

Civil Society and Human Rights Protection in Iraq since 2003

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Introduction

There is an ongoing debate and important scientific research contributions are being done on civil society and its significance for democracy and democratization. Many scholars and politicians share the widespread view that a rich and active civil society plays an important role in promoting democracy. It can discipline the state, make sure that the interests of the citizens are taken seriously and encourage civic and political participation¹. Consequently programs for the development of the civil society are vital for democratization attempts of the western states, and international non-government organizations. Particularly after a military intervention, the development and inclusion of the civil society in the democratization process is essential because it compensates the weaknesses of the "top-down" approach and contributes thus to the success of the democratization.²

There is a strong link between democratic culture and human rights³. Civil society actors are expected to teach and socialize the citizens for the acceptance of democratic culture and human rights. Many civil society actors are involved in matters of human rights and focus mainly on promoting and protecting human rights. Others contribute to the promotion of human rights indirectly by fostering participation, articulating interests or supplying essential services. The vital role of civil society in promoting democratic values and human rights is more crucial for countries in transition and those that are ethno-religiously divided Civil society actors are expected to play an active role in preventing ethno- religious conflicts by fostering human rights. They should try to diminish the borders between ethnic groups and teach them that human rights apply to all people regardless of their ethnicity

This positive image of civil society might be deceptive. Civil society has indeed a high potential of promoting democratic culture and human rights, but this is also limited. These limitations are seen particularly in countries in transition as well in societies where not only the ethno-religious conflicts are grave, but also the political institutions and security are unstable. In these cases, civil society may cause more harm than benefit.

¹ Carothers, Thomas/Barndt, William, *Civil Society*, in: Foreign Policy, No. 117 (Winter, 1999-2000), p 21.

² Hippel, Karin von, *Democracy by Force. Us Military Force in the Post-Cold War*, Cambridge: Cambridge University Press, 2000 p. 193.

³ Human rights are taken in their entirely civil, political, economic, social and cultural dimensions without any hierarchy of importance between those rights.

This paper analyses the roles and functions of civil society in protecting and fostering democratic culture and human rights in Iraq since the US-led military intervention in 2003. It argues that although the civil society in Iraq has fulfilled some significant functions, it has not been entirely effective in protecting democratic culture and human rights because of the fragmented ethno-religious society, deteriorating security situation and the unstable political institutions.

It has also led in some cases to the worsening of the state of human rights in Iraq which in turn might stir up the ethno-religious conflict. Iraq is a deeply divided country along both ethnic and religious lines⁴ and is in transition to democracy. The sectarian division and the political and social alignment along sectarian lines have been deepened in the post war Iraq. Since the US-led intervention, Iraq is dealing with several challenges like unstable security, lack of technical, social and economic infrastructure, weakness of rule of law and that of democratic state institutions, and abuses of human rights. The UN Human rights Report 2007⁵ criticizes the human rights situation in Iraq and describes it as rapidly worsening humanitarian crises. The report states that 34,452 people were killed and more than 36,000 wounded in 2006. More than 37,000 people are held in prisons, many without any trial or charge. The UNAMI Report 2008 doesn't provide a better picture. Although the security situation in Iraq continues to improve, so the report, the overall human rights abuses continue to be committed. The report suggests focusing on civil society in order to promote and protect human rights in Iraq.⁶ However as already stated, this paper's central hypothesis argues that Iraqi civil society is not effective in promoting human rights and causes under circumstances the abuse of human rights. In order to test this hypothesis, the paper starts by developing an analytical framework for the case study. In first section, this paper deals with the following questions namely: How the civil society is to be defined for the present work, which functions the civil society has for promoting democratic culture and human rights, which specific features should the civil society have, so that it can completely fulfill its functions to promote democratic culture and human rights and how the dark side of the civil society can be explained.

⁴ Arabs comprise 75%-80% of the Iraqi population, Kurds 15%-20%, and additional ethnic groups such as Turkmen and Assyrians constitutes the remaining 5%. Iraqi Sunni Muslims (about 35%) is made up Kurds, Arabs and Turkmen. Iraqi Shiite comprises 60% of Iraqi population. Christian or other religious minorities constitute about 5% of the population

⁵ UNAMI Human Rights Report, 1 January-31 March 2007.

<http://www.uniraq.org/filelib/misc/hr%20report%20jan%20mar%202007%20en.pdf> (10.02.09)

⁶ UNAMI Human Rights Report, 1 July-31 December 2008.
http://uniraq.org/documents/UNAMI_Human_Rights_Report_July_December_2008_EN.pdf (10.02.09)

In the second section the analytical framework is then applied to the case study Iraq. At the start of this section, the development of civil society in Iraq is investigated. This is followed by the analysis of the functions that the civil society in Iraq is supposed to fulfill in order to foster human rights and democratic cultures. Finally, the paper studies the dark side of the civil society in human rights protection in Iraq and in conclusion evaluates the case study.

I. Analytical Framework

1. Definition of Civil Society

"Civil society" is one of the most popular concepts of social and political sciences. The idea of the civil society has a very long history in the traditions of the western political thinking. Its roots go back up to the Greek philosophers of the antiquity, possibly to Aristotle.⁷ The modern idea of the civil society originated first in the later 18th century from the representatives of the Scottish and continental enlightenment: Adam Ferguson, Adam Smith, Georg Hegel and Charles Montesquieu.⁸ The concept has been more popular particularly after the third democratization wave in the East European countries and found increasingly use in the circles of politicians and graduates. Nowadays the concept "civil society" is very often used; indeed, almost everybody has his own image of what is to be understood by it. Everybody stresses another aspect of the "civil society" based on different historical phase, political culture and ideology. There are many definitions of civil society and a substantial controversy about what the concept of civil society contains and excludes.⁹ For the purposes of this work the definition of civil society is as follows:

"The civil societies consist of plural, voluntarily founded organizations and associations which articulate their specific material and normative interests and organize themselves autonomous. It is settled in the area between private and state sphere. Its articulated objectives concern always *res publica*. Thus actors of the civil society are involved in the politics without aspiring state offices. Accordingly the groups which pursue exclusively private

⁷ Cahoone, E. Lawrence, *Civil Society. The Conservative Meaning of Liberal Politics*, London, Blackwell, 2002, p. 211.

