

Democracy Culture And Practice In Iraq: A Comparative Analyze Of Saddam And Post-Saddam Era

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Democracy practices may change from one state to another, as well as within a state from one era to another. When the recent developments considered, Iraq may be the most striking example of this variability. In this context, with the intervention made in 2003 and the closure of the Saddam era, Iraq has a new constitution and Iraqi people have new “rights and liberties”. Post-Saddam era brought hope for some groups in Iraq while rage for others: Hope especially for Shiites and Kurds who could not find fair representation for years and suffered from oppressive policies of Saddam; but, rage mostly for Sunni Arab tribes who had close ties with Saddam regime and for ex-Baathists and military elites who lost their posts and social status with the collapse of the regime. Also it is certain that the new era still contains ambiguities and state of chaos and disorder prevail.

This study analyzes democracy culture and practice of Iraq through comparison of Saddam and post-Saddam era and arrives at some predictions for the future of Iraq. In the aftermath of the intervention, Iraq could not establish a stable political structure; thus, the study will try to answer the question of “*Can artificial solutions bring practical gains?*” by regarding general characteristics and background of democracy culture in Iraq with a special focus on Saddam era. The intervention process and general constitutional framework of post-Saddam era will be examined through comparisons; and the hopes and obstacles Iraq faces with the recent developments will be emphasized. The study will also deal with practices because it is assumed that how the laws are implemented or brought into life is more important than the legal context.

When considering the artificial solutions, the last constitution¹ of Saddam regime, which was nearly the same as the 1968 Constitution brought into force with the Baathist coup of 1968, and the new constitution², which was prepared under the supervision of US and brought into force with a referendum made on November 15, 2005 will be adopted as basic references.

GENERAL CHARACTERISTICS AND BACKGROUND OF DEMOCRACY CULTURE IN IRAQ

Having been under the Ottoman rule, Baghdad, Mosul, and Basra passed to the British control with the fall of Ottoman Empire after the World War I and “Iraq” was created as a combination of these provinces by Britain.³ The active British control over Iraq had been questioned with the uprisings after the appointment of Faisal, the son of Sheriff Hussein, as king by Britain. Thereupon British control over Iraq was maintained by the 1922 and 1930 arrangements until the independence of Iraq in 1932.⁴ After gaining official independence, Britain retained control over Iraq with bilateral agreements until the defeat of Monarch in 1958. With the collapse of pro-British Monarchy by a group under the leadership of General Abdul Karim el Qassim, the republic was proclaimed.⁵ In this context, with the regulations brought in to force, General Qassim became the President, the Prime Minister, the Defense Minister, and the Commander in Chief and army’s role in Iraqi political life eventually increased.

Iraq had experienced a coup in February of 1963 and a counter-coup in November of 1963 with the Qassim’s efforts to purge nationalistic factions from the government. But with the Baathist coup staged in June 1968, a new era started in Iraq. Indeed Saddam Hussein, the most prominent political figure of Iraq had entered Iraqi political life and Baath ideology became dominant in politics as well as daily life till the 2000s. This structure gave an easy path to Saddam’s “one man” role after 1979.

During Saddam’s governance, a new interim constitution, which was hardly different from that of 1968, was made in 1990 and this constitution had gone into force with a “questionable” referendum in 1995. The referendum was questionable not only due to Saddam’s immense power on Iraqi people, but also that it had an indirect relationship with the Constitution’s approval rather than Saddam’s term of presidency.

Saddam regime was dissolved with the “Operation Iraqi Freedom” which was launched on March 20, 2003 by US and British led coalition. In this sense, a new political reconstruction process was started under the guidance of Coalition Provisional Authority (CPA)⁶ and with the approval of CPA and signature of Iraqi Governing Council (ICG)⁷ “Transitional Administrative Law”⁸, came into effect and remained in force until the permanent constitution was accepted. The new draft constitution, which was determined by CPA cooperating with local groups in Iraq, was prepared in 2005 in the context of political reconstruction calendar, and came into effect as a consequence of the referendum carried out on October 15, 2005.

From the perspective of democracy culture, it is clearly understood that Iraq hasn’t had much experience in this area. Even though Iraq theoretically gained its independence in 1932, effective British control over Iraq was carried out by the founded Monarchy and bilateral agreements. Moreover, Iraq’s borders were demarcated by Britain artificially without taking into account the characteristics of the different ethnic and religious groups in the country.

In this way, Britain preferred to depend on Sunni Arabs, who would continue to control over Iraq by excluding the other sects and ethnic groups from the government till 2000s.⁹ Apart from the British influence, the structure of the government within the Kingdom, the formation of Parliament and the authorities of the King created quite negative atmosphere for the development of democracy culture in Iraq in the era of 1925–1958. In this sense, even though the King had unlimited authority to make laws and international treaties, and to form, suspend and abolish the parliament, he had no responsibilities.¹⁰ Consequently, the King had quite an extensive authority on executive, legislative and judicial branches and there was no room to maneuver for the improvement of democracy culture.

Despite the declaration of the republic after the 1958 coup, which was meant as a reaction to Monarchy and especially to the structure that enabled *de facto* British control, it was still impossible for democracy culture to live and develop in Iraq because of the fact that after the coup, the military under the leadership of General Qassim enhanced its control over the political structure of Iraq. Also, General Qassim clogged the way to the formation of a democratic atmosphere by gathering all the power into his own hands from appointing the government members to making laws.

