans.

What advantages would the Assyrians enjoy in such a form of federalism in Iraq as described above?

They would live in a secular state, the best guarantee against Muslim theocracy.

They would never be exposed to the application of the sharia wherever they live in Iraq.

They would be represented in the Congress and have a veto right in the Senate against any federal law which might jeopardize their community or their compatriots anywhere in Iraq.

They would not live under the rule or dictatorship of a regional majority group; in other words, the Kurds in the Region of Northern Iraq.

They would live in an heterogeneous region of North Iraq, and they would be ruled by an heterogeneous parliament which would have to learn the art of negotiation, respect for diversity and tolerance.

Through the regional parliament of North Iraq, they would be closer to the centres of decision.



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They would have their say through the regional parliament more than they have ever had through past national parliaments, where they had very few seats.

The practical and visible consequences in their daily lives would be:

- the freedom to protect, use and promote their respective languages and religions;
- the freedom to build new churches and monasteries;
- the freedom to restore architectural monuments and various places of worship;
- the freedom to open schools, social institutions and cultural associations;
- the freedom to restore the names of villages, towns and places in their original language;
- the right for Assyrians in exile to go back to Iraq and to regain their property;
- security for the people and their property;
- more tolerance, peaceful co-existence between the various communities, and more chances of economic development.

Federalism based on four regions, each with their own parliament and their own government; federalism with a veto right for the main minorities at the federal level to avoid the dictatorship of a majority group; separation of state and religion: these are the best ingredients for a federal recipe that will be savoury for all minorities in Iraq.