⁸ Seligman, B. Adam, *The Idea of Civil Society*, Preface and Acknowledgments, New York: Free Press, 1992, p. IX and Carothers Thomas/Barndt William, *Civil Society*, in: *Foreign Policy*, No. 117. (Winter 1999-2000), pp. 18-19.

⁹ Merkel, Wolfgang,/Lauth Hans-Joachim, *Systemwechsel und Zivilgesellschaft: Welche Zivilgesellschaft braucht die Demokratie?* In: *Aus Politik und Zeitgeschichte*, B 6-7, January 1998, p. 3.

aims (families, enterprises, etc.) are not part of the civil society like political parties, parliaments or state management.”¹⁰

On the basis of this definition the following organizations of the civil society can be added: Associations and interest groups, cultural and religious unions, educational institutions and facilities of information which contribute to the better instruction of the public, developing organizations (NGOs, self-help groups) and citizens' groups (environment, women's rights, etc.).¹¹

2. Functions of Civil society

In order to play a significant role in deepening the democratic culture and in promoting human rights, civil society actors should fulfill some functions. These functions will be described in the following section.

Control and correction: The control of the state institutions takes place in a democracy in two different ways namely: horizontally and vertically. Horizontal control refers to a system of check and balances amongst government branches. The vertical control however focuses on the elections and other mechanisms which enable the citizens to control the government. Through monitoring and agenda setting activities, civil society broadens the accountability and compensates the weaknesses of the electoral mechanism. Civil society unlike the electoral mechanism can activate its control functions without temporal limitation and majority vote and can address single issues or policies.¹²

The important areas in which the civil-social organizations exercise their controlling function are those of the elections and human rights. Civil society organizations monitor the implementation of human rights and give significant help to successful realization of elections as impartial observers.¹³

¹⁰Lauth, Hans-Joachim/Merkel Wolfgang, *Zivilgesellschaft und Transformation*, in: Lauth, Hans-Joachim/Merkel, Wolfgang (Eds.), *Zivilgesellschaft im Transformationsprozess. Länderstudien zu Mittelost- und Südeuropa, Asien, Afrika, Lateinamerika und Nahost*, Mainz: Institut für Politikwissenschaft, 1997, pp. 22-23.

¹¹ Ibid. p. 23

¹² Smulovitz, Catalina/Peruzzotti, Enrique, *Societal Accountability in Latin America*, pp. 150-151.

¹³ Kumar, Krishna, *Postconflict Elections & International Assistance*, p. 7 and Kumar, Krishna/Ottoway Marina, *“General Conclusion & Priorities”*, in: Kumar, Krishna (Ed), *Postconflict Elections, Democratization and International Assistance*, London: Lynee Rienner Publishers, 1998, p. 233.

Education and Socialization: The educational and socializing function of civil society has its theoretical roots in Alexis de Tocqueville's famous reflections on 19th century American democracy. Tocqueville refers to civil society as "school of democracy" and expects that citizens through participating in civil society develop civic virtues such as trust, tolerance, honesty, reliability, reciprocity.¹⁴ To promote the democratic culture, civil society organizations educate citizens about the basic values of democracy like human rights, constitution and democratic procedure so that the citizens understand how a democracy functions. The education function is put to practice on two levels. On the formal level, civil society develops methods, strategies and curriculums for a democratic civic education. On the second level, it socializes the citizens through the informal educational programs for the democracy and encourages them thereby to participation. The education and socialization function are considered particularly important for the countries in transition. Since in the long term these functions are expected firstly to cause a rise of trust of the citizens in the democracy and then to increase their readiness for an active participation.¹⁵ However civil society must not be necessarily linked to the pro-democratic objectives. The groups could use the civil society for intolerant and undemocratic aims.

Participation: Participation is one of the most important components of a well functioning democracy. Bronislaw Geremek describes this role of the participation in the democracy as follows: "There is no greater threat to democracy than indifference and passiveness on the part of citizens. A monarchy or despotism can get by with mere subjects; democratic republics cannot survive without citizens."¹⁶ Civil society complements the role of the political parties through the encouragement of political participation. It moves the citizens to become active for the representation of their particular interests. It is the place where participatory interests and habits of the democratic citizens are shaped. This function is implemented, e.g., by direct participation of representatives of the civil sector in the creation of law proposals and other regulations.¹⁷

Services: Civil society organizations offer financial and material support for the destitute and sick people and consultation for the people in need. They distribute goods, offer alternative sources of income and find solutions for the financial problems of the citizens at the local

¹⁴ Tocqueville, Alexis de, *Democracy in America*, Bradley Philipies (Ed), Volume I and II, Newyork: Knopf, 1948, p. 106.

¹⁵ Kumar, Krishna/Ottoway Marina, "General Conclusion & Priorities", p. 243.

¹⁶ Geremek, Bronislaw, *Problems of Postcommunism. Civil Society Then and Now*, in: *Journal of Democracy*, Volume 3, Number 2, 1992, p. 11.