In the decade between 1958 and 1968, Iraq witnessed a very intense government struggle containing a series of coups and counter-coups, but it can be said that with the Baathist coup of

1968 a “stable” era had begun in Iraq in terms of government but the same can not be said for the democracy culture. In this unstable decade, General Abdul Salam Arif succeeded General Qassim by overthrowing him with a coup on February of 1963; and a counter coup in order to strengthen the General Arif’s power was made on November of the same year. Nevertheless, Arif’s regime was a more military dominated regime than that of Qassim. With the death of Abdul Salam Arif in a helicopter accident, his brother Abdul Rahman Arif replaced him in 1966.¹¹ However, with the coups organized on June 17, 1968 and strengthened on June 30, 1968, the Baath Party brought a “steady” but anti-democratic structure that would last until 2000s. For example, the first Revolutionary Command Council after the Baathist coup comprised of 12 persons: 11 of 12 were Sunni Arab while the majority of the population, Shiites were represented by only one and there were no seat for the Kurds.¹² From then on, not only Baathist governance based on one party began, but also a governance conception based on tribal and kinship relations was born. In this sense, Saddam Hussein, the second man of the Baath Party of Iraq gathered all the power into his hands in 1979 by defeating General Ahmad Hasan al-Bakir with a bloodless coup.¹³ For instance, when he got the power in 1979, Saddam undertook the posts including President of State, President of the Revolutionary Command Council, Commander-in-Chief, Prime Minister, and The Secretary General of the Iraqi Baath Regional Command Council. In fact Saddam had already gained some of the important competencies after the 1968 coup. Particularly, Saddam was *de facto* Vice President of the Revolutionary Command Council until 1974 and all the security and intelligence networks whether domestic or foreign were under his control.¹⁴ Saddam placed Sunni Arabs especially the ones from Tikrit, to the strategic posts in order to prevent a possible plot.¹⁵

Apart from the fact that the country was not able to mature democracy under Saddam governance, it experienced Iran War which lasted eight years from 1980 to 1988 and just after that, Saddam gave the start of his end by invading Kuwait. As it is known, Iraq was intervened in 1991 because of the invasion of Kuwait and the sanctions were imposed.¹⁶ The sanctions exposed people directly to the negative affects and a suitable ground for Saddam’s oppressive politics was reborn in an isolated Iraq.¹⁷ Moreover, it was known before the invasion of Kuwait that Saddam executed massive punishments in order to depress the formations and movements which carried potential opposition to his authority. Afterwards Saddam, who caused massive deaths of his

people by using chemical weapons during the Iran-Iraq war, also executed extravagant oppressive politics on Shiites in his country after the operation of 1991.¹⁸

In the axis of these progresses, collapse of Saddam regime with the “Operation Iraqi Freedom” –a questionable legitimate intervention- in 2003 started a different era for the democracy culture in Iraq which was unable to develop beforehand. At this point, it must be emphasized that according to the US claims, this intervention was organized for the aim of bringing Iraq “freedom and democracy” in order to gain legitimacy in the international arena and that is why the intervention was labeled as “Operation Iraqi Freedom”. However, albeit US wants to “free” Iraq, it can easily be seen that a structure dominated by ambiguities and chaos prevails.

THE STRUCTURE OF POLITICAL SYSTEM IN THE SADDAM ERA

The political and constitutional structure during Saddam era in Iraq lasted till 1990 without any substantial changes since 1968 Baath Coup. In this sense, until a national parliament was elected in accordance with the 1968 Constitution, the Revolutionary Command Council was founded in order to make laws and to elect President by two thirds majority. And as it was set forth, Secretary-General of Baath Party Regional Command would be at the same time the President of the Revolutionary Command Council and also the President of the Republic. Nevertheless, a national parliament could not be established until 1980. Instead of this, Revolution Command Council gathered all the power in its hands and became the only authority in legislative, executive, and even judicial branch.¹⁹

The Constitutional Context: Hierarchy of Powers and Rights

Theoretically the best document that reflects the political system and rights in Saddam era is unquestionably the 1990 Constitution. At this point, when compared with the 1968 Constitution, the biggest reform of the 1990 Constitution is the expression that: *“The people are the source of authority and its legitimacy.”*²⁰ Nonetheless, it must be indicated that the classic principle of separation of powers could not be carried out in practice in Saddam’s era; because, according to the Constitution, most of the competence of legislative and especially executive branch was still in the hands of Revolutionary Command Council and President. According to the 1990

Constitution, among the authorities of Revolution Command Council which is the supreme organ of the state are “*issuing laws and decrees having the force of the law and issuing decisions indispensable for applying the rules of the enacted laws*”. Likewise, it was also the competence of the Revolutionary Command Council to ratify the agreements and international treaties, declare war, accept truce and conclude peace.²¹

According to the 1990 Constitution, National Council would execute the legislation and shall consist of representatives from various political, economical, and social sectors of Iraq.²² National Council theoretically had the rights concerning legislative branch as to approve, reject, or modify the draft laws of which proposed by Revolutionary Command Council and President.²³ However, when the *de facto* status is examined, it has never occurred that National Council rejected or modified the draft laws proposed by Revolutionary Command Council nor President; instead, it worked only as an approving organ.²⁴ Additionally, even though National Council seemed to have the right to prepare the draft laws except the issues related to military, finance, and public security, the Revolutionary Command Council had the right to reject and modify these drafts prepared by National Council. Furthermore, even if National Council insisted on its draft, the draft can only be accepted in a common session of Revolutionary Command Council and National Council by two thirds majority.²⁵ However, it should be made clear that, such challenges to the authority of the Revolutionary Command Council had never been occurred.

