

Subject: [History of IRAQ] The Beginnings of Insurance Regulations in IRAQ

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THE BEGINNINGS OF INSURANCE AND REGULATION OF INSURANCE ACTIVITY IN IRAQ – AN OVERVIEW

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Secondary sources are not sufficient for the writing of history. Historical research requires searching for information and data from original sources. Because of the lack of such sources, we have based the writing of this paper on published material as a first attempt to present a brief outline of early insurance activity in Iraq.

This paper requires critical review by those interested in the history of insurance in Iraq, especially those who have or can access the sources.

It is not correct to say, as a matter of national pride, that insurance activity in Iraq is very old going back to the Code of Hammurabi and other ancient laws of Iraq as though the institution of insurance, in its modern form, was known in ancient times. Yet we can trace some aspects of transferring the burden of loss and compensation in old practices that these laws were enacted to regulate. Other people had also similar practices in their past. These practices come close to the insurance mechanism in mitigating the consequences of bodily injury and material damages to property as evidenced by tribal funds and other types of social solidarity like disbursement of zakat funds, charity and caring for parents. These and other forms of mutual assistance constituted a form of protection in the absence of social welfare and security provided by the modern state.[\[1\]](#)

This ancient heritage did not translate itself in practices leading towards the formation of even a rudimentary institution of insurance. That heritage itself was not discovered until the twentieth century after the spread of insurance as a protection institution against risks that are inherent in human life and in collective activities. There is in fact a lack of continuity and an intellectual break with the past, which means that we were not able to take advantage of old secular and religious laws in the promotion of insurance and appreciate its importance in contemporary life. Thus, Iraq has not experienced insurance activity based on mutuality[\[2\]](#) - the oldest type of insurance witnessed in the ancient world - and even the tribal fund[\[3\]](#) which is a form of primitive mutuality was not institutionalized.

With the change of social structure (the emergence of a middle class, population growth, social mobility based on the growth and expansion of cities and building new roads, etc.) and the gradual decline of tribal affiliation[\[4\]](#) and increasing migration from rural areas to cities the tribal fund lost its importance and was replaced by social security. Because the tribal fund is based on social custom and is not written there are no records that can throw light on the role that it has played.

Insurance activity in its modern form in Iraq did not arise because of a local economic or social need for the protection of individuals and physical assets against perils of nature and risks inherent in trade and industry, as was the case in other countries such as Britain and other Western countries. Insurance entered Iraq, as in Arab countries, through the establishment of agencies for Western insurance companies.

The foreign insurance agencies in Iraq and the Arab countries were mainly associated with foreign trade of the European metropolis, and these agencies were the primary form taken by insurance activity in the

Arab countries under Ottoman rule. Marine insurance of goods was the most important type of insurance transacted by the foreign agencies but there was no shortage of insurance against the hazards of fire. This type of insurance was associated with financial institutions, such as banks, providing loans for trade financing and issuing letters of credit and requiring the borrower to provide insurance as a security.

The expansion of the insurance industry outside of Britain, for example, was linked to the spreading of British trading companies in the world, and expansion of insurance took the form of establishing agencies and branches.[\[5\]](#)

An academic historian of The Sun Insurance Office, founded in 1710, states that

“One of the Sun’s first non-European markets was in the Near East, where the Crimean War [1853-1856] had turned the attention of British capitalists to what The Times called ten years later, ‘the productive wealth and commercial importance of Western Asia Minor The first indication of the concern of British business interests with this region was the concession granted in September 1856 by the Sultan to Sir Joseph Paxton and his partners to construct a railway from Smyrna, justly described as ‘the Liverpool of the Levant’ to Aydin, 80 miles inland.”

This was followed by the establishment of the Imperial Ottoman Bank and later the establishment of two insurance agencies in 1863 by the Royal of Liverpool and the Sun Fire Office.