¹⁷ Diamond, Larry, *Developing Democracy. Toward Consolidation*, Baltimore: The Johns Hopkins University Press, 1999, p. 242.

level. For the fulfillment of all these functions, civil society organizations either operate independently or they work together with the state and get support from the state for their services.¹⁸

Articulation and representation of the interests: One of the central functions of the civil society is incorporating the marginalized groups into the public debates and helping them in shaping the political agenda through institutional organs. This function is especially important for the support of the traditionally excluded groups like women and ethnic minorities, as well as for the promotion of social and political equality.¹⁹ The civil society organizations contribute to the realization of the political equality by making organizational resources available to the politically disadvantaged groups and representing their interests.

Conflict mediation and resolution: Some civil society organizations (particularly those that emanate from religious und human rights communities) offer services in the area of conflict mediation and resolution. These services contain formal programs and training of trainers to solve political and ethnic conflicts and to teach the groups how to settle their disputes through bargaining and compromises.²⁰

3. Features of good civil society

Not every civil society organization has the same potential to promote democracy and human rights. In order that the civil society can fully realize its function to promote democracy and human rights, it must fulfill certain standards.²¹ These specific aspects of the civil society will be examined in detail in the following section.

Internal structure and organization: How an organization regulates her internal affairs, and to what extent it carries out the democratic principles like transparency, participation, representation, etc. influence significantly its potential for promoting democracy and human rights. Indeed it is possible that an organization can fulfill many democratic functions without

¹⁸ Edwards, Foley, *Civil Society, Social Capital. A Primer*, in: Edwards Bob, Foley W. Michael, Diani Mario, (Eds.), *Beyond Tocqueville. Civil Society and the Social Capital Debate in Comparative Perspective*, Hanover: University Press of New England, 2001, S.5-6.

¹⁹ Diamond, pp. 243-244.

²⁰ Ibid. p. 248.

²¹ Merkel, Wolfgang/Lauth, Hans-Joachim, *Systemwechsel und Zivilgesellschaft: Welche Zivilgesellschaft braucht die Demokratie?*, pp. 30-31.

a democratic structure. However it is very doubtful whether it can help in building up a democratic culture and socialize citizens to a democratic culture.²²

Aims and method: Some organizations are designed directly to have influence on the democratic government. They aim to extend the political and civil rights of the disadvantaged groups, to raise the transparency of the government and to promote the rule of law. Besides there are some organizations whose primary aims are not promoting democratic culture. They offer other social services but they believe in democratic values.²³ Also these activities have democratic consequences and influence the promotion of democratic culture and human rights. However, it is to underline that particularly after a system change in transition countries, groups that do not agree with a new political system can emerge and will work against it.²⁴

Organizational institutionalization: Institutionalized civil society is organized in a structured and stable manner. It involves established procedures which are widely known and are carried out regularly and excludes arbitrary and unpredictable procedures. One can measure the institutionalization of civil society organizations with Huntington's' four criteria namely: autonomy, adaptability, coherence and complexity.²⁵

Autonomy protects civil society organizations not only from the dominance or control of the state, but also from an individual leader, founder or a ruling group. Weakness in autonomy shortens the effectiveness of the civil society and limits its ability to develop a democratic culture. In this context it is important to point out the growing dependence of civil society on the international community. Particularly within the scope of democratization, promotion of civil society is internationally supported. Indeed the international support brings advantages; however, it also forces directly or indirectly its own agenda of the international community

²² Diamond, *Developing Democracy. Toward Consolidation* , p. 228.

²³ Alagappa, Muthiah, *Civil Society and Political Change*, in: Alagappa Muthiah (Ed), *Civil Society and Political Change in Asia. Expanding and Contracting Democratic Space*, Stanford: Stanford University Press, 2004, p. 47.

²⁴ Diamond, *Developing Democracy. Toward Consolidation* , p. 228.

²⁵ According Samuel Huntington the institutionalization degree of a political system can be defined by the autonomy, adaptability, coherence and complexity of his organizations and procedures. Also one can measure the institutionalization degree of other organizations with the help of these four criteria Huntington, Samuel, *Political Order in Changing Societies*, New Haven: Yale University Press, 1970, p. 12 and Diamond, *Developing Democracy. Toward Consolidation*, p. 229. and Diamond, *Developing Democracy. Toward Consolidation*, p. 229.

and endangers thus the autonomy of the civil society which in turn alienates it from its own country.²⁶

Coherence of civil society increases also its effectiveness since it requires consensus about goals, projects, priorities and methods. *Complexity* of organization seems to be at odds with its coherence. Indeed it might potentially weaken the coherence but not necessarily ruin it. Civil society organizations are able to organize local and provincial local associations which pursue the same aims at a lower level (local level). Above all the complexity plays a determining role for socialization and education of citizens, because the high presence of the civil society organizations at the local level offers those citizens direct personal contact to those who share common interests and purposes. *Adaptability* of the civil society organizations means that they are able to adapt their missions, functions and structures to the changing political and social context, to new requirements and different opportunities. Particularly after a system change it is it is very likely that some of the civil society organizations lose their relevance. Thus the ability of civil society organizations for adapting to new demands is vital if they want to remain relevant and able to exist. However this might cause them to lose their original mission.²⁷

Number of the civil-social organizations: Neo-Tocquevillians argue that there is a strong correlation between the higher number of civil society organizations and their effectiveness. This is because a high number of civil-social organizations means also a higher membership of citizens in the organizations as well as a wider organizational representation of the different social interests, activities, increased political knowledge, trust and tolerance.²⁸

4. Dark side of civil society

Civil society plays a determining role in promoting democracy and human rights. However it has its limits and misjudgment of its role could have dangerous results for a new democracy. Particularly after a long rule of an authoritarian system, the civil society groups might be

²⁶ Ottaway, Marina/Chung, Theresa, *Debating Democracy Assistance. Toward a New Paradigma*, in: Journal of Democracy, Vol. 10, No. 4 (October), 1999, p. 107 and Diamond, *Developing Democracy. Toward Consolidation*, pp. 229,253,257.