Within the chain of tasks actualized in Saddam era, the person as the President of the Revolutionary Command Council (who was Saddam Hussein between 1979 and 2003) executes the Presidency at the same time. In this sense, according to the Constitution, President exercises the executive authority directly or by the assistance of his deputies or Ministers. When the authorities of President examined, it is clearly seen that he had quite extensive authorities which were in fact affiliated with the Revolutionary Command Council beforehand.²⁶ At this point, the competencies of President, who was in charge of protecting all citizens’ rights and liberties, were to declare partial or total emergency; appoint and relieve Vice Presidents; appoint, promote and dismiss governors, judges, civilian and military state employees; elaborate the budget; conduct the international negotiations and conclude treaties and agreements; and supervise the judicial judgments. Also, Vice Presidents and Ministers were responsible before the President.²⁷ Finally, the right to modify the Constitution of 1990, which consists of nearly the same regulations as the 1968 Constitution, was given to the Revolutionary Command Council. In this sense, it was

pointed out that the Constitution can not be modified without the two thirds approval of the Revolutionary Command Council.²⁸ The third part of the 1990 Constitution was reserved for fundamental rights and duties²⁹, but it must be underlined that despite the skimpy rights introduced on the constitutional basis, the opportunity to carry out these in practice was not allowed.

Saddam's Iraq in Practice

Even though the Constitution of 1990 considered the people as the source of authority and its legitimacy, the Revolutionary Command Council, which consists of the appointees, had become such an organ that it had all the powers in a circumstance where people could not express their will freely. However, it must be stated that with Saddam's Presidency, it was not the Revolutionary Command Council which determined the limits of sovereignty and legitimacy, but Saddam himself. Then, Saddam Hussein's brutality not only occurred on different sects or ethnicities, but also they were valid for all the parties who challenged the authority of him and for the ones who had potential opposition. For instance, two days after holding the Presidency, on 18 June, 1979 Saddam assembled the members of the Baath Party Regional Command Leadership with the members of the Revolutionary Command Council. At this meeting Saddam accused some of the members for a Syrian supported plot and for this betrayal 60 persons were executed.³⁰ One third of the Revolutionary Command Council was among the ones who were killed by Saddam's accusation. In December of the same year, Saddam also executed 21 high ranking party officials for their objections³¹ and some military officers were hanged in January of 1969 with the accusation of "spying".³² After this period, it can be said that the Revolutionary Command Council, which pretend the legislative and executive activities under the shadow of Saddam, was also incapable to represent the population structure in Iraq.

Additionally, after coming into power, Saddam kept all the parties who have potential opposition under investigation with the intelligence apparatus which he renewed by modernizing (in which Saddam took place since 1968) and he ensured that the ones who were evaluated as "dangerous" were to be punished without judicial process.³³ As Saddam depends on mainly Sunni Arab tribes and especially the ones from his hometown, Tikrit, he followed oppressive politics upon the other societies which formed the majority of the country but were based on

different sect and ethnic origins. Saddam, who executed the leading religious Shiite clergies on the April of 1980, caused about 180,000 persons to die out with the Anfal Operation which was launched in the late 1980's and by using chemical weapons on his own citizens, killed thousands.³⁴ At this point, instead of giving the chronology of oppressive practices in Saddam era, it would be enough to point out that on November 5, 2006 Saddam found guilty by the Supreme Iraqi Criminal Tribunal³⁵ for the massacre of 148 people in Dujail and sentenced to death by hanging. As known trial process for Saddam came to end on December 30, 2006 with a questionable execution which may cause more chaos and sectarian conflicts.

Parliamentary elections (National Council) were first held in 1980 in Baathist Iraq as it was pointed out before. When the rights affiliated to the parliament within the Constitution are considered, the parliament was not expected to be functional in practice whether it had a representation capability or not. Nonetheless, the fact that Saddam obliged the candidates who would compete in the elections with "secret votes", to be confirmed by an Election Committee working under the Ministry of Interior caused the parliament, which already had no function, to lose even its symbolic representative capability. Besides this, except Baath Party, the parties were forbidden to enter the elections and carry out political activities until 1988.³⁶ Although, this ban was removed in 1988, it's seen that the parties or groups who demonstrate opposition to Saddam were generally founded in exile and they tried to continue their opposition from abroad.

National Council Elections can be considered as a sample of the democracy culture in Saddam era.³⁷ After the proclamation of the republic, elections for Iraqi National Council, which had no active functions in Saddam era, were first held in 1980. At this election, candidates of the Baath won 75 percent, which meant 187 of the 250 seats. The remaining 63 seats were won by parties allied with Baath or by independents. The second elections of the National Council were held in October 1984 and the elections again showed the "triumph" of Baath: The Party won 183 seats of the 250.³⁸ The last elections were held in 2000. According to election results, from the candidates whose candidacies were confirmed by Election Commission, Baath Party won 165 of 250 seats and still had the majority. Uday Hussein, the eldest son of Saddam, attended the elections as the candidate of Baath Party from Baghdad. Uday, by getting the 99.9 percent of the votes achieved to enter the National Council with the epithet of "*the candidate who got most of the votes*".³⁹ For Dohuk, Arbil and Suleymaniye provinces which were out of control of Baghdad since 1991, 30 parliamentarians were appointed directly by Saddam.

In summary, albeit some rights were given to Iraqi citizens theoretically within the constitutional framework, these were quite limited. Even though the source of the authority was to be the people in the Constitution, it is clearly seen that, the authority was taken advantage of by the Revolutionary Command Council after 1968 Baath Coup; and by Saddam Hussein and his inner circle after 1979. In this sense, it can be said that the recognized rights (though limited on the constitutional level) meant nothing in practice and, consequently, the Constitution had a symbolic character.

