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The Reality of Citizenship in the Effective Iraqi Constitution

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Abstract

Citizenship is an integrated system of natural rights that every human being must enjoy and the authority must provide and abide by as long as this authority derives its legitimacy from the will of its citizens.

Citizenship is the highest degree of justice when dealing with all citizens of the country, as they are equal in rights and duties. There is no difference between one citizen and another, and there is no distinction between citizens on the basis of religion, gender, language or origin.

The importance of the topic

This research has great scientific importance as it relates to a topic that has a great impact on the political and social aspects in Iraq, which is the issue of citizenship, that importance due to the fact that it links the values of citizenship with the stability of the political system.

It also has a practical importance that lies in the fact that its subject is applied in Iraq, and therefore deals with a realistic issue in which we present a framework for its application in order to ensure the stability of the political system in it.

This is because the application and activation of the principle of citizenship on the ground achieves political and social stability in the state, and eliminates the phenomenon of sectarianism and acts of violence that began to escalate in some Arab countries, including Iraq, because the spread of sectarianism and violence in any country leads to storming the stability of the political situation in it, and the consequences As a result, civil wars, foreign interference and other phenomena and events are extremely dangerous to the stability of countries.

From this point of view, the scientific and practical importance of the research appears, as the application and activation of the principle of citizenship among all citizens and at the governmental level can prevent society from slipping into turmoil and instability in the state.

Reasons for choosing the topic

The application of citizenship is a prerequisite for the building and development of states, and without it, they will not enjoy stability, and since Iraq is one of the countries that suffered from weak citizenship or even its absence due to the failure of successive governments to equalize between citizens in terms of rights and duties, so we found it necessary to know the basics This principle and how to apply it in Iraq and the challenges it faces.

The problem of the topic

The problem of the research lies in our attempt to reveal the reasons for the absence of citizenship in Iraq and to try to develop solutions to them, those reasons that resulted in the lack of sense of citizenship towards the homeland (Iraq)

1. What is meant by citizenship? How is it related to the concepts related to it?

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Research Methodology

In our research on the issue of the principle of citizenship, we will rely on the descriptive approach based on the statement and description of the principle of citizenship, as well as the applied and analytical approach by addressing the reality of citizenship in Iraq and analyzing some of the Iraqi constitutional texts.

search structure

For the purpose of studying the principle of citizenship and its application to the Iraqi reality, the matter requires us to divide the research into two demands:

Where we mention the elements of citizenship in the first requirement, then we address the reality of citizenship under the Iraqi constitution in force in the second requirement.

The first requirement

The concept of citizenship and its relationship to the concepts close to it Citizenship is an expression of the movement of citizens in the direction of proving their presence within the framework of a particular group so that this movement transcends the narrower affiliations to the broader affiliations, and accordingly the common public interest becomes the main criterion governing the movement of citizens, and the so-called national integration takes place. (1)

And one of the axioms of the research at the beginning of addressing the subject is the need to prove the most important implications within it, so we will talk in this demand about the concept of citizenship in the first section, then we will address its relationship with other concepts close to it in the second section.

Section one: Citizenship concept

There is no consensus on the definition of citizenship, as it, like all human studies, bears more than one point of view and expands to more than one angle through which it can be discussed. The constitution and laws of this country, including the rights and duties they contain.

And citizenship in the language is taken from the homeland: the home, which is (the homeland and place of man). (2)

Technically, it has been defined by more than one definition. The British Encyclopedia defined it as (a relationship between an individual and a state as defined by the law of that state and the rights and duties that it includes in that state, and citizenship implicitly indicates a level of freedom and the attendant responsibilities, and it is on the face of The public gives citizenship political rights such as the right to vote and hold public office (3) and Dr. Azmi Bishara defines it as a membership in the state if this state reflects the right of self-determination for a group or several groups, and that citizenship is the basis for the state of dialogue between groups so that it is basically valid civilian for coexistence." (4)

Dr. Burhan Ghalioun believes that citizenship is an alliance and solidarity between free people who are equal in decision, role and status⁽⁵⁾

Citizenship, then, is the rights, duties, initiative and responsibility of the person towards the group to which he belongs. For this reason, in a simple and clear way, it means belonging to the homeland and loyalty to it. It is the framework that includes all national, sectarian and religious affiliations, and it is the antithesis of intolerance and closed-mindedness. Rather, it is the acceptance and participation of all." (6)