²⁷ Diamond, *Developing Democracy. Toward Consolidation*, pp. 229,230.

²⁸ Merkel, Wolfgang/Lauth, Hans-Joachim, *Systemwechsel und Zivilgesellschaft: Welche Zivilgesellschaft braucht die Demokratie?*, p. 7 and Diamond, L., *Developing Democracy. Toward Consolidation*, p. 230.

incapable in the early stages of the democratization to fulfill their functions entirely. Moreover, it would be naive to believe that every kind of civil society participation benefits the democratic culture. Sometimes civil society organizations which oppose the democratic system might endanger through its acts the political system and human rights.²⁹

To explain how and why the civil society can produce undemocratic results and damage therefore the democratic culture, some scholars underline the importance of the political context and institutional surroundings in which the civil society organizations are operating. According Berman the potential of the civil society by the support of the democratization is strongly dependent on the democratic institutions.³⁰ She writes:

If a country's political institutions are capable of channelling and redressing grievances, then associationism wants probably buttress political stability and democracy by placing its resources and beneficial effects in the service of the status quo ... If, on the other hand, political institutions are weak and/or the existing political regime is perceived to be ineffectual and illegitimate, then civil society activity may become an alternative to politics for dissatisfied citizens. In such situations, associationism will probably undermine political stability and have negative consequences for democracy by deepening cleavages, furthering dissatisfaction, and providing rich soil for oppositional movements to grow in. A flourishing civil society under these circumstances signals governmental and institutional failure and bodes ill for political stability and democracy.³¹

Also Huntington sees the participation of the citizens risky for democratic culture if state institutions are not strong.³² The state must have sufficient autonomy, legitimacy and capacity, so it can mediate between the different interest groups, implement policies and distribute resources between competing groups.³³ Particularly in a society in which the social conflicts and problems are strong as well as the security is unstable, strong political institutions are needed to master these conflicts and problems, otherwise political instability and frustration would be the result. These could in turn harm the political culture and human rights.³⁴ For instance, civil society organizations educate people about their political, social and civil rights and about how they can make use of these rights. However if the state

²⁹ Crocker, David A., *Civil Society and Transitional Justice*, pp. 390-391.

³⁰ *Ibid.*, pp. 390-391.

³¹ Berman, Sheri, *Civil Society and Political Institutionalization*, in: Edwards, Bob/Foley, Michael W./Diani, Mario, (Hrsg.), *Beyond Tocqueville. Civil Society and the Social Capital Debate in Comparative Perspective*, Hanover: University Press of New England, 2001, p. 40.

³² Fitzsimmons, Tracy, *Beyond the Barricades. Women, Civil Society, and Participation after Democratization in Latin America*, p. 7.

³³ Diamond, *Developing Democracy. Toward Consolidation*, p. 251.

³⁴ Berman, Sheri, *Civil Society and Political Institutionalization*, p. 40.

organizations are weak and can not guarantee these rights to the citizens, the civil society organizations might as a result maintain hostile ideas to democratic values.³⁵

While some scholars stress the meaning of the institutional surroundings in the analysis of the dark side of the civil society, others point to the meaning of the types of the civil society. According to this view it is not important in which institutional frame the civil society organizations operate, but which types of the civil society organizations they are and what aim they promote. Depending on the type of the organization and on its aims it's potential to promote or damage democratic culture and human rights will change.³⁶

Barnes and Fischer point to the potential danger of deep divisions within the society, which in turn is reflected in and shaped by polarized civil society organizations. Therefore civil society organizations might promote segregation and division instead of striving democratic values.³⁷ Civil society tends to enable competing groups to advance their interests by participation in state procedures. On the one hand it is in the interest of a democratizing country to increase the capacity for such participation in order to establish a functioning democracy. But on the other hand those claims are often contradictory and might threaten the rights of others which in turn may give rise to ethnic conflict.³⁸

The civil society has a huge potential around the success for promoting democratic culture and human rights. However, this potential is very strongly dependent on the internal (its structure and organization, her aims and methods as well as the organizational institutionalization) and external (strong political institutions) conditions. To avoid superficial analyses one should consider these internal and external conditions. It can also not be denied that the civil society organizations with actors and characteristic features hostile to democratic culture might damage the existing democratic culture. In this regard the question came up when it is justified for a state to limit the freedom of assembly to protect democratic values. The dark side of the civil society could be diffused by the protection of the pluralism and the freedom of assembly and the limitation of the freedom of assembly could lead again to more radicalization and extremism. Finally it is important to ask how the negative manifestations of

³⁵Walzer, Michael, *The Concept of Civil Society*, in: Walzer, Michael (Ed) *Toward a Global Civil Society*, Providence: Berghahn Books, 1994, p. 21/26.

³⁶Chambers, Simone/ Kopstein, Jeffrey, *Bad Civil Society*, p. 838.

³⁷Fisher, Martina, *Civil Society in Conflict Transformation: Ambivalence, Potentials and Challenges*, Oct. 2006. p. 18 available at: www.berghof-handbook.net and Barnes, Catherine, *Weaving the Web: Civil Society Roles in Working with Conflict and Building Peace*, in: Paul van Tongeren et al. (eds.). *People Building Peace II, Successful Stories of Civil Society*. Boulder, London, 2005, p. 9.

³⁸Milton, Andrew K., *Civil Society and Democratization*, in: Rachel A. May, Andrew K. Milton, (Eds.) *(Un)Civil Societies: Human Rights and Transitions in Eastern Europe and Latin America*, Lanham 2005, p. 11

the civil society can be maximized and its positive functions minimized with the help of the democratic system and the democratic methods.