INTERVENTION AND THE POST-SADDAM ERA

After taking the power in its hands, Saddam regime fought with Iran between 1980 and 1988 -a war which no party could defeat the other- and in 1990, occupied and annexed Kuwait. Iraqi forces were removed from Kuwait in 1991 with a US led intervention called Operation Desert Storm. After this intervention, while embargo and sanctions were enforced against Baghdad by UN, Iraq's military capacity was opened to inspection because of the weapons of mass destruction. Owing to international interventions and embargos organized after a long war and occupation, Iraq's military capacity faced quite important breakdowns and weapons of mass destruction were removed on a large scale by UNSCOM and later by UNMOVIC.⁴⁰ Meanwhile, an operation called Desert Fox was launched by US in 1998 for the reason that Saddam did not collaborate with UNMOVIC and some militarily strategic targets were bombed.

In the 2000's, US started to question Iraq's weapons of mass destruction frequently on international platforms and mentioned that in case of a dispute which occurs between UN inspectors and Baghdad government, an operation would be launched.⁴¹ In the aftermath of the 9/11 events, statements like *"The world is also uniting to answer the unique and urgent threat posed by Iraq, whose dictator has already used weapons of mass destruction to kill thousands. We must not and will not permit either terrorists or tyrants to blackmail freedom-loving nations"*⁴² were raised by George W. Bush and his team, and removing Saddam regime became an urgent goal to be achieved.⁴³

As a result, US started the attack to Iraq after the ultimatum in which Bush declared on a televised speech on 17 March 2003.⁴⁴ While making his case for military action, Bush said that the Iraqi regime had repeatedly defied the will of the international community since the end of

the Gulf War by violating numerous UN Security Council resolutions demanding that it give up its weapons of mass destruction. Bush gave Saddam 48 hours to leave the country with his sons before military operation began. Bush also based intervention's legitimacy on the Security Council Resolution 1441 which was adopted on 8 November 2002. Resolution stated that if Iraq violated its obligations of full and immediate disarmament, it would face "*serious consequences*".

Nevertheless, in the researches undertaken after US forces entered Baghdad on 9 April 2003 and put an actual end to Saddam regime, it was understood that Iraq did not have the weapons of mass destruction as US claimed.⁴⁵ But even on the second month of the operation, on April 10, 2003 White House Press Secretary Ari Fleisecher stated that "*As I said earlier, we have high confidence that they have weapons of mass destruction. This is what this war was about and is about.*"⁴⁶; then Washington's emphasis of the operation was transformed and it was claimed that the operation was also launched in order to defeat the anti-democratic and oppressive Saddam regime and to get Iraq "free". In addition, the White House, which ascribed to Saddam's antidemocratic regime, claimed that Iraq would be free and have a democratic structure with the fall of Saddam's regime. In fact, it was known beforehand that US got into contact with opposition groups in Iraq to defeat Saddam.⁴⁷ But this time the distances disappeared and US started to go hand in hand with the opposition groups.

New Political Structure and "Free" Iraq

While Iraq had a unitary structure and a "democratic" state –even though it was only on paper– before US led intervention, the Constitution of 2005, which went into effect under the guidance of CPA, primarily changed the structure of the state: It was specified that Iraq would have a federal system and the new political structure would contain the groups from different sects and ethnic origins.

In fact, the new system which is shaped after the intervention evokes typical American Federalism. According to the Constitution of 2005, legislative branch on federal level will consist of two chambers as Council of Representatives and Council of Union. Council of Representatives shall be selected on a proportional basis by general, direct, and secret ballot and the Council of Union will include representatives of regions and provinces to examine bills related to regions

and provinces. Different from the regulations of the 1990 Constitution, affective mechanisms⁴⁸ were established to enable the control of legislative branch over execution with the 2005 Constitution. Among these mechanisms, are questioning the President and relieving him from his post in case of a conviction by the Federal Supreme Court; asking questions, interpellation and withdrawing confidence against Prime Minister and the Cabinet.

When executive branch in the post-Saddam era is examined, the execution on federal level consists of the president of the republic and the cabinet. As it is stated, President shall be elected by the Council of Representatives for four years term. After Council of Representatives' appropriation, President shall have the authority to approve international treaties and agreements, and also have the right to approve the draft laws sent from the Council of Representatives and accept ambassadors. On the other hand, the Cabinet consisting of Prime Minister and the Ministers will take up their duty after winning confidence from the Council of Representatives and the Prime Minister is directly responsible for executing the policies of the state. Among the Cabinet's duties⁴⁹ are proposing draft laws, executing the general politics of government, issuing regulations, instructions, and decision to implement laws, and prepare the draft of the general budget as well as negotiating treaties and international agreements and signing them. Prime Minister and Ministers have both individual and collective responsibilities before the Council of Representatives.

In the Constitution of 2005, the independent institutions will also be created. In this sense, it is specified that Human Rights Supreme Commission, which can be evaluated as an important stage from the perspective of human rights, is to be created. An Independent Election Commission is to be established for the reason that elections could be carried out freely, safely and in a way far from interventions.⁵⁰

At this point, it is not an exaggerated expression to say that within the constitutional framework, political system in post-Saddam era brought positive regulations which could not be compared with Saddam era. Then, Iraqi political system specified a structure which, for the first time, had the capability of representation comprising the whole population. In this context, the fact that official language of the government was raised to two and recognition of the educational rights of Turkmen and Assyrian groups in their native languages was a sign pointing out the plural structure of the new era. Also, the rights, which were given in quite more detail than the Constitution of 1990, specified that equality was acknowledged to every one without

discrimination of gender, ethnicity, social origin, nationality, sect, religious belief and socio-economic status.⁵¹ In addition to this, everybody was given the right of life, security and liberty and the equality of opportunity was taken underlined. In the 2005 Constitution, which states that the right to defense is sacred, every accused is considered innocent until the guilt is proven in a just, legal court. Also the constitution dealing with the subject of political asylum, points out that none of the Iraqis and political refugees would be sent back to a third country, except in issues such as terror crimes or crimes on international level which can harm Iraq. In the constitution, getting real estate property intended for destroying the demographic stability of the country is forbidden; free movement of labor, property and capital is guaranteed.⁵²