The writer goes on to mention the difficulties and the efforts by these two agencies to overcome the “religious prejudice (was it right to guard against disasters decreed by God?), commercial conservatism, inadequate fire-fighting methods, low standards of morality, and dangerous methods of building and manufacturing.”[\[6\]](#)

The writer also mentions that in 1867 the Sun appointed an agent in Istanbul. In the early 1880s, agencies were established in Cyprus, Beirut, Alexandria and Port Said. Mosul or Baghdad or Basra were not part of this expansion until later in the twentieth century.[\[7\]](#)

We did not trace the history of the expansion of British insurers to Iraq and we hope that it can be researched when sources become available. What we have shown is the tendency of British capitalism to expand abroad, including Iraq, especially after its occupation in 1917. Thus, we find that the first entry for British companies to Iraq was in the wake of the occupation.

If the experience of insurance companies in other Arab countries, Egypt for example, can be used as a guideline, one can presume that insurance against the risks of fire and life insurance was also known in Iraq.

"Insurance and assurance in the Arab World were latecomers, as their first appearance in any Middle East country occurred after the invasion and occupation of Egypt by British forces in 1882. The first class of business was life assurance. It was a small British office founded in 1845 that moved into Cairo as part of its move into countries outside the UK. This took place in the mid-1880s."[\[8\]](#)

When the Insurance Companies Act of 1936 was enacted, it confirmed the presence of life insurance, as we shall describe later.

There was no national insurance company in Iraq when Faisal son of Sharif Hussein was crowned king of Iraq on 23 August 1921, the event that marked the establishment of an independent political entity by the name of Iraq under British tutelage,. Even before the First World War (1914-1918) insurance activity, in its commercial institutional form, was not known in Iraq. Bassim Faris in his encyclopaedic book on insurance in the Arab countries presumes that the introduction of insurance to Iraq, in its Western form, was at the end of 1922 after the signing of the Anglo-Iraqi agreement in October of that year. The assumption is that the great British trading houses were tracking the expansion of the British Crown in the

world.^[9] This assumption is true in many cases (but there are exceptions with regard to the expansion of British insurers companies in some European countries and the United States which were not under British occupation or colonies belonging to the British Crown during the period of expansion of insurance outside Britain). But other sources indicate the validity of this date as two British companies, the Provincial Insurance Company and the Guardian Assurance Company, began work in Iraq in 1920.^[10]

The 1920s witnessed rapid and important changes represented by the formation of various state institutions, including educational and financial institutions, and population increase, especially in Baghdad. A tendency appeared in this period to expand the scope of private property and wealth accumulation through the expansion of Iraq's links with the world markets. But these and other changes did not translate in this period by the rise of an Iraqi insurance company. A quarter of a century will elapse before such a company is established.

There is a reference in one of the tables in Hanna Batatu's *The Old Social Classes and New Revolutionary Movements of Iraq*, to three foreign insurance companies in the year 1928-1929. Based on English reports, all important insurance business in 1936 was controlled by British insurance companies.^[11]

We do not have information on the laws regulating insurance activity in this period and it appears that the first Iraqi law in this regard was issued in 1936. Before then insurance in Iraq was regulated under the Ottoman Commercial Law of 9 August 1904 (21 Jumādā al-Ālthani 1323) and its Supplement the Insurance Act (Sigorta) The Sigorta was composed of 25 articles. This commercial law was influenced by European commercial codes. Thus, insurance activity at that time was subject to the Ottoman Law of Insurance Companies, al-Sigorta (this is indeed how the supplement on the reasons for issuing the Law of Insurance Companies and Agents No. 49 of 1960 refers to it).

On 1st April 1936 the Insurance Companies Act No. 74 of 1936 was issued during the second ministry of Yassin al-Hashemi (1894-1937), which did not last long (1935 to 1936), as it was ousted by Bakr Sidqi (1886-1937) in a military coup (26 October 1936), the first coup in the history of modern Iraq and in the Arab world.