II. Civil Society and Human Rights Protection in Iraq

1. The development of the Civil Society in Iraq

Some scholars argue that civil society is a western concept and thus civil society is neither relevant for the Middle East region nor for its democratization.³⁹ However civil society has deep roots in this region, even if in different forms. Ibn Khaldun, a Muslim historian and lawyer in the 14th century, had developed a concept of civil society and pointed several times to the interaction between the society groups and the state, and how these interactions had caused a social change⁴⁰. This is also applicable to Iraq. The doubts about establishing a viable democracy as well as a strong civil society are based on the assumption that the country has never had a capable civil society and politically conscious citizens in its history. However in Iraq before the Baath party came into power in 1968, there was a tradition of a civil society. To allow an exact investigation of the civil society and her role in the democratic process of Iraq, it is significant to study first the history of Iraqi civil society and the Iraqi tradition of the pluralism.

Although Iraq was a non democratic country, she knew already from her foundation in 1921, civil engagement. During the 1930s Iraqi civil society began to flourish with the formation of numerous student and professional associations like a highly respected legal profession, a vibrant press, artist ateliers, writers' associations, labor unions, and an extensive coffeehouse culture.⁴¹ After the World War II the Iraqi civil society expanded greatly. For instance, Iraqi Women's League was founded in 1952 to defend the rights of the women and children; it supported particularly the political participation of the Iraqi women and fought against their

³⁹ Gellner, Ernest, *Conditions of Liberty*, London: Cambridge University Press, 1996 and Turam, Berna, *The Politics of Engagement between Islam and the Secular State: Ambivalences of "Civil Society"*, in: The British Journal of Sociology, Volume 55, Issue 2, 2004.

⁴⁰ Ibn Khaldun, *The Muqaddimah*, Franz Rosenthal translation, Princeton, NJ: Princeton University Press, 1967 and Stanski, Victoria, *Lichpin for Democracy: The Critical Role of Civil Society in Iraq*, p. 199.

⁴¹ Davis, Eric, *History Matters: Past as Prologue in Building Democracy in Iraq*, in: Orbis, Spring 2005, p.232.

illiteracy.⁴² However civil society organizations had no trans-ethnic reach. All the ethno-religious groups were subdivided into tribes, particularly the Shiites and Kurds.⁴³

With the Ba'ath party's seizure of power in 1963 and afterwards under the rule of Saddam Hussein, the civil society was either totally suppressed or integrated into the state. All previously established women's organizations, political parties, professional trade unions and academic institutions were forbidden under the strict one-party system controlled by Hussein. The Baath party alone defined the kind of political culture and monopolized their public appearance.⁴⁴ The Iraq analyst Toby Dodge writes about the underdevelopment of the civil society and participation politics in Iraq under Baath regime:

Before the liberation of Baghdad it was impossible to talk about civil society in Iraq [...] autonomous collective societal structures beyond the control of the Ba'athist state did not survive. In their place society came to be dominated by aspects of the shadow state, flexible networks of patronage and violence that used to reshape Iraqi society in the image of Saddam Hussein and his regime.⁴⁵

In these surroundings those who offered resistance have suffered the usual horrors like imprisonment, torture or execution. Many of the Iraqi intellectuals, journalist and authors have either left the country, were condemned to prison sentences or have withdrawn in silence.⁴⁶ This atmosphere promoted the religiousness in the country and the groups basing on religion gained ascendancy in Iraq. In consequence religious and ethnic networks have existed in three decades of the Baath government in Iraq with no independent civil society.⁴⁷ Numerous unions originated in Kurdish controlled areas in the north of the country after the gulf war 1991. Also a kind of civil society in the Diaspora which was formed by the Iraqi citizens abroad (particularly in London) existed during Husseins rule.⁴⁸

⁴² Amal Rassam, "Political Ideology and Women in Iraq." in: Women and Development in the Middle East and North Africa, Joseph G. Jabbara and Nancy W. Jabbara. (eds.) New York: Brill, 1992. p. 82 and Stanski, Victoria, *Lichpin for Democracy: The Critical Role of Civil Society in Iraq*, p. 208.

⁴³ Wimmer, *Democracy and ethno religious Conflict in Iraq*, Survival, Vol 45, No 4, 2003-04, p. 113.

⁴⁴ Stanski, Victoria, *Lichpin for Democracy: The Critical Role of Civil Society in Iraq*, pp. 208-209.

⁴⁵ Testimony of Dr Toby Dodge, Committee on Foreign Relations, 20 April 2004, Committee's hearing on 'The Iraq Transition: Civil War or Civil Society?', S. 2, available at: <http://foreign.senate.gov/testimony/2004/DodgeTestimony040420.pdf> (31.08.06).

⁴⁶ Zubaida, Sami, The Rise and Fall of Civil Society in Iraq, Open Democracy, 5 February 2003, pp. 5-6. Available at:

<http://www.opendemocracy.net/debates/article.jsp?id=2&debateId=114&articleId=953> (31.08.06).

⁴⁷ Stanski, Victoria, *Lichpin for Democracy: The Critical Role of Civil Society in Iraq*, pp. 208-209.

⁴⁸ Gilbraith, Martin, *Civil Society in the Arab World*, Ibn Khaldun Center for Development Studies, October 1996, p. 7.

Since the fall of Saddams' Baath regime more than 140 groups originated till July 2003 to be active in the areas like culture, education and human rights. One can classify these organizations in four groups.