When the issue of freedom examined, every kind of oppression due to religious and political reasons is prohibited and all the Iraqis are guaranteed to express, publish and spread their ideas in every way so long as they don't violate public order. Furthermore, the Constitution, which bears in mind the social structure unique to Iraq, points out that the government gives a boost in the issue of improving the structure based on tribes in Iraq, but forbids the tribal customs (traditions) which are contrary to human rights.⁵³

According to the Constitution, freedoms can be limited within laws and would not damage the essence of related rights and freedoms. Also it is stated, so long as it does not contradict with the principles and rules of the Constitution, all citizens have the right to take advantage of the rights provided within the agreements and treaties related to international human rights which are accepted by Iraq.⁵⁴ Moreover, Iraqi intelligence network which renewed after Saddam will operate according to the law and recognized human rights principles. Last, but not the least, Iraq will respect and implement its international commitments regarding non-proliferation, non-development, non-production, and non-use of weapons of mass destruction.⁵⁵

Hopes vs. Suspicions for the Future of Iraq

When the Constitution of 2005 is compared with the Saddam era constitution, it is clearly seen that its regulations are quite comprehensive and guarantee almost all of the rights of all parties. All parties who could not find the opportunity of fair representation in Saddam era are now lucky in the issue of representation. Also, the possibility of opposition to be in power is now more realistic. Actually, the political structure which was formed as a consequence of the elections

held on December 15, 2005 is a significant indicator.⁵⁶ In this context, Shiite and Kurdish groups take seats in the both chambers of the parliament with such a representation ratio that had never occurred before. For instance, considering the Council of Representatives with a turnout of 79.6 percent, Shiites won more than half of the seats while Kurds won nearly a quarter of the seats.⁵⁷ Also Sunni Arabs who were faced with the danger of being isolated from the government showed interest in December elections. However some Sunni Arab tribes and those who resist against the coalition forces boycotted the elections, Iraqi Accord Front (also known as Tawafaq Iraqi Front) which mostly represents Sunni Arab votes won 44 seats.

When the Sunni Arab's participation is considered; it can be said that, nearly a fair representation capability has been achieved. In this sense if the Saddam regime had not been overthrown, possibly this kind of a representation could have never been achieved. This argument is also valid for the execution branch. As noted above, the execution power was in fact handled by Revolutionary Command Council which consisted of the appointees during the Saddam era. Besides, Saddam was the only power to appoint the persons who serve on behalf of his regime; not on the behalf of people. In other words, in practice neither Revolutionary Command Council nor the Cabinet could independently use their authority. Instead, they were strictly under the control of Saddam and the ones who oppose Saddam's policies or challenge the authority of Saddam were executed even if they were a member of Revolutionary Command Council or the Cabinet. Also the execution could not be controlled by parliament because of the fact that there was not one till 1980. And even after 1980, the parliament was under the control of Saddam; not the other way around.

But with the closure of Saddam era, however a chaos seemed to be started, CPA shaped the political reconstruction process and after the last elections mentioned above, the execution branch was able to be formed with compromise.⁵⁸ In this sense, a national unity government was formed by the different groups which did not have any chance to get power during the Saddam era. The coalition government consisting of Shiite Arabs, Kurds and even Sunni Arabs took office on 20 May 2006 and had a support of 240 / 275 of the Council of Representatives. Also, in the post-Saddam era, a Sunni Arab-led group had been included in the government for the first time. In this context, a government consisting of different political groups, a Kurdish president and a Shiite prime minister were merely unthinkable before oust of Saddam regime. But at

present, Iraq is represented by a Kurdish President Jalal Talabani and a Shiite Prime Minister Nouri al-Maliki.

Meanwhile, the role of the women in Iraqi political life of the post-Saddam era should be noted. Both Saddam and post-Saddam era's regulations underlined the equality of all Iraqis without any discrimination of gender, ethnicity, nationality, origin, color, religion, sect, belief, opinion or social or economic status; however, post-Saddam era also guarantees the role of women in political life. In this context, according to the 2005 Constitution, at least 25 percent of the seats in the Council of Representatives are specified for women.⁵⁹ But when the Saddam regime's last two parliament elections (1996 and 2000) considered, the representation of women were 6.40 and 7.20 respectively.⁶⁰ As a consequence of this regulation, all parties who announced their candidates for the elections, had and will have to announce sufficient women candidate for the elections.

These developments bear hopes for the future of a democratic Iraq. But suspicions are still competing with the hopes. In other words, when the new rights and freedoms which the post-intervention period brought and most of them were pointed out above regarded, it must kept in mind, under which conditions this processes achieved. Nevertheless, the intervention process started on 20 March 2003 still goes on and Iraq still faces serious obstacles to use its authority as a democratic sovereign state. For instance, as of January 2007 there are some 158,000 international troops still operating in Iraq.⁶¹ And by considering Bush's "New Iraq Strategy", which its highlights addressed on January 11, 2007 this number will reach at least 178,000.⁶²

Ultimately, Iraq after Saddam could not become what it was expected to be and on the contrary, it gives dangerous signals that it will become a place of chaos. As of June 2006, according to a research made by John Hopkins University and Al Mustansiriya University, by using cluster sampling method about 655,000 civilian deaths estimated due to intervention and 601,000 of these have died from violence.⁶³ Also according to *Brookings' Iraqi Index*, only in 2005, an average of 7 Iraqi civilian were killed per week by US troops.⁶⁴ At this point, Tommy Franks, head of the US Central Command, stated that the numbers pronounced did not reflect the reality by saying "we don't do body counts".⁶⁵