On this basis, citizenship is the bond and affiliation that ratifies all the state's subjects without discrimination, and it is the basic unit in the political formation, and it is a general objective characteristic that all subjects enjoy in a neutral manner that does not accept inequality and differentiation. And that all ethnic and sectarian differences or economic and political privileges do not have any differential consideration in light of this characteristic and are based on the link of nationality. Everyone who holds Iraqi nationality is an Iraqi citizen and has all civil, political, social, economic and cultural rights without discrimination when the legal centers are united. Hence, The state of citizenship is the state of man and the state of law that recognizes equality and does not know discrimination and exclusion, and what increases the

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value and importance of citizenship is its role in strengthening the cohesion of society through its role in promoting understanding between groups, limiting differences between the various components of society and meeting the needs of citizens.⁽⁷⁾

Section two: The relationship of the concept of citizenship with the concepts close to it

The concept of citizenship is related to other concepts close to it, namely: nationality, identity, democracy, and on this basis we will discuss successively the relationship of the concept of citizenship with these concepts close to it.

First: the relationship of citizenship to nationality

Before we discuss the relationship between citizenship and citizenship, it is necessary to address the concept of citizenship and clarify its meaning, as our professor, Dr. Iyad Mutashar Saihoud, defined it as (a legal, political and social relationship between the state and the person that arranges mutual rights and obligations, that is, it is a legal system composed of legal and political issues related to internal law and international, in which the will of the state appears to prevail over the will of the person (8)

Some define it as an official document issued by a competent authority by virtue of which the legal status of a person and the extent of his eligibility to practice his actions are determined in order to know the rights and duties enjoyed by a citizen in a state." (9)

In this way, nationality is the legal expression of citizenship in international law, and citizenship has been linked to nationality until it has become the feature that distinguishes a citizen from others in all countries of the world, and in this sense, the proof of citizenship is the nationality, which is an official document, and citizenship is acquired by one of the methods":

- 1- Indigenous citizenship: It is the quality granted to a newborn as soon as he is born from a person who enjoys the nationality of the state or just born in its territory. The first case is called the right of blood, and the second is the right of the region.
- 2-Acquired citizenship: It is the capacity granted to an individual based on his acquisition of the nationality obtained, provided that a period of time has passed, during which time his attachment and loyalty to the new homeland is proven.

Despite the close relationship between obtaining citizenship in a particular country and enjoying citizenship rights, this does not mean that the two concepts are identical, and this was confirmed by (Allen Touraine) by saying that "citizenship is not the nationality, although these two concepts are indistinguishable from the point of view of In some countries, citizenship means belonging to a nation-state, while citizenship refers to the right to participate in the management of society directly or indirectly. Nationality creates solidarity in duties, while citizenship grants rights" (11)

Encyclopedia Britannica distinguishes between citizenship and citizenship, which is often used in synonymous terms, as citizenship guarantees other rights in addition to citizenship, such as protection outside the country." (12)

Second: the relationship of citizenship to identity

Identity is a modern term that refers to the distinctive cultural characteristics and characteristics of people in terms of race, custom, nationalism and belief, but these features are not fixed, ready or final, so it is not possible to put a procedural definition or description of them or determine their subjective characteristics because it is a cultural project that is open to the future, but There are those who have tried to define it, as some have defined it as the reality of a thing in terms of distinguishing it from others, and others have defined it as what distinguishes an individual from others, i.e. determining his personal status (13)

And if citizenship is a partnership between members of society to preserve rights, then identity is one of those rights (14), just as citizenship is the bond of peaceful coexistence between individuals living in a specific place and time, that is, it is

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a geographical affiliation, while identity is a cultural affiliation, and citizenship is Affiliation with a specific land, while identity is an affiliation with specific beliefs, values and standards. (15)

Despite this discrepancy between the two affiliations, this does not mean the separation of any bond or relationship between them. Identity is necessary for citizenship and vice versa. Citizens must have a political system, economic and social relations, and laws that control these relations, and all of this is based on specific beliefs, values, and standards that are achieved by them. The formation of identity (16), as for identity, it remains just a quiddity without a state that protects it and a society that embraces it and laws that people resort to within the framework of guaranteed full citizenship and the state of right and law, and this means that there is a dialectical relationship between identity and citizenship in terms of overlapping roles, functions and borders."(17)

Third: The relationship of citizenship to democracy

The most important principle in democracy is that the individual enjoys his full citizenship and has a positive role in the affairs of his country, and democracy works to establish a balance between the citizen and society in terms of limiting the tyranny of the individual interest or the interest of a group, and thus works to give priority to the common interest of all, and from here Decisions become collective, i.e. respect for the opinion of the majority. The democratic system contributes to spreading human values such as equality, justice, rights of minorities and others. (18)

The relationship between democracy and citizenship is a concomitant relationship, and the weakness of democracy is linked to the weakness of citizenship. Without the political participation of citizens, democratic institutions become a useless structure.