1. Civil political organizations: Almost all political-ideological movements which had existed since 1921 in Iraq originated anew after the system change. Thus liberal monarchists, old liberal organizations, Kurdish nationalists, Marxists, Islamists and Pan Arabists have formed active groups.

2. Ethnic organizations are those organizations which represent the interests of the different ethnic groups. The groups which were suppressed during Hussein's regime have also been re-organized in the post-war period. Thus ethnic unions were formed by Kurds, Turkmen, Assyrian and Arabs in Iraq.⁴⁹

3. Islamic organizations: The unions and movements whose general aim is the spreading of the Islamic faith have existed almost always in Iraq. Indeed their existence was also only possibly limited because the Baath regime explicitly supported the Sunni minority and permitted only their religious networks. Although the principal purpose of these religious networks is the spreading of the Islamic faith, they also provide important services for example medical care, education, marriage mediation and help for job search.⁵⁰

4. Service-NROs and organizations for public interests: One of the fastest growing organization types in the postwar Iraq are classical non-government organizations which provide assistance to people affected by the war. They also offer services in areas like application training and civic education. Moreover, many civil society organizations and unions which exert themselves for public interests - possibly organizations of human rights, women's movements, organizations for corruption control and think tanks- have been brought to life since the end of the war quickly.⁵¹

⁴⁹ Abd al-Jabar, Faleh, *Postconflict Iraq: A Race for Stability, Reconstruction, and Legitimacy*, Washington, United States Institute of Peace, May 2004 (United States Institute of Peace Special Report, No. 120) available at: <http://www.usip.org/pubs/specialreports/sr120.html>. (12.03.09)

⁵⁰ Hawthorne, Amy, *Is Civil Society the Answer?*, in: Carothers, Thomas, /Ottoway Marina (Eds.), *Uncharted Journey: Promoting Democracy in the Mittle East*, Washington, D.C.: United Book Press, 2005, pp. 87-86.

⁵¹ Yom, L. Sean, *Civil Society and Democratization in the Arab World*, in: *The Middle East Review of International Affairs*, Vol. 9, No. 4, Article 2, December 2005, p. 5 available at: <http://meria.idc.ac.il/journal/2005/issue4/jv9no4a2.html> (31.08.06) and Abd al-Jabar, Faleh, *Postconflict Iraq: Race for Stability, Reconstruction, and Legitimacy* Washington, United States Institute of Peace, May 2004 (United States Institute of Peace Special Report, No. 120), p. 10.

The following table illustrates the number and activity areas of the civil society organizations in 2004

Activity and working field	Number
Children/orphans	77
Media	22
Environment/conservation	41
Public health/Medicine	83
Economic development	99
Education	86
Human rights	161
Public services/infrastructure	103
Democracy and government	78
Agriculture	75
Youth/sports	52
Art/culture	119
Women's issues	89
Miscellaneous	1136
Humanitarian aid	257
Handicapped	40
Habitation shelters	28
TOTAL	2546

Tabelle 1 Statistic Report According to Fields of Activity, 9.10.2004⁵²

In the following section, the role that civil society actors play in promoting democratic culture and human rights in democratizing Iraq will be examined.

2. Functions of civil society in Iraq

As it was already stated, an Iraqi civil society flourished in the post-war period - in addition to the groups which has already existed in the Kurdish part of the country since the Second Gulf

⁵² Jawahiri, Jamal, *Challenges for Iraqi Civil Society*, Civil Society in Iraq Projekt Conference Paper, Heinrich Böll Foundation-Middle East Office, October 2004, verfügbar unter: <http://www.boell-meo.org/en/web/238.htm> (31.08.06).

War as well as the organizations established in Diaspora. These organisations fulfil significant functions like supply of services and relief of the catastrophic humanitarian conditions in the post war Iraq, particularly basic services like water, stream, health supply etc. However they are very weak with the fulfilment of the political functions like participation, interest articulation and representation. The organizations founded in the Kurdish part of Iraq after the Second Gulf War as well as those established in Diaspora are in this regard an exception. They are to some extent more successful in fulfilment of their political and social functions because they are better organised and have more experience. The Iraq Foundation and the Iraqi Hope organisation are good examples for it. The Iraq Foundation, a charitable, independent, non-state organisation was founded in 1991 by Iraqis living abroad. It works together with Iraqis and non-Iraqis to strengthen the democracy and the human rights in Iraq. The Iraq Foundation offers various projects which try on the basis of civic education, information and controlling functions to raise the democratic consciousness and the participation of the Iraqi citizens.⁵³ The Iraqi Hope organisation (Iraqi Al-amal association) was founded in 1992 after the Second Gulf War in the Kurdish part of the country. In May 2003, it moved its head office to Baghdad and has expanded its activities to the rest of the country. The Iraqi Hope organisation offers extensive programmes in activities and services. Their projects apply from health care, education and training for activities up to conflict resolution and reconstruction of the destroyed social environment.⁵⁴

Also the religious organisations, which have formed themselves to NGOs, perform better because they can enjoy a very high acceptance among the citizens and procure finances from different sources. Moreover they have also existed during the Baath regime as charity organisations and therefore have particularly in the service area valuable experiences.⁵⁵ However this rise of the religious civil society organisations gives cause for serious concern because they could endanger particularly the new position of the Iraqi women in the society.⁵⁶

⁵³ <http://www.iraqfoundation.org/> (14.04.09)

⁵⁴ <http://www.iraqi-alamal.org/> (14.04.09).

⁵⁵ Jawahiri, Jamal, *Challenges for Iraqi Civil Society*, Civil Society in Iraq Project Conference Paper, Heinrich Böll Foundation-Middle East Office, October 2004.