This short law (no longer valid, replaced by subsequent legislation) consists of 13 articles. It is perhaps the first serious attempt to supervise the operation of local and foreign insurance activity. We first note in this law its focus on what it calls "human life" as it draws a distinction between life insurance, instalment insurance and guarantee of capital, although the so-called insurance by premiums is a form of life insurance. Article 1 in this regard reads:

"The meaning attached in this Act to the terms [below] shall be:

Life insurance is commercial business whereby contracts are made to insure the lives of human beings, including any contract to pay a sum of money at death or the occurrence of a happening related to human life as well as any contract to pay the insured persons an amount of money for a period depending on human life and

Instalment Insurance is commercial business by means of which contracts of insurance are made to pay the insured persons instalments of fixed sums depending on human life.

Capital Guarantee is commercial business by means of which contracts of insurance are made to pay in the future to the insured persons an amount or several amounts in consideration of one or several payments that they have made to the insurance company, excluding life insurance and instalment insurance mentioned above."^[12] [Emphasis by author]

We infer from this text that these types of insurance policies were known at the time, but we do not know the names of companies that were underwriting them and the social groups that purchased them and the level of the insured amounts. We also do not know the number of Iraqis who were holders of such

policies.

Other types of insurance, such as fire and marine insurance are not identified in this law except that article 2 refers to "other insurance" as follows:

"A company that transacts any type of insurance business Sigorta[13] in Iraq, whether it has an office in Iraq or is represented by an agent or [and] deposits in its name at a bank designated by the Minister of Finance:

1 - a sum of money, not less than 10,000 Dinars for life insurance or for instalment insurance or capital redemption or as a whole.

2 - a sum of money, not less than 5,000 Dinars for other insurance business."

It appears from the text that the companies referred to in the law are non-Iraqi companies ("whether it [the insurance company] has an office in Iraq or is represented by an agent") since at that time no insurance company with Iraqi capital was incorporated.

Other insurance business was defined under the Act Amending the Insurance Companies Act No. 74 of 1936 (Al-Waqa'i Al-Iraqiya, Iraqi Official Gazette, Issue 1896, 4/7/1941), where under Article 1 of the Amendment Act it was stated:

"Article 1

The following paragraph is added to the first article of the Insurance Companies Act No. 74 of 1936:

Other forms of insurance are contracts to insure against fire, accidents, accidents at work and injuries arising therefrom, loss or destruction or damage or burglary, land, sea and air transport, and dishonesty and all risks and accidents that are not expressly stated in this act."

Perhaps this law was the first in Iraq to provide for the financial solvency of insurance companies as Article 6 states that companies "at least once every three years, investigate [audit] their finances, including the assessment of debts and assets, by an accountant specialising in insurance business ..." Perhaps by a specialist accountant is meant an actuary or a chartered accountant. We may be wrong in this regard since Iraq has not had a full-time actuary working for an insurance company.

Moreover, this law may also have been the first Iraqi legislation regulating the operation of foreign insurance companies. Article 7 in this regard states:

"No foreign company is permitted to transact in Iraq life insurance business or instalment insurance or guaranteeing capital unless it has a subscribed capital equivalent to at least one hundred thousand dinars."

This article was slightly modified under the Act Amending the Insurance Companies Act No. 74 of 1936:

"Article 5

The provisions of Article 7 of the said Act is cancelled and replaced by the following:

It is not permissible for a foreign company in Iraq to transact any type of insurance provided for in the first article of this act unless it confirms that it has a paid up capital equivalent to at least one hundred thousand dinars."

The focus of the amendment was to replace the subscribed capital (authorized capital subscribed by the shareholders in the company) with a paid-up capital (amounts paid by the shareholders for their subscribed share). The emphasis on the paid-up capital is a matter of ensuring that the insurance company is financially solvent to operate and meet its liabilities.