Beside, when the insurgents' attacks are regarded, a terrifying table occurs. Between June 2004 and September 2006 about 1,710 car bombings were made whether lethal or non-lethal. Also, as of January 7, 2007, more than 1,100 multiple fatality bombings were made, of which at

least 396 were suicide bombings.⁶⁶ So, because of this chaos, death risk of civilians after the intervention and defeat of Saddam is 58 times more than the Saddam era according to a research made.⁶⁷

Meanwhile, no one could disregard the anti-democratic and counter human rights practices of American and British forces whose aim is to get Iraq “free”. Scandals in prisons, display of torture, civilian deaths under the name of war with terror,... etc. can be undertaken as external factors which block the formation of a suitable atmosphere for the application of 2005 Constitution. Also, suicide bombings, kidnappings, and assassinations targeting civilians and coalition forces as well as Iraqi security forces which could not be determined to stem from the domestic factors or the external ones, should be taken into consideration as another blockage.

Last, but not the least, tensions and aggressions which increase day to day between different ethnic groups and sects and some regulations which are nearly the same and sometimes more excessive than Saddam era cause suspicions for the future of Iraq. For instance, the structure of Iraq is still questioned by secessionist demands of Kurdish groups who have more power than the Saddam era. Also sectarian conflict between Sunni and Shiites seems to increase with the recent developments. Consequently, the tensions are not expected to decrease in the short run and the possibility of a civil war seems to be inevitable.

CONCLUSION

On the one hand, post-Saddam era bears hopes for a democratic Iraq. Especially, 2005 Constitution is unquestionably the most progressive constitution in Iraqi constitutional history. Constitutional framework of post-Saddam era enlarges basic rights and freedoms than Saddam era. However, application of these rights and freedoms is more important than determining the legal framework. In other words, even if Iraq has the most progressive constitution in the world that recognizes rights and defends freedoms on a large scale; this constitution will become meaningless unless it could bring practical gains. Furthermore, it must be regarded that 2005 Constitution which will shape Iraq’s near future, was prepared under the shadow of coalition forces.

On the other hand, there are suspicions to be regarded: The present Iraqi government has not ensured full control over the whole Iraq. Coalition forces and Iraq security forces as well as

civilians are already parts and targets of an asymmetric warfare even after the war was declared to be over. So, the coalition is far beyond the stability that was hoped for. But some strict policies of CPA and coalition forces like dissolving all institutions of the Saddam regime, de-Baathification policy, and dismissing all of the persons from their posts including the regular army and the other security apparatus had negative affect for the stability desired.

The question of “what will be after the coalition forces’ withdrawal?” needs to be answered. According to Bush’s statements, “*victory would be achieved and US forces withdrawn as more Iraqi troops are equipped and trained, a democratic government emerges and Iraq’s economy is rebuilt.*”⁶⁸ But, according to New Iraq Strategy, Bush will send more than 20,000 soldiers and implement more strict policies to achieve the victory and to get Iraq “free”. In other words, it is unrealistic to expect US forces withdrawal until the “real stability” ensured.

Consequently, from the independence to the present, it can be said that, democracy culture in Iraq could not find a suitable atmosphere due to *de facto* interventions of external powers and the desire of domestic groups to dominate the system. External power’s role can be summarized as: Britain, from the creation of Iraq till late 1950’s; Cold War rivalry between US and USSR till 1990’s; and US, from 1990’s to the present.

Dealing with domestic groups; Sunni Arabs were the major domestic group who dominated the system till 2000’s. Nevertheless, they also have a distinct nature and competed with each other to gain the power. Other main domestic group, Shiites who couldn’t dominate the system despite their majority in the population, are now more close to gain power. However, different factions and approaches inside Shiites may hinder the way to get power. Another domestic actor, Kurds who tried to be independent and gained autonomy before, reflects more homogeneity. But in the case of secession, Shiites or Sunni Arabs as well as other regional actors probably may interfere in the process.

By regarding the affects of external and internal dynamics, 2005 Constitution can not easily create a positive atmosphere for the democracy culture in Iraq. Because democracy is not something that can be built within a few years; it is unrealistic to expect the foundation of a political structure in Iraq that enables democracy and respect to human rights in the short run. Last, but not the least, even external dynamics enforces the democracy culture to be created; with the absence of all internal dynamics’ desire, it wouldn’t be created exactly.

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¹ For the former Constitution of Iraq, (also the last Constitution of Saddam era prepared in 1990) see: *Interim Constitution of Iraq* (1990), http://confinder.richmond.edu/admin/docs/local_iraq1990.pdf, (Accessed March 20, 2006).

² For the Constitution of Iraq in the Post-Saddam era see: *Text of the Final Draft Iraqi Constitution*, http://portal.unesco.org/ci/en/files/20704/11332732681iraqi_constitution_en.pdf/iraqi_constitution_en.pdf#search=%22Iraq%20Constitution%20official%20translation%20pdf%22, (Accessed March 20, 2006).

³ Roger Owen, *State Power and Politics in Making of the Modern Middle East*, 2nd Edition, London: Routledge, 2000, p. 9.

⁴ Tayyar Arı, *Geçmişten Günümüze Orta Doğu: Siyaset, Savaş ve Diplomasi*, (Middle East from Past to Present: Politics, War, and Diplomacy), 2nd Edition, İstanbul: Alfa Yayınları, 2005, pp. 169-171; Owen, op.cit., 10.

⁵ John Galvani, “The Baathi Revolution in Iraq”, *MERIP Reports*, No. 12, September-October 1972, p. 7.