⁵⁶ Serwer, Daniel and Bajraktari, Ylber, *Building Civil Society. An Overlooked Aspect of Iraq's Reconstruction?*, United States Institute of Peace, News Release, July 31, 2003. Available at: http://www.usip.org/pubs/usipeace_briefings/2003/0731_NBiraq.html (14.02.08)

The Iraqi civil society organisations fulfil their education function most intensely during the preparatory phase of the elections, for instance in 2005. The elections in January 2005 were one of the most important steps for the democratisation of Iraq. As a result of the long authoritarian government, the Iraqi citizens lacked the knowledge about the democracy values and mechanisms and thus also the knowledge about the purpose and the mechanisms of the elections. So the Civic Coalition for Free Elections (CCFE), a network of 76 civil society organizations, formed a national electoral education campaign to inform and mobilise the Iraqi voters. It also supported the Rafadin Women's Coalition's electoral campaign to spread the message among the women that they should vote freely for their own convictions. Besides all this, the Internationally Republican institutes carried out with eight Sunni organisations and five women organisations seminars on electoral education.⁵⁷ However, the campaigns were insufficient and not appropriately obvious. One of the biggest problems with the activities of the civil-social organisations was the lack of cooperation and coordination between them and with their donators.⁵⁸

3. Features of Civil society in Iraq

The Iraqi civil society organisations show significant weaknesses in their features conducive to democracy, an aspect which in turn influences her potential for the promotion of democratic culture and human rights negatively. Many of the Iraqi civil society organisations lack a clear strategy, organizational structures, working mechanisms as well as experience to found such organisations on a proper basis. Mostly their internal structures are undemocratic. Moreover, they don't have the knowledge and the experience to master the problems with which the Iraqi society is confronted. The international organisations, after the Second Gulf War founded organizations as well as in Diaspora established groups could share their valuable experiences with the Iraqi civil-society organisations. Another weakness of the Iraqi civil-society organisations is the lack of collaboration among themselves and with the

⁵⁷ Report to Congressional Committees, *Rebuilding Iraq: U.S. Assistance for the January 2005 Elections*, United States Government Accountability Office Washington, D.C., September 2005, p. 2 available:

<http://www.gao.gov/htext/d05932r.html>

⁵⁸ Pirouz, Rouzbeh/Nautre, Zoe, *An Action Plan for Iraq: The Perspective of Iraqi Civil Society*, Report of an Iraq Civil Society Retreat, Foreign Policy Center Publications, February 2005, p 3/5-6 and Report to Congressional Committees, *Rebuilding Iraq: U.S. Assistance for the January 2005 Elections*, United States Government Accountability Office Washington, D.C., September 2005, p. 2/8.

international organisations. The improvement of the cooperation with the international organisations and the sharing their experiences could compensate this weakness of the Iraqi civil society organisations. However the local organisations should pay attention to the fact that they do not lose their own aims, and are determined only by expectations and project engineering of the international organisations.⁵⁹

Besides, the Iraqi civil society organisations are strongly dependent on the financial support from the outside. Only a small number of civil societies possess stable and independent finances. The majority must get by without financial continuity and are dependent on donations. This not only entails a restricted efficiency of the organisations but also pose a threat to their impartiality and to the humanitarian principles. Islamic NGOs are mostly funded by Gulf States which make a distinction between Sunnis and Shiites and donate only to serve Sunnis, not all Iraqis. As a result the international Islamic NGO programmes are mostly focused on the Sunni Triangle.⁶⁰

Another factor challenging the autonomy of the Iraqi civil society is the legal framework by which the Iraqi civil society should operate. The 2008 NGO law endorses strong governmental control of civil society by ruling mandatory registration rule, allows the government an intervention in the internal affairs of civil society and causes the dependence both ideologically and practically. Most concerns about registration process arise because it is time consuming and often lacks transparency. There are no details on the legislation about the grounds under which the government can refuse the registration and it is valid just for two years.⁶¹ Considering the security situation in Iraq and the threat posed by extremist groups it could be argued that the registration policy and governmental control over NGOs is necessary in Iraq. However it seriously threatens the development of autonomous civil society. The dependency on the government weakens the Iraqi civil society in its controlling and correcting function and makes them reluctant to criticize the government policies.

⁵⁹ Serwer, Daniel and Bajraktari, Ylber, Building Civil Society. An Overlooked Aspect of Iraq's Reconstruction?, United States Institute of Peace, News Release, July 31, 2003.

⁶⁰ Murphy, Theo, *Civil society and Islamic aid in Iraq: unseen developments and threats*, in : Humanitarian Exchange Magazine, Issue 27, July 2004. Available at: <http://www.odihpn.org/report.asp?id=2642> (12.02.09)

⁶¹ NGO Coordination Committee in Iraq, Iraq draft NGO law 2008-Summary of NGOs concerns, Issue 148-February 19, 2009, pp. 1-2
[http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/SKAR-7PEKKE-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/SKAR-7PEKKE-full_report.pdf/$File/full_report.pdf)

4. Dark side of civil society in Iraq

The dark side of civil society turns out to be in Iraq quite strong. The post-war climate simply makes it easy to the extremists to organise themselves for their evil and democracy-hostile aims. The unstable security situation and the missing strong political institutions of a stable state simplify the work of the extremist groups and complicate the development of a civil society conducive for democracy. In the unstable security situation several extremist nationalist and religious groups try to force their agenda on the traumatised Iraqi society.⁶² As already mentioned, the religious civil society organisations provide more or less important services, like medical care, education etc. and they explain that they recognise the democratic values. But in reality many are infiltrated by the groups belonging to radical movements and have unambiguously democracy-hostile aims.⁶³ In this context two questions are to be asked: Are the religious civil society groups sincerely by their recognition of the democratic values or the democracy for them is only a means to an end. Indeed one should prevent these groups from influencing the democratic process negatively. It is however worth making a distinction between the different kinds of the civil society organisations and not throwing the terrorist or extreme Islamic groups with the peaceful anti-US organisations or religious organisations in the same pot.