After the enactment of the Insurance Companies Act No. 74 of 1936, the Licensing of Insurance Companies' Agents Order No. 25 of 1936 (the Iraqi Official Gazette, Issue 1522, 6/18/1936) was issued. This order included five articles:

"Article 1

The license provided for under Article 8 of the Insurance Companies Act No. 74 of 1936 to engage in agency for an insurance company must meet the following conditions:

1 - The agent must have an agency conferring on him a legal status...

2 - The Agent must:

A - be 21 years old

B - is not convicted of a felony or misdemeanour involving moral turpitude.

C - is not bankrupt unless rehabilitated.

D - known for his integrity and good conduct.

E - registered with the Chamber of Commerce.

This order was amended by the Order Amending the Licensing of Insurance Companies' Agents No. 25 of 1936 (Iraqi Official Gazette, 30 May 1938). The focus of the amendment was paragraph 2 of Article 1, which cancelled paragraph 2 of Article 1 and replaced it by the following paragraph:

"2 - the agent must be:

A – a juridical person whose juridical personality is admitted under Iraqi laws in force and registered with the Chamber of Commerce

B - a natural person, 21 years of age, known for his integrity and good conduct and not convicted of a felony or a misdemeanour involving moral turpitude or bankruptcy unless rehabilitated and is registered with the Chamber of Commerce."

The importance of this amendment lies in the recognition of the insurance agent as a juridical person in addition to the agent as a natural person. This indicates either a development in transacting insurance business within a two-year period or the legislator paying attention to a shortcoming in the order regulating the licensing system of insurance companies' agents.

Article 3 of the Licensing of Insurance Companies' Agents Order No. 25 of 1936 defined the conditions for suspending the license of the insurance company or agent:

"Article 3

1. the Minister of Finance shall suspend the license granted under the first article of this Order for a period not exceeding six months or cancel the license in the following circumstances:

A - If the company or its agent violated in any way the provisions of law No. 74 of 1936.

B - if it is conclusively proven that one of the policyholders insurance in Iraq has submitted an undisputed claim against the insurance company and the company or its agent neglected it for a period of ninety days or if the agent or the company declined the implementation of a peremptory judgement.

C - If the company's financial position falls requiring increasing the guarantee or the value of bonds used in lieu of a guarantee falls and the company or its declined to effect the increase.

2. The Minister of Finance shall reinstate the license if the provisions of the law mentioned above are

implemented within sixty days from the date of suspension or revocation [of the license].

3. The license is nullified if the agent does not meet one of the conditions set forth in the first article of this order."

We note that the suspension of the license is based on three conditions (violation of the provisions of the Insurance Companies Act No. 74 of 1936, ignoring the rights of policyholders and decline in the financial position of the insurance company requiring increase in the security guarantee). These conditions are intended to protect the rights of the insured except that the text, as it is, does not elaborate with respect to recovery of such rights from the insurance company breaching the provisions of the law. Moreover, the text does not mention the imposition of a fine on the company in breach of the law.

Thus began the early regulation of insurance activity in Iraq. The subject deserves further research.

London March 2010

[1] Misbah Kamal, "The Position of the Hammurabi Code in the History of Insurance," written as an introduction to my Arabic translation of pages from the chapter The Early History of Insurance in Irving Pfeffer & David R Klock, Perspectives on Insurance (Englewood Cliff, N.J.: Prentice-Hall, Inc, 1974) pp 4-6, posted to the blog Iraq Insurance Review http://misbahkamal.blogspot.com/2008_07_01_archive.html

[2] C. F. Trenerry, The Origin and Early History of Insurance (London: P. S. King & Son, 1926).

[3] The tribal fund is a form of limited social solidarity, financed by individuals, each according to his ability and not on the basis of defined rules. The fund is managed by a trusted person with integrity and he may be the imam of the mosque or the tribal sheikh or an elderly person known for his rectitude. Such trustee of the fund disburses the accumulated contributions in the fund to compensate those afflicted with loss or damage. The awona (relief) is a form of spontaneous social assistance to ward off the aftermath of damages sustained by other.