In fact, we cannot give legitimacy to the concept of citizenship in light of non-democratic political systems. The exercise of citizenship can only be embodied under the democratic system, which is basically based on the principle of people's sovereignty through the participation of citizens in the political life of the state, and thus we can say that the systems Democracy is the original home and the incubating environment for the practice of citizenship. (19)

The second requirement: the reality of citizenship under the effective Iraqi constitution

The concept of citizenship in Iraq has been subjected to great ambiguity and distortion and distortion of its meanings and implications that entail different rights and duties. By looking at the current citizenship in Iraq, we see that there is a regression of its concept. Rather, the vision has become distorted in front of the identity of affiliations and loyalties of a new political character represented by the blocs that glorified sectarianism and obscured the national identity, and this is what prompts the outbreak of political crises.

Therefore, we will address in this requirement the challenges facing citizenship in Iraq, in addition to the proposed solutions to activate it through two sections.

Section One: Challenges facing citizenship in Iraq

The crisis of citizenship in Iraq is above all a crisis of a state that has not matured, a crisis of understanding and dialogue, and a crisis of a political system that transgresses the rights and humanity of citizens. The crisis of citizenship in Iraq is due to several reasons, including:

1- Weakness of national identity

Among the factors affecting the political structure of the state and the political system are the divisions of a clan, sectarian and ethnic nature that make us a society characterized by negative pluralism that contrasts and opposes the civil political society, a society whose establishment requires weakening the negative aspects of societal pluralism and building positive traditions that contribute to the formation of a modern state and political system Civilian, which led the Iraqi citizen to seek refuge in sectarian, ethnic or clan identities at the expense of the Iraqi national identity, and the problem lies not in the presence or diversity of ethnic local identities, but in their politicization, which often took the form of armed violent

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politicization, some believe that there is a difficulty In achieving real, active and positive citizenship in society, due to the absence of a homogeneous society due to the presence of societal divisions in it. (20)

2- Poor government performance

The government's performance in Iraq is below the required level with regard to citizenship, its rights and freedoms. The unemployment rate among citizens is still on the rise in exchange for high rates of prices and the deterioration of services, which has become the main concern of the Iraqi citizen and which made him ready to sacrifice all his citizenship and all its rights and freedoms in exchange for specific rights that help him Live, what is happening in Iraq today confirms the depth of the crisis exacerbated by the growing feeling among the majority of the Iraqi people of the failure and failure of state institutions, foremost of which is the Parliament, which is supposed to embody the will of the people, as well as the government, which should address the task of transforming legislation, especially those that pour into Citizen service to a tangible reality, and even the judiciary has not been spared from failing in the field of citizen service, and as a result, the Iraqi people are still suffering at all levels. (21)

3- External interventions

"The external factor had a great impact on citizenship, as the American occupation of Iraq in 2003 created a state of instability, in addition to the destruction of the infrastructure. The American project was built on irritating emotions and inciting sectarian strife to abolish the national project and the occupation's adoption of sectarian projects, pushing and defending them. It was supported by a huge military arsenal, a large financial stockpile and a media machine. The occupation further complicated the Iraqi scene when it legitimized the vertical division of society on sectarian and sectarian grounds. It effectively contributed to the disappearance of the national identity by canceling the basic components of the Iraqi state and its failure to establish balanced governmental structures if affiliations and loyalties were established. Ethnic and sectarianism in all parts of the government and its security and executive agencies, and this is what led to the state's failure to provide protection for citizens, and the rule of marginalization, exclusion and injustice in a way that made the crisis political situation an opportunity for the growth of subsidiary identities at the expense of national identi (22)

4- Absence of a culture of citizenship

This is reflected in the feeling of the Iraqi citizen that he is absent and does not exist in the first place and the impact of this on his national affiliation and loss of sense of citizenship, and it seems that this accumulated historical heritage of tyranny and the culture of submission has moved - spontaneously - to the general culture of society and is embedded in the Iraqi collective mind to make the characteristic The basic principle of the Iraqi societal culture is that it is a negative and exclusionary culture, which led to the disruption of the trend towards building an Iraqi national identity despite everyone realizing that the culture of participation is one of the important tools in building and developing any society whose foundation is the agreement between the Iraqi people on the form of the political process, and the commitment The elites should not transcend the limits of power in a manner that establishes a sound democracy, so that the biggest challenge facing the Iraqi people at the present time regarding the issue of the state is not only the process of building state agencies and institutions, but also the re-establishment of the concept of the state in their political awareness and culture (23)