As stated above, Iraqi society is divided by sectarian, religious, ethnic, and tribal lines and these divisions strengthen the negative effects of civil society organizations in Iraq. Main civil society actors are deeply influenced by ethnic politics and traditional civil society actors like labor unions, professional organizations and religious organizations that are mostly fragmented and organized along ethno political lines and are very weak in engaging communities in dialogue regarding the diffusion of the ethno-religious tensions. A trans-ethnic network of civil society doesn't exist in Iraq which could offer an alternative for the aggregation of interests. The division of society into Shiite and Sunni Islamist forces makes it difficult to distinguish political organizations - even paramilitary ones - from charitable associations. These groups and organizations seek to influence their own societies by promoting segregation and conflicts and by fuelling the ethno-religious conflicts among them. As a reaction to foreign invasion, many Islamists and tribal leaders or followers of the old

⁶² Kaldor, Mary, Kostovicova Denisa, Said Yahia, War and Peace: The Role of Global Civil Society, in : Global Civil Society Year Book 2006/07. Pp. 116-118.

⁶³ Cook, A. Steven, *The Right Way to Promote Arab Reform*, in: Foreign Affairs, Vol. 84, No 2 p. 94.

Baath regime fomented resistance which was transformed into ethnic conflict. Sunni and Shiite civilian, intellectuals and academia are targeted by sectarian and religious groups. Mostly the armed groups like Sunni insurgent groups and Shiite militias are responsible for sectarian killing in post-war Iraq.⁶⁴ The insurgent groups like Sunni nationalists and Ansar al Islam mostly target the Shiite dominated Iraqi government and Shiite civilians. There are also some Shiite militias involved in targeting Sunnis. These groups became more active with the growing sectarian conflict. For instance, Badr Corps, former armed wing of the Islamic Supreme Council of Iraq (ISCI) has changed its name to Badr Organization in 2003 as part of its declared transformation from a militia to civil organization. The majority of its members joined the ranks of official state security forces; however the militia remains armed and operates mainly in Shiite controlled southern Iraq. Badr Organization is held responsible for carrying out revenge killings for the oppression of Shiites under Hussein and for the Sunni led uprising which caused the death of thousands of Shiites.⁶⁵ Sunni groups (e.g. The Muslim Scholars' Association) blame the Badr for killing thousands of Sunni civilians. Another Shiite militia *Mahdi Army* mirrors the fluctuating character of organizations in Iraq. The Mahdi Army oscillates between social movement and armed militia as well as between Islamic nationalist and Shiite sectarianism and is engaged in several contradictory activities. After the regime fall they organized neighborhood watch committees and helped restore some of the stolen property. They are the first Shiite group demanding US withdrawal. They oppose the mainstream Shiite parties and their leaders are engaged with the Sunni clerics. On the other hand the Mahdi Army is accused of carrying out Shiite sectarian violence.⁶⁶

One could argue that the groups like Islamists, tribal and criminal networks should not be considered as civil society. From a normative perspective these groups might not be accepted as the actors of civil society but a postmodern approach might consider all these groupings as part of civil society. It is for certain that these groups represents the interests of segments of Iraqi society and compete to realize their vision of Iraqi life.⁶⁷

⁶⁴ Kaldor, Mary, Kostovicova Denisa, Said Yahia, War and Peace: The Role of Global Civil Society Year Book 2006/07, pp. 116-118

⁶⁵ Guide: Armed Groups in Iraq, BBC News, 15, August 2006, available at: http://news.bbc.co.uk/2/hi/middle_east/4268904.stm (18.07.09)

⁶⁶ Kaldor, Mary, Kostovicova Denisa, Said Yahia, War and Peace: The Role of Global Civil Society, in : Global Civil Society Year Book 2006/07. P. 118

⁶⁷ Ibid . p. 117

Conclusion

The capacity of civil society for promoting human rights and democratic culture is depending on several internal and external factors. Iraqi civil society has been flourishing since 2003. Nevertheless this quantitative development of the Iraqi civil society is not reflected in its quality with regard to the fulfillment of its functions. It performs its functions most intensely in the supply of services but remains weak in fulfilling its other functions like participation, articulation of interests and socialization. Civil society actors or groups generally suffer from the lack of a clear strategy, from weak organizational structures and working mechanisms, from lack of experience and from high financial dependence, but groups in the Kurdish part of Iraq or NGOs established in Diaspora are an exception and perform better. The dependency on the financial support from the outside as well as the strong governmental intervention, are the main challenges to the autonomy of Iraqi civil society organizations. Moreover political instability in the country, the precarious security situation and fragmentation of Iraqi society along ethno religious lines makes the dark side of civil society in Iraq precise and they in turn harm democratic culture and human rights. The unstable security situation affect not only the democratic civil society organizations, but also gives rise to extremists and undemocratic organizations the possibility to put through their democracy-hostile aims in Iraq. The negative effects of civil society organizations on democratic culture and human rights are strengthened through its division by sectarian, religious, ethnic, and tribal lines. There are many sectarian groups carrying out ethnic violence and killing Sunni and Shiite civilians. In some cases it is very difficult to distinguish between militias, social movements and political parties.

Certainly some civil society actors –humanitarian organizations, human rights groups, woman organizations, and progressive clergy- promote democratic culture and human rights. However the fear in the post-war environment and ethno-religious polarization in Iraqi society enables some actors to inflame the conflict and challenge the human rights. They also pose a serious threat to those who want to promote them.

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