It would not be out of place to mention here another traditional institution relating to dispute resolution: tribal administration of justice. This is made up of unwritten 'laws' and customs in use by members of the tribe to organise their life and settle their differences by resorting to the judgement of the tribal judge. The judge is a member of the tribe distinguished by his knowledge of tribal laws, traditions and customs and his high moral standing and reputation. The judge may be the sheikh of the tribe or other member of the tribe who has the attributes expected for the role. The system includes procedures represented by jaha (a group of people commissioned by one person or more to intercede or mediate in resolving a problem); attwa (a truce between to adversaries, the truce being granted by the aggrieved, victim's, family for such period as they deem fit) and qahwa arabiya (drinking Arabic coffee, a symbol signifying the termination of disagreements).

qahwa arabiya is known in Egypt as ga'dat al-arab, to be found in rural and Bedouin communities, which is equivalent to a customary court, resorted to end disputes over killing among important families. Alhayat newspaper, 8 September 1999.

[4] In order to maintain control over the reign of power, in the wake of the fracture of the institution of the family, the regime started to stoke tribal affiliation which has become after the US occupation and in conjunction with sectarianism, an effective instrument for the management of public affairs. cf Zuhair Al-Jazairy, The Despot: the making of a leader, the making of a people (Baghdad & Beirut: Institute of Strategic Studies, 2006), pp 235-245.

The artificial revival of tribal affiliation since 9 April 2003, encouraged by the US Administration, the occupying power, and pursued by a few of the ruling political parties in Iraqis confined to the political and security space.

[5] R L Carter, Economics and Insurance (Stockport: PH Press Ltd, n.d. [1971?], p56.

[6] P G M Dickson, The Sun Fire Office 1710-1960 (London: Oxford University Press, 1960), p188.

[7] Dickson, op. cit., p190.

[8] Basim A Faris, Insurance & Reinsurance in the Arab World (London: Kluwer Publishing, 1983), p43.

[9] Faris, op. cit. pp 192-193.

[10] Abdul Zahra Abdullah Ali, Insurance Development in the Arab World (London: Graham & Trotman, 1985) p 2, quoting Swiss Reinsurance Company, Insurance Markets of the World (Zurich: Swiss Re Publications, 1964).

[11] Hanna Batatu, The Old Social Classes and New Revolutionary Movements of Iraq, (London, al-Saqi Books, 2000). The table is in page 307 of the Arabic translation of the book (Beirut: Arab Research Establishment).

[12] The original Arabic does not read well as it appears to be a translation from an English text. The provisions of the law cannot be easily matched with the common types of life insurance policies. These policies can be in the form of:

Convertible Life Insurance – a term insurance policy with the option, to be exercised before the expiry of the policy, to convert to Whole Life or Endowment.

Endowment Life Insurance - a fixed term policy with the sum insured payable on death or at the end of the term whichever occurs first.

Industrial Life Assurance – based on collection of weekly or monthly premium to insure life of an individual. It was popular in industrial areas as a means of saving for a future lump sum or protection against industrial accidents, etc. It is now extinct.

Term Life or Temporary Life Insurance – sum insured payable only if death occurs during the policy term.

Whole Life Insurance – sum insured payable only on death.

[This endnote was not in the original Arabic text. I added it when drafting the English text].

[13] The term sigorta is Turkish taken from the Italian sicurtà means insurance. There was an Ottoman law with that term in its title – namely, Law of Insurance (Sigorta) issued in 1322 AH. In Iraq, the word is sometimes spelled as sogarah or ssograh. The latter is popularly used in Iraq as equivalent to insurance; it is also used to denote certainty. In the law of 1936, the term “sigorta” appears as explanatory of the preceding terms “insurance business.”

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