⁶ CPA by having executive, legislative, and even judicial authority over the Iraqi government was established as a transitional government following the invasion of Iraq. For further information see: L. Elaine Halchin, *The Coalition Provisional Authority (CPA), Origin, Characteristics, and Institutional Authorities*, Congressional Research Service Report for Congress, 29 April 2004.

⁷ IGC established by and served under the CPA, consisted of various Iraqi political, religious, and tribal leaders who were appointed by the CPA, was the provisional government of Iraq from July 13, 2003 to June 1, 2004.

⁸ For the Transitional Administrative Law see: *Law of Administration for the State of Iraq for the Transitional Period*, <http://www.cpa-iraq.org/government/TAL.html>, (Accessed March 20, 2006).

⁹ Arı, op.cit., p. 170.

¹⁰ For full text of the 1925 Iraqi Constitution see: *Constitution of the Kingdom of Iraq*, <http://www.constitution.org/cons/iraq/iraqiconst19250321.html>, (Accessed March 21, 2006).

¹¹ Galvani, op.cit., p. 9.

¹² See. Amatzia Baram, “The Ruling Political Elite in Bathi Iraq, 1968-1986”, *International Journal of Middle East Studies*, Vol. 21, No. 4, November 1989, Appendix 2.

¹³ Formally General Hasan al-Bakir resigned ostensibly on health grounds and Saddam Hussein assumed the Presidency.

¹⁴ Amatzia Baram, “Saddam Husayn: between his Power Base and the International Community”, *Middle East of International Affairs*, Vol. 4, No. 4, December 2000, pp. 11-12; Ofra Bengio, “How Does Saddam Hold on?”, *Foreign Affairs*, July-August 2000, p. 95.

¹⁵ Eric Davis, *Memories of State: Politics, History and Collective Identity in Modern Iraq*, San Francisco: The University of California Press, 2005, p. 176; Galvani, op.cit., p. 17.

¹⁶ See: David Wurmser, *Tyranny's Allies: America's Failure to Defeat Saddam Hussein*, Washington D.C.: AEI Press, 1999, pp. 9-39; In an estimation, Iraq's GNP fell sharply from \$35 billion in 1989 to \$17 billion in 1993. See: Lori Buck, Nicole Gallant and Kim Richard Nossal, “Sanctions as a Gendered Instrument of Statecraft: The Case of Iraq”, *Review of International Studies*, 1998, No. 24, p. 78.

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- ¹⁷ Buck, Gallant and Nossal, op.cit., pp. 80-83; Also for the vain sanctions, UN Secretary General Kofi Annan pointed out that “*The hardship imposed on the civilian population is greatly disproportionate to the likely impact of the sanctions on the behavior of the protagonists.*” in his Report (16 April 1998) to the Security Council. For further information on the sanctions imposed see: David Cortright and George Lopez, “Are the Sanctions just? The Problematic Case of Iraq”, *Journal of International Affairs*, Vol. 52, No. 2, Spring 1999, passim.
- ¹⁸ For afterwards consequences of Kuwaiti invasion see. Davis, op.cit., pp. 271-283, Wurmser, loc.cit.
- ¹⁹ Ofra Bengio, *Saddam's Word: Political Discourse in Iraq*, New York: Oxford University Press, 1998, p. 58.
- ²⁰ 1990 Constitution, Article 2.
- ²¹ 1990 Constitution, Article 37 and 42-43.
- ²² 1990 Constitution, Article 46.
- ²³ 1990 Constitution, Article 51, 52.
- ²⁴ Baram, “The Ruling...”, op.cit., p. 477, pp. 461-462.
- ²⁵ 1990 Constitution, Article 53.
- ²⁶ 1990 Constitution, Article 57.
- ²⁷ 1990 Constitution, Article 58.
- ²⁸ 1990 Constitution, Article 63.
- ²⁹ 1990 Constitution, Article 19-36.
- ³⁰ Lawrence F. Kaplan and William Kristol, *The War Over Iraq: Saddam's Tyranny and America's Mission*”, San Francisco: Encounter Books, 2003, p. 19; Mark Bowden, “Tales of the Tyrant”, *The Atlantic Monthly (Online)*, Vol. 289, No. 5, May 2002, <http://www.theatlantic.com/issues/2002/05/bowden.htm>, (Accessed October 13, 2003).
- ³¹ Bengio, “How...”, op.cit., p. 96.
- ³² Bengio, *Saddam's...*, op.cit., p. 130.
- ³³ Ibrahim al-Marashi, “Iraq's Security and Intelligence Network: A Guide and Analysis”, *Middle East Review of International Affairs*, Vol. 6, No. 3, September 2002, p. 1; Baram, “Saddam...”, op.cit., p. 11.
- ³⁴ For more detailed examples, see: Kaplan and Kristol, op.cit., pp. 18-36. *Biography of Saddam Hussein of Tikrit*, <http://www.iraqfoundation.org/research/bio.html>, (Accessed May 20, 2005).
- ³⁵ Supreme Iraqi Criminal Tribunal was established after the US led intervention to try the persons accused of genocide, crimes against humanity, war crimes or other serious crimes committed between 1968 and 2003. See: International Center for Transitional Justice Briefing Paper, *Creation and First Trials of the Supreme Iraqi Criminal Tribunal*, October 2005.
- ³⁶ Except the Parties allied with Baath.
- ³⁷ For the election results of 1980, 1984, 1989, 1996 and 2000 see: Inter Parliamentary Union (IPU), “Iraq: Historical Archive of Parliamentary Elections Results”, http://www.ipu.org/parline-e/reports/2151_arc.htm, (Accessed July 20, 2006).
- ³⁸ See: *The National Assembly*, <http://countrystudies.us/iraq/72.htm>, (Accessed May 20, 2005).
- ³⁹ Bengio, *Saddam's...*, op.cit., p. 68; Ofra Bengio, “Couldn't Be Worse? Iraq After Saddam”, *The National Interest*, Issue 66, Winter 2001/2002, pp.53-54; *On the elections in Iraq*, 29 March 2000, <http://www.arabicnews.com/ansub/Daily/Day/000329/2000032915.html>, (Accessed May 4, 2006).
- ⁴⁰ Just after the intervention in 1991, Iraq's industry and military capacity as well as its power and transportation infrastructure were destroyed and sent back to early 1960s level. Davis, op.cit., p. 271.