Section two: Ways to enhance citizenship in Iraq

Strengthening the principle of citizenship in light of these conditions that Iraq is going through has become an urgent requirement in order to deepen the trend that seeks to build a state of law and institutions on correct national foundations that transcend all differences, frameworks, and partisan and sectarian interests. Belonging to the country, and this feeling will develop self-awareness and awareness of attitudes and behavior. There are several points that must be focused on for the purpose of promoting Iraqi citizenship, including:

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1- Supporting the national identity

Strengthening the concept of citizenship is linked to national identity, meaning enhancing the feeling of all components of belonging to this country, and this feeling develops self-awareness among individuals and awareness of the other, all of which contributes to building society and maintaining its social and civilized network, and this means making loyalty to Iraq and not to a group or a particular sect, sect, or nationality.

2- Elimination of sectarian quotas

That is, abolishing sectarian quotas and relying on the results of political participation and benefiting from what is currently stated in the management of state affairs, the citizen has the right to remove any political official in the government from his position by voting against him in the elections, and this mechanism is very important to pull the rug from under some politicians who live and derive their survival from supporting their sub-identities. (24)

3- Spreading the culture of citizenship

This process may need time, but it is very necessary, and it is done through the use of various means of influencing public opinion by making the media of all kinds, visual and audio, promoting a culture of citizenship and rejecting narrow affiliations because it leads to the disintegration of Iraqi society, as well as holding seminars and conferences and publishing research on the concept of Citizenship".

4- Employing the discourse of the religious institution in consolidating the principle of citizenship

The religious institution plays an important role in consolidating the spirit of citizenship by virtue of the active role of the clergy in Iraqi society and through the religious discourse that they address to wide segments of society in a way that consolidates the love of the homeland in the hearts of its children. Especially if we know that the politicians of the authority are sometimes forced to respect the ideas that this institution presents in line with the orientations of the Iraqi society, which gives confidence in what it presents and fears that it will stand against their policy in power.(25)

Conclusion

Results

- 1- Citizenship as an idea and as a concept cannot be realized without the presence of a state, as it is linked to the state and operates in its interactive environment with society. And we cannot comprehend it, because it lacks the most basic requirements of its production.
- 2- Citizenship does not deny diversity and linguistic, ethnic, political, cultural, economic, social, ideological and sectarian diversity. On the contrary, it recognizes it, but it raises it in the relationship between the citizen and the state and works to respect and preserve this diversity and diversity while providing corridors and channels for participation, cooperation and integration in order to enrich the contents and civic and civilizational vocabulary country and citizen together.
- 3- The concept of citizenship in Iraq still faces major challenges, and the reason for this is due to the absence of capabilities that enable the state to perform its functions optimally, which has led to the state of imbalance existing in the citizenship equation, as many segments of society still suffer from poverty, unemployment and the lack of the simplest The components of a free and dignified life, and this reality calls for maximum efforts to address this imbalance, rebuild citizenship and consolidate the state of loyalty to the homeland to replace other subsidiary loyalties, and this calls for various ways to be followed.

Recommendations

1- The first thing that paves the way for citizenship and it means rights, but at the same time it is not devoid of duties and obligations from the citizen, and therefore citizenship must be taken care of as it is a balanced system of rights and duties. Emphasizing the duties of the citizen, such as the duty to defend the homeland and its territorial integrity, to protect constitutional institutions, and to preserve national unity.

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- 2- There are many references to special laws regulating citizenship rights in the Iraqi constitution. The number of articles that require the issuance of a special law for them amounts to more than (50) articles, most of which relate to rights and freedoms, and the Iraqi constitution does not specify controls for legislation or a maximum period to be issued. During it, which has left some important issues so far without a law, this means that there are constitutional and legal voids that must be filled.
- 3- The possibility of activating the role of the media and employing them in supporting the values of citizenship by strengthening the links and ties between the members of the same society on the one hand, and between them and the political system on the other hand.
- 4- The executive authority's avoidance of sectarian quotas in filling positions, and reliance on competence and scientific and practical specialization.

margins

- 1- The concept of national integration is as close as possible to a broad acceptance of citizens regardless of their orientations to the legitimacy of the state, and their complete conviction in everything that can achieve the idea of constitutional citizenship as a political, social and economic framework through which the state can get rid of the problem of accusing some of multiple loyalties and limiting them to full loyalty to the state.
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