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- ⁴¹ Ian McAllister, “A War Too Far? Bush, Iraq, and the 2004 U.S. Presidential Elections”, *Presidential Studies Quarterly*, Vol. 36, No. 2, June 2006, p. 261.
- ⁴² Radio Address of the President to the Nation, 23 November 2002, <http://www.whitehouse.gov/news/releases/2002/11/20021123.html>, (Accessed May 24, 2006).
- ⁴³ David Corn, *Lies of George W. Bush: Mastering the Politics of Deception*, New York: Crown Publishing Group, 2003, pp. 204, 265-268; For an interesting collection of some statements by Bush and his team like these see: http://www.house.gov/schakowsky/press2004a/pr2_05_2004mis.html, (Accessed May 24, 2006).
- ⁴⁴ For the full text of the Remarks by Bush as an ultimatum to Iraq see: *Remarks by the President in Address to the Nation*, 17 March 2003, <http://www.whitehouse.gov/news/releases/2003/03/20030317-7.html>, (Accessed September 9, 2006).
- ⁴⁵ Corn, op.cit., pp. 265-266.
- ⁴⁶ Ibid., p. 269.
- ⁴⁷ Depending on how they are counted, it is said to be there were 70 opposition groups have existed since the Gulf War. For mainly opposition groups see: Michael M. Gunter, “The Iraqi Opposition and the Failure of U.S. Intelligence”, *International Journal of Intelligence and Counter-Intelligence*, Vol. 12, No. 2, Summer 1999, pp. 136-137. pp. 135-167.
- ⁴⁸ 2005 Constitution, Article 59.
- ⁴⁹ 2005 Constitution, Article 78.
- ⁵⁰ 2005 Constitution, Article 100.
- ⁵¹ For the rights and freedoms recognized within the constitutional framework see: 2005 Constitution, Article 14-45.
- ⁵² 2005 Constitution, Article 23-24.
- ⁵³ 2005 Constitution, Article 43.
- ⁵⁴ 2005 Constitution, Article 44.
- ⁵⁵ 2005 Constitution, Article 9.
- ⁵⁶ Michael Rubin, “The Future of Iraq: Democracy, Civil War, or Chaos?”, *GLORIA Center, Interdisciplinary Center, Herzliya*, Vol. 9, No. 3, Article 7, September 2005, (Also available at Middle East Review of International Affairs’ website: <http://meria.idc.ac.il/journal/2005/issue3/jv9no3a7.html>); For the election results see: Independent Electoral Commission of Iraq, *Certification of the Council of Representatives Elections Final Results*, http://www.ieciraq.org/English/Frameset_english.htm, (Accessed April 1, 2006);
- ⁵⁷ Shiites entered the elections under different alliances and parties. When the biggest Shiite block United Iraqi Alliance and National Iraqi List thought, they won 153 seats in the Council of Representatives anyway. Also Kurdish Alliance of which formed by Kurdistan Democratic Party and Patriotic Union of Kurdistan won 58 seats when the Islamic Union of Kurdistan’s seats added.
- ⁵⁸ Rubin, loc.cit.
- ⁵⁹ 2005 Constitution, Article 151
- ⁶⁰ See: IPU, loc.cit.
- ⁶¹ Michael E. O’Hanlon and Nina Kamp, *Iraq Index: Tracking Variables of Reconstruction & Security in Post-Saddam Iraq*, The Brookings Institution, January 8, 2007, p. 20. (Also an updated form is available at www.brookings.edu/iraqindex).
- ⁶² Transcript of Bush’s Address at Fort Benning, Georgia on January 11, 2007. (Available at <http://www.whitehouse.gov/news/releases/2007/01/20070111-7.html>); for the Highlights of Bush’s New Iraq Strategy see: <http://www.whitehouse.gov/nsc/iraq/2007/iraq-strategy011007.pdf>, (Accessed January 12, 2007).

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- ⁶³ See *The Human Cost of the War in Iraq: A Mortality Study, 2002-2006*, John Hopkins University, Mustansiriya University and Massachusetts Institute of Technology, June 2006, s. 8, 12. For the full text of the report see: <http://i.a.cnn.net/cnn/2006/images/10/11/human.cost.of.war.pdf>, (Accessed November 11, 2006).
- ⁶⁴ O’hanlon and Kamp, op.cit., p. 10.
- ⁶⁵ Actually, General Franks isn’t wrong; because there are different databases taking the case from different aspects. For example see: <http://www.iraqbodycount.org/>, (Accessed June 1, 2006); <http://icasualties.org/oif/IraqiDeaths.aspx> (Accessed June 1, 2006).
- ⁶⁶ O’hanlon and Kamp, op.cit., p. 9, 11.
- ⁶⁷ “Iraq Death Toll Soared Post-War” http://news.bbc.co.uk/2/hi/middle_east/3962969.stm, (Accessed June 19, 2006).
- ⁶⁸ Thomas R. Mattair, “Exiting Iraq: Competing Strategies”, *Middle East Policy*, Vol. 13, No. 1, Spring 2006, p. 73.

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